

## STRUCTURAL ELEMENTS OF CONCEPTUAL MODEL OF SUSTAINABLE DEVELOPMENT OF SOCIETY'S LEGAL SYSTEM

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**Abstract:** *The object of the research in the article is the process of sustainable development of society's legal system, considered as the optimal variant of its dynamics in modern conditions. The purpose of the study is to identify the structural elements of the conceptual theoretical model of sustainable development of society's legal system and their general characteristics. The study was prepared within the framework of the subprogram 01.05.01 National Security of the Republic of Moldova in the Context of Accession to the European Union: Legal, Political and Sociological Approaches, implemented by the Institute of Legal, Political and Sociological Research of the Moldova State University, and reflects the results of fundamental research in the field of general theory of law, conducted using a comprehensive methodology, the instrumental basis of which was the method of theoretical legal modeling. It is concluded that the implementation of the model under consideration in relation to the development of the legal system of Moldova is capable of ensuring the harmonious integration of the country's legal system into the European legal space, and further study of this model allows for a scientifically sound approach to establishing the most "vulnerable" elements of the legal system of the Republic of Moldova from the point of view of the national security interests of the country.*

**Key words:** *legal system, sustainable development, conceptual model, structural elements.*

### 1. Introduction.

The choice made by the citizens of Moldova in favor of further development of the country's course towards European integration [1] makes it particularly relevant to study the state of the dynamics of the country's legal system, which it must achieve in order to harmoniously integrate into the legal space of the European Union and "synchronize" the internal rhythms of its dynamics with the rhythms of the dynamics of the European legal space.

The study of the modern stage of the legal history of European countries, for which the most favorable conditions were created after the Second World War, contributing to the integration of the legal systems of European states into a single legal space [2], allows us to characterize this largely unique historical example as a process of sustainable development of the European legal space achieved thanks to a whole range of internal and external factors.

It is the state of sustainable development of the legal systems of European countries that accompanied the integration processes in Europe and contributed to their expansion and deepening. Therefore, it is this state of the legal system of society that becomes the conceptual model of the dynamics of the legal system of Moldova, the implementation of which can contribute to its harmonious and long-term integration into the legal space of the European Union. However, the theoretical justification and description of the conceptual model of sustainable development of the legal system of society has not yet received its deep scientific development in the general theory of law, in connection with which this direction of research in the field of fundamental legal science seems, undoubtedly, innovative and of great importance for the scientific support of the implementation of legal aspects of the integration of the Republic of Moldova into the European Union.

## **2. Methodology for studying the structure of the conceptual model of sustainable development of society's legal system.**

From the point of view of scientific analysis, various states of the legal system of society initially appear as abstract theoretical constructs that can be supplemented or in some other way "corrected" taking into account certain historical, cultural and other features of individual national legal systems, but initially these states are recognized precisely as scientific abstractions that do not depend on the factor of legal geography. This circumstance makes various states of the legal system of society the subject of analysis of the general theory of law as a fundamental legal science that studies the most general patterns of the emergence, development and functioning of legal phenomena [3].

The legal system of society as an object of theoretical and legal analysis is a rather complex and comprehensive formation with systemic properties. From the point of view of the approaches of the modern system of social and humanitarian knowledge to the study of such complex and comprehensive objects with the properties of the system, one of the most justified methods of cognition that allows taking into account the specified features is considered to be the modeling method [4]. With regard to the study of the legal system of society, it should be clarified that in this case, an adequate way of modeling its states, taking into account its legal nature, is the method of theoretical legal modeling [5], which allows theoretically constructing models of legal phenomena. In this regard, the method of theoretical legal modeling can be considered as an instrumental basis that allows studying various states of the legal system of society by constructing their abstract models. At the same time, we would like to draw attention to the fact that for the study of understudied states of the legal system of society, it is most necessary to create conceptual models. This is explained by the fact that conceptual models make it possible to obtain the theoretical description of the modeled state of the system, based on the conceptual apparatus of the fundamental theory in the relevant area of scientific knowledge, which is necessary in a situation where the relevant scientific problem is not sufficiently studied. With regard to the theoretical legal modeling of understudied states of the legal system of society, we should talk about the creation of a conceptual model of the corresponding state of the legal system, which could provide its theoretical description using adequate scientific terminology, which constitutes the conceptual apparatus of the theory of law as a fundamental legal science.

However, it is also necessary to take into account that the specific algorithm of theoretical legal modeling of the states of the legal system of society depends on the type of the conceptual model that is planned to be created. It seems that at the initial stage of scientific analysis of understudied states of society's legal system, the priority is the creation of structural models that allow us to understand the internal structure of this complex formation, which is necessary for its further scientific analysis. At the same time, the algorithm of theoretical legal modeling should include the method of structural analysis, which is necessary for establishing the structural elements of the conceptual model under study. Thus, the methodological basis for studying the structure of the conceptual model of understudied state of sustainable development of society's legal system should be recognized as a combination of the methods of theoretical legal modeling and structural analysis.

## **3. The criterion for identifying the structural elements of conceptual model of sustainable development of society's legal system.**

The key issue that must be resolved at the first stage in the study of the structure of the conceptual model of sustainable development of society's legal system is the question of the criterion for identifying its elements.

Several scientific schools of comparative law offer their own criteria for classifying legal systems [6, 7], which can be taken into account when solving the question we have posed. However, it should also be taken into account that these criteria were proposed to solve another scientific problem, namely, to classify legal systems as integral entities, and not to identify the internal structure of an abstract model of the legal system of society. In this regard, it is necessary to take into account the

limited possibilities of using existing approaches to classifying legal systems in the field of comparative law in solving the question we have posed and to continue searching for an answer to this question in the field of general legal theory.

In fundamental legal theory, the question of the structure of the legal system was considered primarily as a question of the structure of a static model of the legal system [8]. At the same time, the structure of an abstract model of the dynamic states of society's legal system is a much less studied issue, leaving the question of the criterion for identifying the structural elements of the dynamic model of society's legal system open.

When faced in such a situation with the need to solve a problem that goes beyond the existing system of knowledge, legal theory, like other sciences, often resorts to the heuristic possibilities that the use of a philosophical approach provides [9]. Therefore, in the search for a criterion for identifying the structural elements of a conceptual model of sustainable development of the society's legal system, it seems necessary to pay attention to the dialectical category of "development" [10], which is used to describe the state of society's legal system in our theoretical model.

Development is a natural and irreversible form of the dynamics, which presupposes certain qualitative changes. The nature of these changes may be different depending on the direction in which development is taking place and what this development is: progressive or regressive, gradual or abrupt, stable or unstable, etc. However, the fact of the irreversibility of the changes themselves remains undeniable and in the context of the analysis of the development of complex entities, which include the legal system of society, the different speed of changes that occur with the heterogeneous components of such complex entities comes to the fore.

In this regard, the use of a philosophical approach to the analysis of the dialectical category of development, which can be based on the fact of the certain qualitative changes that cannot occur equally quickly in heterogeneous components of complex formations, allows us to assume that it is the speed of the dynamics of individual components of the legal system of society that can act as a criterion necessary for identifying the structural elements of our dynamic model of society's legal system.

Our analysis of the scientific literature devoted to the specifics of individual constituents of the legal system of society and the related "dimensions" of social and spiritual matter allowed us to divide all constituents of society's legal system into four groups, each of which has its own rate of dynamics. Based on the most common generalized characteristics in the terminology of modern legal theory, used for the collective designation of the constituents of the legal system included in these groups, we combined them into the following "components" of the conceptual model of sustainable development of society's legal system: 1) spiritual and cultural component; 2) organizational component; 3) institutional component and 4) normative component.

#### **4. General characteristics of the spiritual and cultural component of the conceptual model of sustainable development of society's legal system.**

As a structural element of the conceptual model of sustainable development of society's legal system, the spiritual and cultural component unites those constituents of the legal system of society that have an ideal nature, that is, associated with the mental sphere, and are most closely connected with the phenomena that make up spiritual matter, since they are all subject to the rhythms of the dynamics of the phenomena of society's legal consciousness and the phenomena derived from it.

The spiritual and cultural component of the model under consideration may include such constituents of society's legal system as: various levels of legal consciousness of society, the legal mentality of society, the legal culture of society, the style of legal thinking, the legal ideology of society, as well as other phenomena of an ideal nature that can be considered within the framework of the already named constituents (for example, stereotypes of legal thinking), as well as more complex formations considered both as elements of the already identified constituents and as relatively independent constituents of the spiritual dimension of society's legal system (for example, the spirituality's

dominants of the legal culture of society, as well as legal psychology, most often considered in general theory of law as a structure element of legal consciousness).

Even a fairly superficial review of the listed here constituents of the spiritual and cultural component of our conceptual model convinces us that all of them either directly relate to the structure of society's legal consciousness, or to one degree or another are its derivatives, preserving their mental nature. If we try to analyze how quickly the indicated constituents of the spiritual and cultural component of the model under consideration are capable of undergoing some qualitative changes, which are an indicator of their development in one direction or another, we can see that all of them are capable of qualitative changes only over relatively long time periods.

Within the framework of the cyclic paradigm most widely used in the system of modern social and humanitarian sciences [11, 12], qualitative changes in the state of the phenomena under consideration are usually associated with the completion of the full "life cycle" of generations. Let us clarify that in this context it is customary to speak of generations in a sociological sense, implying by the change of generations a qualitative change in the way of thinking, usually "measured" by a period of 25-30 years on average, and in some theories by a longer period. Indeed, it is impossible to imagine that, for example, society's legal mentality, which is the result of its historical and cultural genesis, can undergo qualitative and sufficiently massive changes in a shorter period than those indicated here. Of course, in some of its cultural basis, even after 25, and even after 100 and several hundred years, the legal mentality retains certain archetypes of legal consciousness that determine its cultural self-identity. However, at the same time it is also obvious that with the change of each generation, there really are some qualitative changes in the motives of legal behavior, ideological attitudes, stereotypes of legal thinking and other mental phenomena that correspond to the "spirit of the times". At the same time, these changes, accumulating, can lead to what is commonly called in science "civilizational shifts". But be that as it may, the study we conducted shows that, compared to the rhythms of the dynamics of other structural elements of our conceptual model that we have identified, the rate of change in the dynamics of the spiritual and cultural component is the slowest, which allows this component to demonstrate stability over the longest time periods compared to other components.

The latter circumstance allows us to discover in the spiritual and cultural component of the model under consideration the maximum "potential for stability" among its constituent structural elements, relying on which the legal system is capable of stabilizing its state of instability caused by the behavior of other components of the system. This same circumstance allows us to see in the spiritual and cultural component of our conceptual model the real "foundation" of this system, on the state of stability of which the sustainability of the development of the entire society's legal system as a whole largely depends.

## **5. General characteristics of the organizational component of the conceptual model of sustainable development of society's legal system.**

In the organizational component of the conceptual model of sustainable development of society's legal system, we included such constituents of society's legal system as: legal relations; legally significant events, at least partially dependent on the will of the participants in society's legal life; as well as legal practice, represented by various types of legal activity and the legal experience formed in them.

The unifying moment in the characteristics of the specified constituents of society's legal system, which determines their common rates of development, is their direct connection with acts of legal communication between numerous participants in society's legal life and individual legal interactions of the latter that constitute these acts. It can be said that all constituents of the legal system related to the structure of this component of the model under consideration are, to a greater or lesser extent, derivatives of human activity that has legal significance and constitutes those exchange processes that make up society's legal life. Assuming interaction, these exchange processes reveal the closest connection with the nature of legal communications that occur on one of the "dimensions" of social

matter – the dimension of social communications. In this regard, the rate of development of the constituents of the organizational component coincides with the rhythms of development of legal communications.

Adhering to the cyclic paradigm we have already outlined in matters of development of phenomena studied by modern social and humanitarian sciences, we believe it is appropriate to link the rates of qualitative changes in the dynamics of the constituents of the organizational component of the model under consideration with the full cycle of legal communication. Such a cycle presupposes the presence of not only direct but also feedback connections that form those very "exchange processes" that make up society's legal life in its activity aspect. In this sense, indeed, we see the organizing role of the constituents of this component of the model under consideration in relation to society's legal life. Without the component under consideration, the legal life of society is impossible; it is deprived of the organizing forms in which legal life is capable of proceeding.

Using what seems to us a very convincing analogy, we can compare the dynamics of the organizational component of our conceptual model with the work of the circulatory system, thanks to which the "life" of the legal system becomes possible. At the same time, the cycle of legal communication that we have identified, corresponding to the rate of change of the constituents of this component, can be compared with the "pulse" of society's legal system, thanks to which it is continuously updated and therefore sustainable, that is, continuous and stable development of the organizational component is a necessary condition for the normal dynamics of all other components of the considered dynamic model of society's legal system.

Comparing the rate of development of the organizational component of the conceptual model of sustainable development of society's legal system with the rate of development of its other components, we believe that the dynamics of the organizational component is the most high-frequency, due to which this structural element of our model plays the role of a kind of "connecting link" of this system. This role of the organizational component is explained by the fact that it is due to its dynamics that the actual connection between the individual constituents of each component of this model is realized, which makes the cycle of legal communication a kind of "breathing" of society's legal system.

## **6. General characteristics of the institutional component of the conceptual model of sustainable development of society's legal system.**

As a structural element of the conceptual model of sustainable development of society's legal system, the institutional component includes various legal institutions of society: law-making, law enforcement and human rights institutions; institutions implementing justice; so-called "alternative forms" of justice including institution of mediation; institutions implementing the interpretation of legal norms and others. In other words, we can say that this component includes legal institutions of the state and civil society, varying in their competence and capabilities.

In addition to the general patterns underlying the dynamics of legal institutions and distinguishing them from other components of the model under consideration, the unifying feature of the institutional component is its close connection with legal actors as an integral part of the legal system of society. However, in creating our theoretical model of the legal system on the scale of the entire society, we see the expediency of identifying institutional entities as a relatively independent component of the dynamic model of the legal system of society, which acquire qualitatively different opportunities to influence the internal mechanisms of this system. At the same time, we do not "throw out" personalized legal actors from the structure of the model of the legal system we are constructing, but we believe that, being a necessary condition for the very fact of the existence of the legal system, personalized legal actors "dissolve" in its components, identified for the purposes of scientific analysis.



Thus, the mentality of personalized legal actors, which makes it possible to identify the ideal constituents of the legal system, "dissolves" in the spiritual and cultural component. The legal behavior of personalized legal actors, which forms legal communications and related legal interactions, "dissolves" in the structure of the organizational component. Finally, the will of personalized legal actors, which determines the content and dynamics of legal norms, "dissolves" in the normative component. However, at the level of the general patterns of sustainable development of society's legal system that interest us, only massive and collective actors can become enough significant, at the level of which such patterns are capable of forming, which allows us to unite institutional legal actors into a relatively independent component of the legal system, subject to its own rhythms of dynamics, and not "dissolving" in the chaotic mass of individual legal acts, legal ideas, emotions, etc.

Our analysis of the legal institutions of society has allowed us to establish that in its dynamics, associated with the cycle of development of social institutions that form another "dimension" of social matter, the institutional component of our model of society's legal system acquires the possibility of qualitative changes only under conditions of rotation, that is, renewal of the composition of these institutions. Therefore, in fact, the speed of qualitative changes in the legal institutions of society is determined by the cycles of its rotation.

The peculiarity of the institutional component, which distinguishes it from other structural elements of our conceptual model, is an extremely close connection with the political system of society, in connection with which the influence of the peculiarities of the political system of a particular society (the degree of its democracy and openness, the peculiarities of the political elite, etc.) turns out to be the strongest precisely on this component of the dynamic structure of society's legal system, which makes the institutional component a kind of "conductor" of political influence on society's legal system. In this regard, the sustainability of the development of the institutional component turns out to depend not only on the stability and quality of the rotation cycles of society's legal institutions, but also on the peculiarities of the political system of society. At the same time, we can also assume that the influence of this political factor is predominantly mediated by the rotation cycles we have designated, the stability and quality of which, in turn, directly depend on the state of the political system.

Verification of these assumptions requires continuation of this study and conducting a functional analysis of the identified structural elements of our conceptual model in the context of their connection with politics and other factors external to society's legal system.

## **7. General characteristics of the normative component of the conceptual model of sustainable development of society's legal system.**

The normative component in the structure of the conceptual model of sustainable development of society's legal system is formed by the array of all legal norms officially in force in society, which, from the point of view of theoretical analysis, can be grouped by institutions, branches of law and optional elements of the theoretical design of the legal system, and are actually consolidated in the system of legal sources of law recognized in society, forming an inseparable unity with them, since changing the content of such legal norms is impossible without changing their legal form. Therefore, the normative component should include not only the legal norms themselves, but also the external forms of their official legal consolidation (legal sources of law), as well as the positions of authorized entities interpreting the current legal norms. In our opinion, only such a broad understanding of the structure of the normative component of our dynamic model of society's legal system can give the most realistic idea of the officially recognized legal norms actually in force in society.

In this case, special attention should be paid to the consideration of the place of legal custom in the structure of the conceptual model we are creating, since, unlike the legal norms that sanction the application of customs and are enshrined in official legal sources of law, the customs themselves do not have such a legal form, and therefore, in our opinion, it would be correct to attribute this source

of law either to the structure of the organizational component as the legal experience that is formed in it, or to the structure of the spiritual and cultural component – depending on whether we are talking about a business custom that is formed in current legal activity, or about a custom that retains its force in the longer term, actually becoming an element of society's legal culture. It seems necessary to us to carry out such a differentiation of legal customs with sources of law that have a legal form, since in the context of the analysis of the rates of dynamics of these sources of law it becomes obvious that, having a different nature, they are subject to different patterns and therefore their dynamics are described by different structural cycles of development.

In this context, the status of the so-called latent legal norms and “shadow law” deserves separate consideration. Like legal customs, they do not have an officially recognized legal form of securing their content. However, even when in conflict with legally secured legal norms, latent and shadow norms nevertheless form an idea of the normative array that is actually recognized and operating in the legal system of society. It should also be recognized that from the point of view of the criterion of the speed of development that we have used as the basis for identifying the structural elements of our conceptual model, we see that latent and shadow norms are subject to the rate of dynamics of other components of the legal system – organizational and spiritual and cultural. This same circumstance allows us to discern the ability of the two components named here to perform a compensatory function in relation to the normative component in a situation where officially recognized and legally secured norms of law prove incapable of satisfying a certain social demand existing in society and, in this sense, prove ineffective.

What is the rate of dynamics of the normative component of the model under consideration from the point of view of the cyclic paradigm we have taken as a basis? It is obvious that, having limited the normative component for the reasons stated above to legal sources of law and only to those legal norms whose content has an officially recognized legal form, we see the specific dynamics of the component under consideration, which distinguishes it from the rates of dynamics of other components, with the cycle of action of legal norms. In the general theory of law, the beginning of this cycle is associated with the moment the source of law that enshrines the norm comes into legal force, and the end of this cycle is associated with the moment this source of law loses its legal force. A fundamentally important point in understanding the patterns of the dynamics of the normative component is the realization that the cycle of action of legal norms depends on the volitional acts of institutional legal actors endowed with law-making competence, which reveals the closest connection of this component with the institutional component of our dynamic model of the legal system. At the same time, the direct connection of the rates of dynamics of the normative component with the above-mentioned volitional acts determines the “floating” type of its cyclical dynamics, which can be: both operational (for example, in the case of emergency and subordinate law-making), and long-term (for example, in the case of any fairly large-scale legal reform).

This “floating” type of dynamics of the normative component, along with the analysis of other factors of lawmaking, allows us to assume that the dynamics of the normative component is predominantly the “resulting” dynamics derivative of dynamics of the institutional component, and to a somewhat lesser extent (due to the mediating role of the institutional component) is the “resulting” dynamics derivative of dynamics of other components of our model. At the same time, on the one hand, a direct connection between the normative component and the organizational component and the spiritual and cultural component could become an ideal situation of direct connection between social requests formed in the legal system and the “response” to these requests from the normative component. However, such a direct connection is possible only in an ideal model that does not take into account the objective presence and role of legal institutions in the legal life of modern society and can be considered of limited applicability, perhaps, only in relation to primitive forms of social organization of people's lives in an archaic society.

In addition, the distinction between operational and long-term cycles of the dynamics of legal norms allows us to substantiate the specifics of the cycle of legal reform, the cycle of emergency rule-making, as well as other possible varieties of the cycle of action of legal norms, subordinated to the general logic of the beginning and end of this cycle described above, which nevertheless has its own specifics in the situations we have indicated and others described in the scientific literature.

However, it should also be noted that, while experiencing the influence of the deeper dynamics of the other components of the legal system that we have examined, the dynamics of the normative component is simultaneously a "mechanism for changing" the institutional, organizational component and, to a lesser extent, the spiritual and cultural component of the model we are constructing.

## **8. Conclusions.**

Firstly, it should be noted that the study of the general patterns of the dynamics of the process of sustainable development of society's legal system, characterizing the rhythms of development of the European political and legal space, is of great importance for the scientific provision of harmonious integration of the legal system of the Republic of Moldova into the legal space of the European Union. Secondly, the theoretical justification and description of the conceptual model of sustainable development of society's legal system, which has not yet received deep scientific development in the general theory of law, is an innovative direction of research in the field of fundamental legal science. Thirdly, the most adequate methodological basis for studying the structure of this conceptual model at the first stage of its research should be recognized as a combination of the method of theoretical legal modeling with structural analysis, supplemented by our analysis of the dialectical category of "development" and the cyclic paradigm, which has received wide application in the system of modern social and humanitarian sciences.

Fourthly, the criterion for identifying the structural elements of the conceptual model of sustainable development of society's legal system, as well as for other dynamic models of the legal system, can be the speed or, in other words, the "rates" and "rhythms" of development of individual constituents of society's legal system, which will be different for phenomena of different nature and which allowed us to identify four components of the model under consideration: 1) the spiritual and cultural component; 2) the organizational component; 3) the institutional component and 4) the normative component.

Fifthly, the consideration of the features of the development cycle of the spiritual and cultural component allowed us to theoretically substantiate not the nominal, but the actual role of this component as a kind of "foundation" in the structure of our conceptual model, concluding that it is this component that is the main stabilizing factor in the sustainability of the development of the entire legal system as a whole.

Sixthly, the examination of the features of the development cycle of the organizational component allowed us to discern in the rhythms of its dynamics a kind of "breath" and "pulse" of society's legal life, which determines the fulfillment by this component in the structure of our conceptual model of the role of a "connecting link" between all of its constituents.

Seventhly, the examination of the characteristics of the development cycle of the institutional component allowed us to see in it a kind of "conductor" of political influence on all other components of the considered model of society's legal system.

Eighthly, consideration of the characteristics of the development cycle of the normative component led us to the conclusion that its dynamics are of a "floating" nature and are, on the one hand, the "resulting" dynamics derivative of dynamics of other components, and, on the other hand, the "mechanism of change" of other components.

Ninthly, the consideration of the structural elements of the conceptual model of sustainable development of society's legal system allows us to conclude that it is possible to use the proposed approach to their identification for the analysis of other dynamic states of society's legal system, the



study of which allows us to expand the existing ideas of the general theory of law on the structure of the dynamic model of the legal system and the general laws of its dynamics, which, in turn, allow us to take a scientifically sound approach to establishing the most "vulnerable" elements of the legal system of society from the point of view of the interests of national security of the Republic of Moldova and to develop scientifically sound recommendations aimed at preventing such vulnerabilities.

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