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THE ROLE OF THE PRINCIPLE OF GOOD FAITH IN THE LEGAL SYSTEM

The relevance of the topic. Modern tendencies of state formation testify to social transformations of law, its institutions and subjects of the legal circle of activity. A problem of professionalism, competence, conscientiousness, morality and ethical conformity standards is a modern legal basis practice, which determines its content and qualitative result.

Objectives of the paper. The purpose of this article is to show what moral qualities each lawyer should possess.

Results of the research. In the paper we consider a fragment from the contemporary edition of “Modern problems of legal science”, where the following is indicated: “The category of ‘honesty’ is beyond doubt of moral nature. It is a state of honesty, conscience, integrity, implies belief in the need for a thorough performance of social duties, respect for others, inability to commit low acts. Therefore, fairness in law is traditionally explained based on moral standards: for example, honesty, the absence of a contradiction between what a person thinks and what he says, the desire to do each case in the best way” [1: 12].

Bona fide is one of the main requirements to application of law. It should be noted that this requirement is an important component of the rule of law principle. “The essence of the rule of law, in particular, lies in the fact that the state will apply in good faith the norms previously proclaimed by the citizen and which determine his rights and obligations. If the rule of law does not mean this, then it does not mean anything...”. [3] These words reaffirm the fact that the rule of law is not built without the fairness of lawyers' qualities [2: 76].

Results of the research. Issues related to implementing the principle of conscientiousness in the legal system have long been of great interest to legal

scientists. The interest in it has intensified even more in our time, since references to this principle contain many legal acts adopted recently in Ukraine. Thus, in the decision of the Constitutional Court of Ukraine of December 1, 2004 № 18-RP / 2004 in the case concerning the interest protected by law states that good faith is one of the general legal principles.

Civil Code of Ukraine refers to the integrity of the general principles of civil law (Article 6, part 1, Article 3), and the Code of Administrative Justice of Ukraine - to the principles of assessing decisions, actions or inactivity of the subjects of power (Article 3, Article 2). The Ukrainian law prohibits unfair competition (part 3 Art. 42 of the Constitution of Ukraine), unscrupulous advertising (Article 10 of the Law of Ukraine "On Advertising"). Let's try to find out the essence of the principle of *Bona Fide* and formulate the basic requirements that follow from it.

This principle has a centuries-long history: it is based in the well-known Roman law, the doctrine of conscientiousness (*bona fides*), which is opposed to evil intent (*dolus malus*). The idea of conscientiousness has been embodied in the Ulpian's (Digest, 1, 1, 10) formulations of three basic laws of law: *honeste vivere, alterum non laedere, suum cuique tribuere* (live honestly, do not harm others, give each one due).

Conscientiousness implies: loyalty to the obligation, respect for the rights of other actors, the duty to compare one's own and other's interests, and prevent harm to third parties; it implies the unity of the positive thoughts and aspirations of the person with her behavior, that is, the impeccability of the behavior of a person in terms of moral norms, organically associated with the legal norms [3: 57].

The category of 'honesty' can be viewed in subjective and objective terms. Conscientiousness in the subjective sense is understood as awareness of the subject of his own honesty and honesty in the exercise of his rights and performance of duties. Integrity in the objective sense is a common law principle, which implies the need for conscientious and honest behavior of subjects in the performance of their legal obligations and the exercise of their subjective rights [4: 123].

Conclusion. Good faith is the universal value of the human being, without which the right (as well as any other social regulator) can not function effectively.

If people start to expect that others will behave honestly and reliably when implementing law, they begin to trust each other, which facilitates their interaction. The same applies to relations between citizens (legal entities) and state bodies. The principle of conscientiousness contains requirements that help to remove or mitigate the shortcomings of the abstract and formal nature of law, to bring it closer to the ideals of justice, equality, liberty and humanism.

"This principle is based on the mechanisms of self-defense of the legal system that ensure respect for its ultimate goals and allow it to correct the deviations caused by the use of legal rules in cases where there is a violation of the spirit of law in accordance with its letter ..." [5:33].

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