3) організаційно-контрольні відносини. Характеризуються тим, що права, які вони містять, дають можливість одному суб'єктові цивільного права контролювати іншого, який перебуває з першим у певних цивільних правовідносинах (наприклад, право замовника контролювати якість робіт, що виконує підрядник, тощо);

4) організаційно-інформаційні відносини, суть яких полягає в тому, що внаслідок їх існування учасники цивільних майнових правових відносин зобов'язані обмінюватися певного роду інформацією (наприклад, обов'язок наймодавця попередити наймача про виселення, обов'язок повіреного повідомити довірителя про необхідність відступу від його вказівок тощо) [8, с. 163-165].

Не зупиняючись на характеристиці перелічених видів цивільних організаційних правовідносин, зазначимо лише, що кожна з наведених класифікацій становить інтерес як предмет наукового аналізу. Разом із тим у юридичному побуті реальні цивільні правовідносини містять ознаки різних згаданих вище типів, що має бути врахованим при визначенні особливостей їх змісту, підстав виникнення та законодавчих актів, які підлягають застосуванню.

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THE PRINCIPLE OF JUSTICE – THE MAIN PRINCIPLE OF ROMAN PRIVATE LAW

During the whole history of mankind notions about law changed as well, innumerable quantity of new theories and ideas appeared, but the foundation laid still by Roman lawyers, especially in such sphere of law as civil law, though in modernized order, are saved.

The modern level of development of human civilization (the world community as global macrocivilized system) requires unification of normative regulation at

universal (worldwide) level [1, p. 58]. Many institutes of Roman law as special original source were constantly used and continue to be used at the development of civil codes and other normative and law acts in other countries as well. Such influence of Roman law upon law systems of many counties, acceptance by the latter of its most important principles and institutes, called in juridical literature a reception of Roman law, affected the character and content of these systems to a considerable extent, as well as the definition of the notion of "law" itself.

Roman classical law is characterized with high level of technique of expression of general norms of behavior, preciseness and terseness of formulations, quality of construction and argumentation, as well as practical trend of law stipulated by its development through performance of court protection of violated rights, solution of concrete casus. Non ex regula sumatur sed ex jure quod est regula fiat (it is necessary to establish concrete competence not on the basis of general rule but the general rule is being created on the basis of concrete competences (D. 50,17,1), that is why the principles of law, as it is specified in literature, were separated on the basis of analysis of multitude of concrete cases [2, p. 8].

Owing to the activity of Roman praetors and the influence of Greek philosophy upon their world outlook, Roman private law became a close system that is being developed at the expense of its own sources.

Roman liability law is the most important and thorough law heritage "precise development of all existing relations between general owners of goods: purchase and sale of services, loan, agreements and other obligations" [3, p. 412]. Through these features Roman liability law was included into the Civil code of France and in the other legislations of continental type.

Property Roman law was implied by civil law. From one side it is not separated totally from natural law or from the law of peoples, from the other side – not all adhere to it. Since if to add something else to the general law or to make it short then some property law is created, i.e. civil law (D. 1.1.6.).

Accordingly civil law is being developed on the sub-basis of natural law and law of peoples, comes out of it but is not limited by them. It projects general principles of natural law and law of peoples upon concrete activity, in the given case – upon Roman community.

By the thought of Roman lawyers, except Ulpian, natural law includes demands of justice and expresses the main idea, according to which law in general is just by its essence. Moreover it is exactly by natural law all are born free (D. 1.1.1.).

In antique tradition moral and positive law were united by one general justice. For comparison, other Greek philosopher considers justice in law in a different way. Aristotle considers justice to be the basis of management of community, and says about law (as natural one, so will-expressive one) only as about political law, i.e. such one that can exist only in the state (the principles of power guarantee) [4, p. 159]. That is why Socrates states that "legal" and "just" – are one and the same thing. Aristotle expresses the same idea: "The notion of justice, – he writes, – is connected with the idea about the state because law which serves as a measure of justice, is a regulating norm of political communication" [5, p. 35].

Law differs from life. Such difference is expressed in that conditions of place, time, and social environment are not so much comprehended rationally in law but are expressed as values. Logical definition of such values forms life ethos that guarantees voluntary execution of law. Such consolidation of justice and expediency is rather difficult as in purely technical sense so in sense of influence of existing social conditions. That is why the problem of connection of natural and positive law always appears as a problem of divergence of essence and existence of law [6, p. 125].

While considering Roman law a question appears – why the principles of justice, rationality and conscientious should be considered exactly as principles of Roman law.

Recognizing the teaching of antique Athens philosophers, Roman lawyers give preference to the teaching about natural law. Ideas of natural law of Roman lawyers were transformed into principles of law.

First of all it is necessary to mention that natural law by the influence of stoicism of Roman lawyers looked as ideal law. Such approach allowed Roman lawyers to coordinate the content of positive law with the ideal law...one more aspect of use by Roman jurisprudence of ideas of natural law: acknowledgment of the fact that any law constitutes a certain value pierced with general principles [7, p. 272].

In the result of such understanding the system was created that consisted of the system of institutes, the system of principles was developed.

According with ancient Greek philosophy "justice" was not only a moral category but also political and economical one.

As philosophical category – justice reflects not only relations of people between themselves but by their attitude to something whole. Justice is a system of features that contributes to general advantage.

Etymologically Latin "aequitas" meant "evenness, ratability, equality". Relative to law events in Roman jurisprudence this notion obtained the meaning "justice" and became the event of concretization of the notion of justice that was defined by the word "justitia".

The notion "aequitas" was used by Roman lawyers for opposition of iniquitas (unfaireness) – legal situation which contradicts to justice. "Aequitas" was the expression of natural and legal justice which essentially defined and evaluated existing law which served as governing orienteer, moral ethanol in law execution by praetors, senate and lawyers, at interpretation and employment of law.

According to the opinions of Platoon, Aristotle, Cicerone, philosophers of stoicism which asserted influence over Roman lawyers, justice in human relations was the moment of equality, equivalency.

Justice by Platoon – is a quality of the whole state, on the contrary from other qualities (courage, wisdom) which characterize separate groups.

Aristotle stated that justice expresses not some one quality but covers everything.

Justice – is a principle that regulates relations of persons in the aspect of distribution of social amenities where everyone gets by one's merit.

Roman lawyer Caius adheres to the same position: "All peoples which are guided by laws and customs partially use its own law, general for all people. Since law which

every people established for itself is the own law of the state and has a name "civil law", i.e. if the same law, which natural mind established between all people, was performed equally by all by the own law of the state itself and had a name "law of peoples, as the law which peoples use [7, p. 123].

By the thought of Roman lawyers natural law performs demands of justice and expresses idea, corresponding to which law is just by its essence is general.

Consideration of law as justice and the good is usually connected with the name of famous lawyer Tsels. Ulpian notes that law comes to justice (justitia), as Tsels determines it: jus est ars boni et aequi (law is art of the good and justice).

Opposition between just and unjust law at Roman jurisprudence was expressed by means of comparison of equivalent (equal) law with non-equivalent (not equal) law. In any law, law equivalent means equal justice or just equality. Idea of such understanding of law is based in determination by Ulpian of the notion "justice": Justice is unchangeable and constant will to give one's right to everybody. The essence of the order of law is the following: to live honestly, not to do harm to others, to give everybody that which belongs to him. Justice is cognition of divine and human deeds, science about just and unjust.

Researchers see the expression of the main principle of law in general in this definition – the principle of equality which suggests and expresses equal justice and just equality for all people – subjects of law. As Nersesyants V.S. states, relying upon sources of the acting law, Roman lawyers in their reading of rights of individuals interpreted lawful norms which formed in the spirit of their correspondence to the demands of justice (aequitas) and in case of collisions often changed old norm with consideration of new notions of justice and just law (aequum jus). Such law-protective and law-creating activity of Roman lawyers provided interconnection of different sources of law and contributed to consolidation of stability and flexibility in the development and renewal of legal construction of rights of individual as the main subject of law. Aequitas played the role of the guiding idea (principle) in the interpretation of norms of positive law and rights of individual specially. Thereby abstract notion of natural and lawful justice was transformed into the principle of positive law, became the main criterion of real law. And further: Interpretation of justice as necessary characteristic of law itself and constructive moment of its notion meant that all the norms which contradict to the demands of principle of natural and lawful justice do not have juridical force. Lawful understanding of state, lawful definition of powers and obligations of officials and institutes, worked out by Roman lawyers, had an important meaning for the development of conception of rights and freedoms of person. According to this conception, state in its relations with individual stands not outside or above law and order but is its constituent part. The basis and criterion of justice in relations between individual and state is law (lawful justice and just law) but not a state. Thus, state should relate to individual not by own (not lawful) rules but as law-obedient subject corresponding to the demands of law, general for all.

Nersesyants V.S. [8, p. 55] states "Roman lawyers relying upon the sources of the existing law in their reading of rights of individuals interpreted lawful norms

which already formed corresponding to the demands of justice and in presence of collisions often changed the old norms with consideration of new notions of justice and just law. Such law-protective and law-creating activity of Roman lawyer provided interconnection of different sources of law and contributed to co-existence of stability and flexibility in the development and renewal of juridical construction of rights of individual as the main subject of law. The bright example of meaning of employment of principle of justice as the source of law is in the statement of the lawyer Pavel: "It is necessary to be guided by justice in all cases, the highest level in law"("In omnibus, maxime tamen in jure aequitas spectanda est" (Paul, D. 50,17,90).

It is necessary to agree with the statement of M.Bartoshek, "aequitas stands beside law, controls it and as far as possible softens its severity" [9, p. 26].

The assignation of the category of "justice" was discovered when it was necessary to solve contradictions between generally accepted employment of law and separate unusual case ("Where justice is required certainly, aider is necessary" – "Ubi aequitas evidens poscit, subveniendum est" (Marcell, D. 4,1,7); "It is required by justice though precise lawful instruction is absent" – "...haec aequitas suggerit, et si iure deficiamur" (Paul, D. 39,3,2,5). Thereby "aequitas" was a criterion for Romans which can regulate disputed case that allowed to find a correct decision by reasonable employment of conflict interests in the spirit of this legal institution and "aequitas naturalis" (natural feeling of justice").

Therefore, positive and natural law represents something that was given to a reasonable being, which provides equality, freedom, order and justice. From here – subordinacy to law, execution of laws becomes moral debt.

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