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ECONOMIC AND LEGAL MECHANISM OF WATER TRANSPORT REGULATION AS A CONCEPT AND CORRELATE

The article is devoted to the problem of economic and legal mechanism of water transport regulation as a newly created concept in scientific circulation. Attention is paid to the concepts of "mechanism", "legal mechanism", "state mechanism", "mechanism of the state", "public administration", "the mechanism of legal regulation", "economic mechanism" and "mechanism of economic-legal regulation of water transport" through their interpretation and differentiation and formed their relationship. Special attention is paid to the study and for the first time established and stated by the author that the "economic and legal mechanism for regulating water transport" should be understood as a set of methods and methods for managing management and economic activities on water transport. Based on the relationship with related concepts, namely "mechanism", "mechanism of legal regulation", "economic mechanism" and "mechanism of economic and legal regulation of water transport", the author analyzes and determines the place of the concept under study among the existing conceptual and terminological apparatus. It is found that the mechanism is a broad concept that absorbs the concepts of "legal regulation mechanism", "economic mechanism", "legal regulation mechanism", "economic and legal mechanism for regulating water transport" and "economic and legal mechanism for regulating water transport". It is proved that the economic and legal mechanism for regulating water transport is an element of the economic mechanism, the mechanism of legal regulation and the mechanism. In the end, the article emphasizes that the previously established author's concept of "mechanism of economic and legal regulation of water transport" is already a subject of research and is its component. Now we can say that the new mechanism was created to control the economic element of public relations on water transport a set of ways and methods of management, which cannot be said about the previously established author's mechanism the legal nature of which is different. The author concludes that the economic and legal mechanism for regulating water transport indicates its involvement in the sphere of economic law and draws attention to the importance of the economic element in the segment of public relations on sea and river transport. However, it is necessary to focus in more detail in further research on the functions and components of the elements to fully reveal its essence.

Key words: mechanism, state mechanism of governance, mechanism of legal regulation, economic mechanism, economic-legal regulation of water transport.

Problem statement. It should be noted that the regulation of transport, including sea and river transport, requires a set of legal means, which is the mechanism of legal regulation. For the branch of economic law, the economic mechanism and the mechanism of economic and legal regulation are inherent. Author (V.S.) was first posed and discussed the concept of "the mechanism of economic-legal regulation of water transport" (see [1]) however, in the study it was found that social relations on water transport require a deeper understanding on a theoretical level, but in practice there is a need to use a broader set of economic tools of regulation. In this regard, it is the consistent clarification of the content and essence of the concept of "economic and legal mechanism for regulating water transport" that will make it possible to create a theoretical basis for stable economic activity of water transport.

Analysis of recent research. The conceptual apparatus of the economic and legal mechanism for regulating water transport in Ukraine is not sufficiently regulated. It is worth noting the scientific heritage of specialists regarding certain mechanisms in law: V.B. Averyanov, V.V. Galunka, I.P. Golosnichenko, M.S. Kelman, I.M. Korostashova, B.O. Logvinenko, L.R. Nalivayko, O.V. Negodchenko, O.F. Skakun, S.G. Stetsenko, T.A. Plutagar and many others. As for the definition of the concept of "economic and legal mechanism for regulating water transport", its generally accepted definition is absent both in the legal literature and in practice.

The purpose of the article is to determine the concept of "economic and legal mechanism for regulating water transport" based on the correlation with related concepts and to find out its place among the existing conceptual and terminological apparatus.

Summary of the basic material. Given the fact that there are now several related concepts, namely: “mechanism”, “legal mechanism”, “state mechanism”, “mechanism of the state”, “mechanism of state management”, “mechanism of legal regulation”, “economic mechanism”, “mechanism of economic and legal regulation of water transport”, there is a need for a clear distinction between them.

It should be noticed that the “legal mechanism” in the general sense is “an objectified at the normative level, systemically organized set of legal means necessary and sufficient to achieve a specific goal (set of goals)” [2, p. 15]. It should be emphasized that the economic and legal mechanism of water transport is not based on this mechanism.

Note that the “state mechanism” (a system of state and non-state actors, citizens who are constantly interconnected and interacting) [3, p. 138] and the “mechanism of the state” (an internal holistic hierarchical system of state bodies, institutions, enterprises, organizations, which in the course of functioning and interaction with each other ensures the order and organization of public relations, guaranteeing stable protection, protection of human rights, freedoms and interests) [4]; the system of state bodies (the concepts “mechanism of the state” and “state apparatus” are identical); the totality of not only state authorities (legislative, executive, judicial), but also state organizations, enterprises, institutions (educational, scientific, medical and other), as well as the so-called “material appendages” (the army, law enforcement agencies, etc.); the functioning, action of state bodies, their dynamics, etc. [5, p. 289] do not belong to the joint economic and legal mechanism, taking into account their interpretation.

Recall that the “mechanism of public administration” is “a complex system of state bodies organized in accordance with certain principles for the implementation of public administration tasks” [6, p. 73]; the totality and logical relationship of social elements, processes and laws through which the subject of public administration (its components) “covers” the needs, interests and goals of society in managing actions, fixes them in their management decisions and actions and practically implements them, relying on public authority [7, p. 45]; a systematic set of institutions, structures, sequential actions, forms, States and processes in the state as a product of organized human activity, aimed at realizing the interests and needs of people and solving urgent socio-political problems through state influence and regulation of public life on the basis of established social values,

norms and rules; is a form of implementation of the functions of the state and has as a subject [8, p. 24]; a set of political, economic, organizational, motivational and legal means of direct influence of state and local government bodies on the object of management [9, p. 88]. The above indicates the different legal nature of the analyzed concept and incompatibility with the concept under study.

According to the analysis, we have a conceptual series that is correlated with the subject of study: “mechanism”, “mechanism of legal regulation”, “economic mechanism”, “mechanism of economic and legal regulation of water transport”.

“Mechanism” – “internal structure, system of something” [10, p. 523]; the internal structure, the system of functioning of something, the apparatus of any type of activity [11, p. 348]; internal structure (a system of links); a system, the order of any type of activity; a sequence of condition, processes that define an action, phenomenon; a set of intermediate condition or processes of any phenomena [12]; a set of interrelated and interacting parts, elements in the presence, of internal order and consistency between them, and on the other-differentiation and relative autonomy [2, p. 290]; the interaction between subjects and the center as a strategic game [13]; simultaneously organized and organizing system of events, phenomena, processes, which obeys laws, has a goal, a certain structure by which the goal is achieved [14].

Summarizing the studied interpretations of the concept of “mechanism”, it can be noted that: the first – the mechanism is a system, the second – the mechanism cannot exist without a process, and third – it is a tool that ensures the development of the object [15, p. 49].

Traditionally, the “mechanism of legal regulation” is understood as “a system of legal means to overcome obstacles that prevent the satisfaction of the interests of legal entities and through which the law exercises its regulatory influence on public relations” [16, p. 82]; a set of legal means aimed at regulating public relations [17, p. 126]; a certain theoretical and methodological category that allows you to identify the place, “subordination”, functions, legal means that are used in the process of legal regulation at various stages, and provides an opportunity to present in the relationship all the legal means based on which legal regulation occurs [18, c. 21]. Thus, the mechanism of legal regulation, on the one hand, functions in one system education-society, and on the other, it is itself a system of elements. It is proved that there are two levels of its functions: external (general social nature, determining the content

of general regulatory impact on society) and internal (directions of legal impact on specific social relations) [19, c. 364].

The concept of the mechanism of legal regulation is related to legal regulation – a form of influence of law on public relations through a system of special legal means. S.S. Alekseev emphasized that law as a regulator is not only one of the most important problems of the theory of law, considered as an institutional normative education. We are faced with a problem of broader scientific significance. This opens up the prospect of a new approach to law in general. This approach, which is unknown to dogmatic jurisprudence, goes beyond its limits, is characterized by the fact that law is considered in action, in motion, according to its inherent potentials and laws, which allows you to see the most significant aspects of the logic of law. The category through which such a scientific perspective is realized is the concept of legal regulation [20, p. 347]. The mechanism of legal regulation is also a category of the theory of law, which should reflect the moment of “movement of the legal form”, the way it functions and the system of legal means of influence, which together constitute the mechanism of legal regulation. As you can see, the essence and content of the mechanism of legal regulation are related to the concept of legal regulation. Their relationship is the starting point in the study of the mechanism of legal regulation. In this regard, some authors consider the mechanism of legal regulation as a “technological scheme” of legal regulation [21, p. 90].

In recent years, the term “economic and legal mechanism” has been widely used in special scientific research. Although the most intensive research of the economic mechanism occurred in the 80-s of the last century [22]. However, even today we can confidently say that there is no more or less generally recognized and, most importantly, understandable definition of this concept. The economic basis of any system of government is the built-in way of using limited resources to meet public and private needs, which is embodied in the category of economic mechanism [23, p. 13].

As often stated by G.L. Znamensky, the concept of “economic mechanism” indicates first of organizing the behavior of people and their collectives in the sphere of economy, the way of organizing social production and labor. “The economic mechanism is not the most practical activity of management; it is not the economic management itself, but the prerequisites and methods (methods) of this activity and management... The economic mechanism

is a set of specific organizational and economic forms, methods and methods of management. The lines of interaction between Economics and law, Economics and politics run through it. Economic law is a form of existence of an economic mechanism. Consequently, the norms of economic law in the economic mechanism act as a leading component” [24, p. 31–32]; the mechanism of action of economic laws that express the relationship of economic needs, interests, incentives, centralized and non-centralized forms of management and management [25, p. 57]; a system of institutional entities that ensure the coordination of the interests of participants in economic and market exchange [26, p. 123]; “the organic component of the economic system; the functional side of production relations; the way of organizing and managing production with its inherent forms, methods and means that implement socio-economic, organizational-economic and scientific-technological principles and relations to meet the needs of each economic entity and society as a whole” [27, p. 61].

Finally, “the mechanism of economic and legal regulation of water transport” – “a system of legal means aimed at regulating economic relations in water transport, which is implemented with the help of subjects of organizational and economic authority and economic and legal regulation of water transport” [1, p. 122].

Given the conducted terminological monitoring, it is extremely necessary to find out the place of the subject of research.

The hierarchy of these related concepts looks like this:

- 1) mechanism;
- 2) mechanism of legal regulation;
- 3) economic mechanism;
- 4) economic and legal mechanism for regulating water transport;
- 5) mechanism of economic and legal regulation of water transport.

As we can see, the mechanism is a broad concept that absorbs all of the above. But the economic and legal mechanism for regulating water transport is an element of the economic mechanism, the mechanism of legal regulation and the mechanism. Relatively previously established by the author (V.S.) of the concept “mechanism of economic and legal regulation of water transport”, we emphasize that it is already a subject of research and is its component.

Note that the key word is “economic” which, depending on the location, significantly affects the meaning of the concept and decisively affects the content. Therefore, the economic and legal mechanism for regulating water

transport law should be understood as a set of ways and methods of managing management and economic activities on water transport.

Conclusions

So, from the theory of economic law, the economic and legal mechanism for regulating water transport is a concept and can act as a correlate, provided that it is theoretically correlated with other concepts. Undoubtedly, the economic and legal mechanism for regulating water transport indicates its involvement in the sphere of economic law and draws attention to the importance of the economic element in public relations on sea and river transport. Besides, this mechanism can take over and take economic control of public relations on water transport, which cannot be said about the previously established author's mechanism.

The prospects for further research are seen in the consideration of the functions and components of the economic and legal mechanism of water transport.

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Стаття присвячена проблемі господарсько-правового механізму регулювання водного транспорту як новоствореного поняття у науковому обігу. Придільена увага поняттям «механізм», «правовий механізм», «державний механізм», «механізм держави», «механізм державного управління», «механізм правового регулювання», «господарський механізм» і «механізм господарсько-правового регулювання водного транспорту» шляхом їх тлумачення і розмежування, а також сформовано їх співвідношення. Особливу увагу у дослідженні приділено та вперше встановлено і констатовано автором, що під «господарсько-правовим механізмом регулювання водного транспорту» слід розуміти сукупність способів і методів керування господарюванням і господарської діяльності на водному транспорті. На підставі співвідношення із суміжними концептами, а саме «механізм», «механізм правового регулювання», «господарський механізм» і «механізм господарсько-правового регулювання водного транспорту», автор аналізує та визначає місце досліджуваного концепту серед наявного понятійно-термінологічного апарату. З'ясовано, що механізм є найширшим поняттям, що поглинає концепти «механізм правового регулювання», «господарський механізм», «механізм правового регулювання», «господарсько-правовий механізм регулювання водного транспорту» та «механізм господарсько-правового регулювання водного транспорту» є елементом господарського механізму, механізму правового регулювання та механізму. Зрештою, у статті підкреслюється, що раніше встановлене авторське поняття «механізм господарсько-правового регулювання водного транспорту» є вузьким за предмет дослідження та є його складовим компонентом. Нині можемо стверджувати, що новий механізм створено задля контролю господарського елементу суспільних відносин на водному транспорті сукупністю способів і методів керування, що не можна сказати про раніше встановлений авторський механізм, правова природа якого є іншою. Автор доходить висновку, що господарсько-правовий механізм регулювання водного транспорту вказує на причетність саме до сфери господарського права і звертає увагу на значимість господарського елементу у сегменті суспільних відносин на морському й річковому транспорті, проте необхідно більш детально зосередитись у подальших дослідженнях на розгляді функцій та складових елементів, щоб повно розкрити його сутність.

Ключові слова: механізм, правовий механізм, механізм держави, механізм державного управління, механізм правового регулювання, господарський механізм, механізм господарсько-правового регулювання водного транспорту.

