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REVIEW OF THE MONOGRAPH BY M. V. VORONIN
“THE BASES AND MANIFESTATIONS OF SYSTEMATICITY IN LAW”
(Moscow, 2016)

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Introduction: in the review an attempt is made to consider merits and demerits of the monograph by M. V. Voronin, who has been the first to carry out a special analysis of the bases and manifestations of systematicity in law. **Purpose:** to give the most objective assessment of the scientific work submitted for reviewing, the author’s contribution to improvement of methodology for system research in law, as well as the use of system tools in legal science. **Discussion:** assessment of the current relevance of the monograph’s subject matter allows for conclusion that the author has investigated the problem of holistic general-theoretical comprehension of bases and manifestations of systematicity of law, which is undoubtedly of great significance in all respects. Due to the coordinated use of philosophical, general scientific, special and specific scientific methods of research, the original concept of bases of law systematicity has been justified. The concept serves as a basis for the attempt to justify the system-formation mechanism in law, to formulate the notion and importance of major bases and some particular manifestations of systematicity in law, as well as to reveal the most significant system connections of the legal system elements. It should be noted that provisions put forward in the work are well-grounded, the author demonstrates the ability to carry on a scientific polemics, as well as good literary style. Of special note are the results of the analysis of law principles as the bases of law systematicity, and also the conclusion about the existence of two models of system connections of international and domestic law. Some shortcomings of the work are also stated. **Conclusions:** it is claimed that M. V. Voronin’s monograph is a complete monographic research, logically and conceptually verified and containing theoretical provisions which form a system that can be qualified as a scientific achievement in the field of general theory of law.

Keywords: systematicity of law; bases and manifestations of systematicity in law;
system connections in law and their role

Information in Russian

РЕЦЕНЗИЯ НА МОНОГРАФИЮ М. В. ВОРОНИНА «ОСНОВАНИЯ И ПРОЯВЛЕНИЯ СИСТЕМНОСТИ В ПРАВЕ» (М., 2016)

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Введение: в рецензии предпринята попытка рассмотреть достоинства и недостатки монографии М. В. Воронина, впервые осуществившего специальный анализ оснований и проявлений системности в праве. **Цель:** дать максимально объективную оценку представленного на отзыв научного труда, вклада автора в совершенствование методологии системных исследований в праве, использование системного инструментария в правовой науке. **Обсуждение:** при оценке актуальности темы монографии сделан вывод о том, что автор, несомненно, исследовал важную во всех отношениях проблему целостного общетеоретического осмысления оснований и проявлений системности права. На основе скоординированного использования философских, общенаучных, специальных и частных методов исследования обоснована оригинальная концепция оснований системности права, на базе которой предпринята попытка обосновать механизм системообразования в праве, сформулировать понятие и значение базовых оснований и отдельных проявлений системности в праве, наиболее значимые системные связи элементов правовой системы. Отмечается полнота обоснования выдвигаемых положений, умение вести научную полемику, хороший литературный язык. Особо следует назвать итоги анализа принципов права как основания системности права, вывод о существовании двух моделей системной связи международного и внутригосударственного права. Названы отдельные недостатки работы. **Выводы:** монография М. В. Воронина является законченным монографическим исследованием, логически и концептуально выверенным сочинением, в котором содержатся теоретические положения, систему которых можно квалифицировать как научное достижение в области общей теории права.

Ключевые слова: системность права; основания и проявления системности в праве; системные связи в праве и их роль

Introduction

The work of M. V. Voronin covers a challenging and a meaningful topic. The author reasonably notices that today, the interest deepens for the methodology of the system researches in law, caused by the specific features of the legal phenomena understanding in the period of the Russian statehood modernization. For this, the problem of the system tools application in law is quite critical (p. 3). The author of the reviewed monograph, devoted to the bases and the manifestations of the law systematicity, set himself a task to study the status of the law systematicity knowledge, its characteristics and bases, the mechanism of the general bases' influence onto the specific manifestations on the systematicity (p. 6).

Discussion

The proposed M. V. Voronin's concept of the bases of the law systematicity, of the system-

making mechanism in law, of the fundamental bases and specific manifestations of the systematicity in law, allows, in the author's opinion, to explain the mechanism of the law system elements cooperation, and finally, – to discover the gnoseological perspectives of the law systematicity cognition and to create the bases for the further system researches of law (p. 7).

M. V. Voronin starts his research with the analysis of the law systematicity cognition status. Studying the history of the system approach use in law researches, involving philosophic and legal sources, the author makes a number of interesting and reasoned conclusions concerning the characteristic of the law systematicity and the phenomena associated with it (the system in law, the law systematicity, a legal system etc.).

The definitions of the mentioned notions (and a number of others) proposed by the author, the analysis of their correlation resulted in the conclusion

that the legal system and the system of law constantly develop and regenerate; the law's dynamism influences the bases of the law systematicity bases. The latter have an objective-subjective character (pp. 29–31).

It is not quite clear though, why these conclusions could appear only in the conditions when it was possible to “shift away from the dogmatic fundamentals of the dialectics...” and which fundamentals in particular the author was able to “shift from”? (p. 16). The analysis of the conclusions proposed by the author, the description of the most meaningful system connections of the elements of the legal system both between each other and with the elements of the other social systems, the proposals made by him, including those on improving the certain aspects of the legal regulation, – all entirely fit the framework of the dialectical materialistic approach.

Before giving an assessment to the most important specific provisions, it is necessary to mention the following. The first thing is, the author thoroughly investigates the actual, normative and literary material, not limiting himself to selecting the facts and information necessary for proving his position, not ignoring the regulations that do not comply with his views. The second fact is that M. V. Voronin skilfully and correctly holds the scientific discussion demonstrating friendliness and the will to keep the positive contents of the analysed works as much as possible, even in case he disagrees with the opponent's position. All these prove his scientific conscientiousness – a valuable personal quality of the young scientist.

From the provisions of the first chapter of the book, a reasonable proposal should be particularly noted about the necessity to use the new notion of the “system legal unit” as the aggregate of the legal norms within the limits of the system of law (law branch, law sub-branch, institution, sub-institution). He finds a place for it as for a system of the legal phenomena, of the legal system units (pp. 25–26). A bit complicated terminology does not allow to quickly get the author's idea, but in fact he is right. Moreover, this publication, as compared to the previous one, is a solid step towards the specification of the position on the mentioned notion contents [2, pp. 8–13].

Among the provisions contained in the second chapter of the book, devoted to the characteristic of the fundamental bases of the law systematicity, a conclusion about the public relations as the base of the law systematicity and the provision about the specific role of the economic sphere, need to be highlighted (pp. 54–56). Basing himself on the classical research of Professor V. M. Syrykh,

M. V. Voronin is right noticing the necessity for the system study of all the public relations involving the knowledge of the whole social science complex (p. 56).

Characterizing the political will and the legal policy as the factors the law systematicity, the author of the monograph is fair to say that they reflect the functional interrelation of the law and the state (pp. 87–91). This conclusion is well-reasoned with a detailed analysis of the system of the state functions and the law functions and these systems' cooperation (pp. 65–77). This cooperation, in the author's opinion, defines the contents of the political will and the legal policy as the factors of the law systematicity (pp. 78–86).

Studying the principles of the law as a specific juridical base of the law systematicity by M. V. Voronin, led to a number of conclusions that are certainly worth noticing. For example, one should agree with the provision that the principles of law in their system unity, play a systematically important role in respect of the law, and are “a specific base of the systematicity having a legal nature” (p. 93, 119). In the book, this conclusion is preceded by a detailed analysis of different approaches to the law principles system, their contents and interaction. The author is convincing in his conclusions, when, for example, he writes about the realization of the law principle at all the phases of the legal regulation, about the law-making as their special role (p. 101), about the formation of new specialized system units (p. 103), about the principles' influence onto the juridical practice (p. 109) and etc.

The concluding chapter of the book contains the analysis of separate manifestations of the law systematicity, in particular, the contribution of systematicity to the structuring of the legal norms, to the diversity of the legal norms and to the interaction of the domestic and the international law.

Analysing the problem of the legal norm structure, the author of the book is absolutely right associating it with the law systematicity (p. 122). Therefore, he reasonably views the norm as a microsystem within the framework of the multi-level law system, as a sort of a social norm. Defending the so-called classical (the “three-piece”) approach to the legal norm structure, M. V. Voronin comes up with a number of new arguments to justify his position, in particular using works by A. V. Polyakov, B. V. Sheindlin – which were not considered in his earlier publication on the topic [3, pp. 14–23].

And still the dispute cannot be seen as settled and the problem cannot be seen as solved. Compassionately citing the statement by S. S. Alekseev, the

supporter of the two-piece structure of the binding norm, who was sure that narrowing the norm structure down to a three-piece scheme impoverishes our vision of law (p. 126), M. V. Voronin finally adheres to that particular position. The names of the opponents (N. M. Korkunov, A. A. Ushakov, A. F. Cherdantsev) are mentioned in the book, but their positions are not analysed. It is obvious that it should have been indicated that the paragraph covers only the so-called logical norm of law.

In the book, a detailed analysis is performed of the diversity of the legal norms as the manifestation of the law systematicity. The author tried to characterize the external manifestation of the law systematicity in different types of juridical norms. One of the advantages of this paragraph is a sufficiently exact and sound criticism of the position of leaving the idea of grouping the legal norms in accordance with the branches (pp. 137–142). It goes without saying that not all the arguments are given to support the position being defended, not all the reasons of the opponents are disposed of (and there are things they are possibly right saying), but the position of M. V. Voronin on the topic looks rather convincing.

The author's judgements concerning the characteristic of the special norms, the existing and the nature of which are also associated with the law systematicity manifestation, are as well strong (pp. 143–145). The characteristic of the so-called specialized norms (the norm-principles, the norm-definitions, the presumptions and fictions) as the manifestations of the systematicity in law, is also deep (pp. 146–147). Proceeding from the conclusions of Professor O. A. Kuznetsova, the well-known expert of the sphere, the author makes a conclusion that the juridical fixation of the specialized norms acts as a kind of guarantee of the law systematicity stabilization (p. 147). We can't but agree with that.

Studying the issues of the interrelation of the international and the domestic law, M. V. Voronin makes a fully justified conclusion that the general social background of the international and domestic law systematicity can include the globalization, the necessity to have the different countries' political will approved, the unified approach to the problem of the human rights (p. 163). The author distinguishes two models of the system connections between the international and the domestic law: 1) the model typical for the connections between the international public and the domestic law; 2) the model appropriate for the connections between the international private law and the domestic law. Such an approach allowed the author to discover the principal manifestations of the law systematicity in the cooperation of its international and domestic guises.

Finishing the characteristic of the international and domestic law cooperation, M. V. Voronin reasonably notices that the reinforcement of this cooperation facilitates progress and stability in the countries' relations (pp. 170–175). This circumstance is also pointed out by other authors [1, pp. 92–97].

The general rather positive assessment of M. V. Voronin's book does not mean that there are no drawbacks in it. As in any other serious research, there are flimsy arguments, some of the statements are disputable. But first of all, let us give one judgement of the general character. The book in general is written in a good language (giving proper respect to editor V. A. Ponomaryova), but some of the fragments are overloaded with the general systems theory terminology and have a complicated style. In a number of cases, the author uses terms which are not known and not used in the general theory of law ("the social substances' motion trajectory", – p. 32, "reset of relations" – p. 33 and others.). It is most likely that there are no definite scientific notions standing for them. It is admissible in the journalism, because it represents a "sphere of the language practice", called so by N. I. Matuzov, but it is not desirable in the scientific publications.

There are known doubts concerning all the conclusions of the author on the analysis of the law norms diversity as the manifestations of the law systematicity. If, for example, the grouping of the norms per the branches and dividing the norms into the special ones and the specialized ones is properly assigned to the law systematicity by the author, then the system justification of the necessity to view the division of norms into the binding ones, the prohibiting ones and the authorizing ones, into imperative and dispositive (p. 149) is associated, first of all, with applying the different methods of the juridical technique. The question that has to be answered is the following: May the systematicity in this case manifest already after the legislator's decision is taken, and does it have a secondary character?

The proposal to necessarily analyze the structure of a separate law principle is disputable. The author writes that the structure is "the certain elements and a network of connections", and the elements are "the combination of requirements appearing from it" (p. 99). But if the principle is an idea (p. 98, 99), i. e. a judgement, a thought, then the structure of the judgement can be viewed from the position of either the formal logic (the agent and the predicate) or grammar (the subject, the predicate and the object). There can be no other structure of the judgement. It goes without saying that the phenomenon which M. V. Voronin and other authors call the structure

of the principle, does exist. But probably, some other notions are needed to characterize it. A principle gets a specific structure when it is formed in a shape of a special law norm (presumption, fiction and etc.). This was conclusively described by O. A. Kuznetsova [4; 5], whose works the author of the research is quite familiar with.

The book contains provisions which are in practice true but need additional explanations and clarification. So, the author writes that the “will”, the “consciousness” typical for one person also manifest in the activities of the collective subjects (p. 46). One has to agree with this. But they manifest specifically, not directly, and sometimes they do not manifest at all. For example, a number of the collective subject guilt theories do not associate it with the emotional aspects of the collective members. The additional clarifications are needed for the statement that the political will is common for many social regulators, i. e. ethics, traditions, customs, religious norms and others, and is the base for their systematicity (p. 66). It is most likely that the political will cannot be the direct base of the social regulators’ systematicity, its influence is possibly of a mediate character.

Conclusions

The research by M. V. Voronin is the first book of the young author. It is obviously successful, because it is a completed, logically and conceptually justified research. It contains theoretical provisions that are a substantial contribution to the development of the legal system theory.

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