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MAIN APPROACHES TO THE CONCEPT OF LEGITIMATE BEHAVIOR

Today, an issue of legitimate behavior of people is obviously actual. It's really difficult to find other legal problem, which is such significant for all branches of jurisprudence. A lot of scientists research legitimate behavior and made fundamental theories of legitimate behavior. For example, Oksamytnyi V.V., Kazakov V.M., Alekseev S.S., Lazarev V.V., Aleinikova O.P., Rabinovych I.S., Skakun O.F. and others. Legitimate behavior plays an extremely great role in building of a state, development law-abiding person and creation of a civil society. So, it's very important to define the main approaches to the concept of legitimate behavior.

So, Skakun O.F. consider legitimate behavior as beneficial legal behavior (action or inaction), which respond to legal regulations and is protected by the state. Also, scientists points one of the most important features of legitimate behavior – its volitional character [11, p. 415]. In other words, legitimate behavior accepts awareness of the circumstances and possibility to exercise freedom. It also means to direct our behavior and manage our actions.

Philosophy approach of Aleinikova O.P. remark, that legitimate behavior responds to norms of law, is dedicated on providing a satisfaction of certain social need by means, that are established or sanctioned by a state through concession of juridical rights and duties to subjects [2, p. 3-12]. Lawful behavior is an expression of legal significance, social activity of people and the result of legal behavior.

In addition to this, Rabinovych P. M. Says, that legitimate behavior is a set of actions, which does not contradict of legal norms prescriptions or basic law principles of legal state [9, p. 128]. In this context, we should separate so-called general normative behavior, that is governed by moral, religious, legal, customary and other social norms. It is known that socially necessary and useful for society behavior fixed in the rules of law (laws and other regulations acts) in the form of the rights and legal obligations of the subjects of law, citizens, their associations, state bodies and officials.

Thus, judicial literature believes that legitimate behavior applies to what is sanctioned by law, to norms of law; is expressed in abstention from banned behavior in the form of allowed by law inactivity. It applies to a legal right or status but also, in extended use, to a right or status supported by tradition

Legitimate behavior is logical process, where due to the impact of environment, individual perception of legal attitude, level of legal culture and legal consciousness, the form of (properly) legitimate behavior is forming. This process also is realized as legal activity of a person.

Besides, we should pay attention not only scientific concepts of this term, but also realize that legitimate behavior is based on law. For example, for making a definition of legitimate behavior we should respond to the Constitution. Consequently, according to the Article 3 of the Constitution of Ukraine, person, his life and health, honor and dignity is recognized as the highest value [1]. Similarly, it is obvious that concept “legal behavior” means responding to requirements, that are expressed in rights, freedoms and duties of subjects of social relations. As a result, term “legality” is an element of legal behavior.

Therefore, legitimacy is socially useful behavior of a subject of law, which applies to the prescriptions of legal norms, is in the interests of society, has positive legal consequences and is guaranteed by the state. Lawful behavior is a means of realizing rights and responsibilities in life. Lawful behavior is expressed both in active action and inaction, when a person refuses to take actions that are dangerous and harmful to society and prohibited by law. Creation of such rules of behavior in spheres, which are regulated by law, rules, that would promote a realization of rights, freedoms and duties of the people, interests of civil society and state in the whole, is the main purpose of creation of a legal state.

References

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