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THE LEGAL CONFIGURATION OF THE CONCEPT OF COERCION

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The problem of the order of law in general, and of coercion in particular, we believe is relatively well developed in general legal theory. More comprehensive and complex studies can be found in the branch sciences. In addition to this, the concept of coercion and a series of problems related to this subject are the subject of multiple discussions, in the process of which a series of insufficiently examined problems were detected both in the general theory of law and in the branch sciences. Despite these drawbacks, jurists, philosophers and sociologists all over the world have over the years been concerned with researching various aspects of the phenomenon of coercion. Valuable works have been consecrated, which have not lost their value as sources of information to this day. But some issues were examined in these works, taking into account the political-ideological representations that dominated those times, which led to vague interpretations of the facts, sometimes even distorting their understanding.

Keywords: *law, legal coercion, state coercion, coercive measures, rule of law, rights and freedoms.*

CONFIGURAȚIA JURIDICĂ A CONCEPTULUI DE CONSTRÂNGERE

Problema ordinii de drept, în general, și a constrângerii în mod special considerăm că este relativ dezvoltată în teoria generală a dreptului. Studii mai ample și mai complexe găsim în științele de ramură. Necătând la aceasta, conceptul constrângerii și o serie de probleme legate de acest subiect constituie obiectul discuțiilor multiple, în cadrul cărora s-au depistat o serie de probleme examinate insuficient atât în teoria generală a dreptului, cât și în științele de ramură. Cu toate aceste inconveniente, juriștii, filosofii, sociologii din toată lumea s-au preocupat de-a lungul timpului de cercetarea mai multor aspecte ale fenomenului constrângerii. Au fost consacrate lucrări prețioase, care nu și-au pierdut nici până azi valoarea ca surse de informații. Însă unele probleme erau examinate în aceste lucrări, ținând cont de reprezentările politico-ideologice care au dominat acele timpuri, fapt care a condus la interpretări vagi ale faptelor, uneori chiar denaturând înțelegerea lor.

Cuvinte-cheie: *drept, constrângere juridică, constrângere statală, măsuri de constrângere, stat de drept, drepturi și libertăți.*

CONFIGURATION JURIDIQUE DE LA NOTION DE CONTRAINTE

Le problème de l'ordre du droit en général, et de la contrainte en particulier, est relativement développé dans la théorie générale du droit. Des études plus approfondies et complexes que nous trouvons dans les sciences de la branche. Malgré cela, le concept de contrainte et un certain nombre de problèmes liés à ce sujet font l'objet de multiples discussions, au cours desquelles un certain nombre de problèmes insuffisamment examinés ont été trouvés à la fois dans la théorie générale du droit et dans les sciences de la branche. Avec tous ces inconvénients, des juristes, des philosophes, des sociologues du monde entier se sont préoccupés au fil du temps de rechercher plusieurs aspects du phénomène de la contrainte. Des œuvres précieuses ont été consacrées, qui n'ont pas perdu de leur valeur en tant que sources d'information à ce jour. Mais certains problèmes ont été examinés dans ces travaux, en tenant compte des représentations politico-idéologiques qui dominaient cette époque, ce qui a conduit à de vagues interprétations des faits, parfois même à déformer leur compréhension.

Mots-clés: *droit, coercition légale, coercition de l'État, mesures de coercition, État de droit, droits et libertés.*

ЮРИДИЧЕСКАЯ КОНФИГУРАЦИЯ КОНЦЕПЦИИ ПРИНУЖДЕНИЯ

Вопрос о порядке права в целом и принуждения в частности, на наш взгляд, относительно хорошо разработан в общей теории права. Более обширные и сложные исследования можно найти в отраслевых науках. Помимо этого, понятие принуждения и ряд проблем, связанных с этой тематикой, являются предметом многочисленных дискуссий, в рамках которых был выявлен ряд малоизученных проблем как в общей теории права, так и в отраслевых науках. Невзирая на эти недочеты, правоведы, философы и социологи со всего мира на протяжении многих лет занимались исследованием различных аспектов феномена принуждения. Были освещены ценные работы, которые и по сей день не утратили своей актуальности как источники информации. Тем не менее, некоторые вопросы рассматривались в этих работах с учетом господствовавших в те времена политико-идеологических представлений, которые приводили к нечеткому толкованию фактов, иногда даже искажая их понимание.

Ключевые слова: *право, правовое принуждение, государственное принуждение, меры принуждения, верховенство права, права и свободы*.

Introduction

In legal science, there is still no unified theory of coercion that combines both legal and state principles of this phenomenon in society, and the term "*state legal coercion*" has not yet been widely recognized.

In the general theory of the state and law and in legal disciplines, there was a widespread tradition of "*considering coercion in relation to the state, only one of the methods of state management of society, combined with persuasion, encouragement, stimulation* [1]".

The study methodology includes traditional research methods: logical, grammatical, analysis and synthesis, deduction and induction, observation and comparison.

Results and discussions

The subject of research by legal scholars has always been state coercion (and to a large extent this tradition persists to this day), while legal coercion has been considered at best as the form in which state coercion manifests itself; frequently, the terms "*state coercion*" and "*legal coercion*" were used as synonyms [2, p. 18]. For example, D. G. Nohrin believes that "... In a state of law, any action of an authority must have a legal form" [3, p. 20].

These studies did not take into account the fact that legal coercion and state coercion, like law and the state itself, cannot be assimilated, although in essence they are interrelated phenomena.

State constraint is a type of constraint that is distinguished by the subject of its implementation. Such coercion is exercised by the state, represented by its organs and officials, and an indication of this characteristic of state coercion, in one form or another, is to be found in most of its definitions. For example, V. N. Protasov suggests that state coercion is "*an external influence on behavior based on the organized power of the state and aimed at the unconditional affirmation of the will of the state*" [4, p. 157].

A. I. Kaplunov defines state coercion as "*a method of influence that consists in the application by state bodies and their officials of measures established by law, which constitute a system of legal restrictions, deprivations, burdens or other actions that allow obliged persons to carry out his/her instructions and to comply with the prohibitions established by law, as well as to ensure public order and the security of individuals, society and the state against potential and actual threats*" [5, p. 17].

According to A. I. Dvoryak, "*state coercion is the impact of the state (through its organs and officials) on the behavior of people to achieve a set goal - the will of the*

state, expressed in legal norms. This impact on people's behavior is achieved by exerting mental, physical or other pressure, established by law and exerted on a specific person, which consists in limiting or depriving the specified person of certain benefits, interests, as well as imposing certain additional obligations to him/her” [6, p. 26].

It seems that legal coercion, as a type of general social coercion, can be distinguished by such a criterion as the nature of its impact: legal coercion always acts as a coercion mediated by legal norms, at the same time, the objectification of general social coercion through legal framework is designed to minimize the possible negative effects of coercion in human society and acts as a guarantee that its implementation will generally have socially favorable consequences. Considering legal coercion as a type of state coercion is possible only if it is proven that only the coercion, the subject of which is the state, is capable of having a legal character. For example, V. S. Egorov believes that “*legal coercion is established and implemented by the state*” [7, p. 38].

However, it is obvioua that there is clear and convincing evidence to the contrary. The fact that “*coercion based on legal norms can be exercised by persons unrelated to the state apparatus and, moreover, who do not have the personal authority to exercise state coercion*” and that therefore “*there is a legal coercion which is not state coercion*”, rightly notes P. V. Demidov [8, p. 8].

N. Ovsyannikov, which, depending on the subject authorized to apply coercive measures in the sphere of entrepreneurial activity, distinguishes between state coercion and public law coercion, naming citizens, individual entrepreneurs and organizations authorized to apply legal coercive measures in accordance with the law or the contract as subjects of the latter [9].

The most eloquent example of legal mediation of non-state coercion is the existence in criminal law of institutions of legitimate defense, of extreme necessity and of apprehension of the offender. Examples of legal coercion exercised not by the state and not under the authority of the state are also the application by the employer of one of the disciplinary sanctions provided for in article 206 of the Labor Code of the Republic of Moldova. In the given case, the coercion is of a legal nature, because the possibility of its use is expressly provided by the legal norms, but it cannot in any case be recognized as state coercion, because it is exercised by non-state actors and not under the authority of the state. State coercion and legal coercion can also be distinguished by the object against which they are applied. The object of legal coercion is always the activity and will of the criminal, and state coercion applies to a person whose interests are in conflict with the will of the state, regardless of the form in which it is expressed. Of course, most of the time, the object of legal coercion is also the object of state coercion. However, situations where the objects of state and legal coercion do not coincide cannot be ignored. Thus, for example, if the state itself is the offender, under conditions where the state is legal, it can be compelled to behave appropriately through legal mechanisms, either by the international community or by civil society.

Legal coercion and state coercion also differ in the purpose of their application. If the purpose of legal coercion is to ensure the well-being of society as a whole and of each individual member of it by resolving conflicts that arise in society and by harmonizing various social interests, the purpose of state coercion is to subdue the will and activity of an individual or a social group to the tasks of ensuring the welfare of the state. Of course, any activity of the state can also be described

as aiming to ensure social stability by regulating the most important social relations, but not because the "*common good*" is the real purpose of its existence. Maintaining social peace and harmony by regulating social relations is a guarantee of the durability of the entire state system, because any state that is not able to reconcile social interests is doomed to destruction.

In our view, the relationship between the state and legal coercion is dualistic in nature. On the one hand, at all stages of its historical development, the state acted and continues to act as the main subject of legal coercion. In a state of law, the law is the most effective means of implementing the state's strategy and tactics, the most effective tool for implementing its policies. A state that does not refer its activities to the rule of law is not considered legitimate by society and therefore cannot expect a stable and sustainable existence.

If we look at the relationship between legal and state coercion from another perspective, we see that the state is the primary law enforcement force. Because, at the present stage of social development, it is the state that holds such a powerful power, to which other subjects must submit, it is the one that most effectively exercises legal coercion. It is the state that gives power to the law [10, p. 322].

Thus, the dual nature of the relationship between state and legal coercion determines the introduction into scientific circulation of the term "*state-legal coercion*", which, however, is usually used as a synonym of the concepts "*state coercion*" or "*legal coercion*", without being defined independently. Numerous definitions of state-legal coercion logically and simultaneously indicate the signs of both state and legal coercion. For example, N. V. Lugoveț believes that by "*the legal coercion of the state must be understood the impact on people's behavior based on the rule of law to subordinate them to the will of the state*" [11, p. 26].

A. V. Korkin defines state-legal coercion as "*a type of social coercion exercised on a strictly legal basis, a special type of activity of specially authorized subjects, as a rule, of state bodies of executive power, and in the cases directly specified in the law , and of public formations, consisting in the direct physical, mental, material or organizational impact on the subjects of legal relations (both individual and collective), through the application of specific measures, which have a negative content for the person against whom they are used, applied in the case of the commission of crimes, as well as by the emergence of special conditions for the prevention, repression of crimes and the avoidance of undesirable consequences for society and the state* of a natural, social and anthropic order" [12, p. 34].

It seems that, given the question of coercion in a rule of law, it is the legal coercion of the state that should be the object of such study. We find that legal coercion has some specific meaning in a rule of law, unlike state coercion, which is inappropriate to consider in isolation from its legal form of application. It also makes no sense to consider other manifestations of social coercion, because they do not have specific forms of expression in the legal-state sphere and are implemented through mechanisms based on morality, religious norms, customs and other elements of the social mechanism for regulating social relations.

It seems that the specificity of the state legal coercion as an independent type of social coercion is manifested primarily by the specificity of its goals.

The ability to use coercion to impose its will is one of the most important attributes of the state, and the content of the state's will can be determined both by the needs of

society and its members, and by the state's own interests. Depending on whether the will of the state expresses the interests of society or a narrow social group, its objectives change and, consequently, so does the use of coercion. The specific nature of legal coercion by the state is determined by the fact that the state has the power to use legal coercion only to the extent that its activities are aimed at the fulfillment by the state of its general social functions. In this sense, the main purpose of the legal coercion of the state is to bring the behavior of the subjects under its control in accordance with the general social will expressed in the law. It seems obvious that no other subject of legal coercion is able to fully undertake the implementation of the coercive conformity of the actual behavior of the participants in social relations with the models established in the norms of law, because no other subject has sufficient power and authority for it, and therefore we cannot consider this objective to be an objective of any other type of legal coercion except that of the state. Another specific feature of state legal coercion is the presence of special requirements for its implementation. Since coercive state-legal influence acts as a private activity of state bodies and its officials, it is subject to the same requirements as any other activity of state bodies: legality, expediency, publicity, professionalism, etc.

The qualitative specificity of the legal coercion of the state is also predetermined by the special legal position of the state as the subject of the coercion. The specificity of its position lies in the fact that, for the state, the exercise of legal coercion is both a right and an obligation, while for all other participants in social relations, the possibility of exercising a coercive influence is only a right, because it represents an opportunity to satisfy their own interests and is implemented or not according to the choice of the subject. While other subjects apply legal coercion when there are two factors - objective (the occurrence of circumstances that are considered grounds for legal coercive action in the legal norms in force) and subjective (the will to act coercively), the state applies legal coercion in all cases in which it is impossible to secure the interests recognized by law through other means of action. Of course, in the vast majority of cases, the question of the need to act coercively is decided directly by the authorities or state officials, but the state will is related to the legal will, and the choice is determined not by the subjective desire of the direct subject of coercion, but by the requirements of opportunity, opportunity being seen exclusively as the ability to obtain the result considered useful from a social point of view by the legal norm through the application of a certain coercive measure.

This circumstance, at first glance, indicates that the exercise of legal coercion is exclusively an obligation of the state, so that a special clarification is required as to why we believe that it also acts as a right of the state. The need to consider coercion not only as a duty of the state, but also as a right, results from the fact that the state voluntarily assumes general social functions, for the exercise of which it uses coercion. In addition, it is characteristic of legal coercion that "*coercive measures are applied in accordance with the part of the right that has been objectified in the law*". It is known that legislative activity is the prerogative of the state, which means that it decides which coercive measures will be objectified. In this sense, the application of legal coercion - at least the creation of the potential for its application - should be considered a right rather than an obligation of the state.

Speaking about the form of expression of state legal coercive measures, it should be noted that in the legal literature it is

traditionally emphasized that state legal coercive measures are related to the sanction of the legal norm. Thus, for example, S. S. Alekseev notes that "*from the point of view of the content of legal coercion and the relations formed in connection with it, sanctions are the real "carriers" of the coercive influence of the state*" [13, p. 76].

V. K. Babaev says that a sanction can provide for measures of responsibility, preventive measures, protective measures, as well as "*the negative consequences resulting from the behavior of the entity itself*" [14, p. 128].

C. B. Evdokimov, examining reparative measures as an independent type of state legal coercive measures, emphasizes that reparative sanctions act as a normative basis for reparative forms of coercion, in which, in his opinion, reparative measures represent the implementation of the sanction of a legal norm [15, p. 22].

H. H. Rybushkin, considering prohibitive legal norms, emphasizes that the implementation of their sanctions takes place "*in the form of application at the level of individual legal regulation*" [16, p. 263].

Although we agree that the measures state coercive and legal norms sanctions are clearly related, we consider it necessary to note, however, that such a connection exists only when the basis for the application of state coercive measures it is illegal behavior, especially the violation of legal rules. In this situation, the application of a state legal coercion measure can be identified with the application of the external form of its expression - the sanction of a legal norm.

Although we agree that the measures of state coercive and sanctions of the legal norms are clearly related, we consider it necessary to note, however, that such a connection exists only when the basis for the application of state coercive measures is unlawful conduct, especially the violation of legal rules. In this situation, the application of a state legal coercion measure can be identified with the application of the external form of its expression - the sanction of a legal norm. However, in addition to illegal behavior, the need for coercive measures may be triggered by the emergence of special circumstances (related or not to the activity of social actors), which indicate the possibility of substantial harm to the legitimate interests of the individual, society and the state. Obviously, legal-state coercive measures aimed at preventing such harm or eliminating it cannot be expressed by the sanction of the legal norm, because, by definition, the sanction is only able to include the coercive measures applied in case of a deviation of the participants' behavior in legal relations from the model established by the provision. D. Baltag mentions that the sanction represents the component of the legal norm, which states the unfavorable consequences borne by those who violate the provision. The legal sanction represents the reaction of the regulatory authority to the addressees of its provisions: *punitive*, in certain situations, stimulatory, in other situations, a fact arising from the legal responsibility of the addressee and may concern his/her person (for example – prison), his/her patrimony (damage repair), or legal documents drawn up without complying with the law and affected by nullity (a pledge contract that violates an imperative rule) [17. p. 237].

The above circumstances oblige us to recognize that the provision of a legal rule may also act as a form of external expression of a measure of legal-state constraint in addition to the sanction, and the provision acts as a form of external expression of those measures of legal-state constraint, which are initially not related to the violation of the rule of conduct established by the rule

of law, but act as a means of responding to the existing danger of causing harm to the interests protected by law. The fact that both the sanction and the provision are external forms of expression of the state legal coercion measure predetermines two main ways of formulating the state legal coercion measure, of stating its content. If a coercive measure is expressed in the sanction of a legal norm, it is actually formulated as an unfavorable consequence of a certain behavior of a person (non-compliance or non-fulfillment of the provision of the legal norm). Because not only the implementation of coercion, but also the threat of it, contained in the sanctions of legal norms, has a real impact on the behavior of correlative subjects. Because, from the moment the legal norm enters into force and throughout its operation, the coercive potentiality contained in it has an impact on the will and consciousness and, consequently, on the behavior of an indefinite number of subjects acting in the legal space. We believe that this fact predetermines the need to understand state legal coercion as something broader than the simple application by the state of coercive measures contained in legal norms.

We believe that it is possible to agree with E. S. Popkova, who proposes to consider the stage of legislative activity as the moment of emergence of juridical-state coercion. At this stage, she writes, "*coercion is psychologically present, which is implied by the imperative nature of legal prescriptions and the possibility of state coercion behind each of the legal norms. From the moment the legal act is officially published, coercion begins to psychologically affect the conscience of each individual, formulating a reason for subsequent behavior*" [18].

Recognizing the fact that state legal coercion does not begin simultaneously with the implementation of coercive measures, but with the establishment of the potential possibility of their application, seems to us quite reasonable also because from the moment of establishing a legal obligation (ban) and sanctioning its non-execution (noncompliance), subjects' freedom to choose the behavioral option is significantly restricted. From that moment, participants in social relations are forced to act according to the instructions received; choosing another course of action implies a high probability or even inevitability of negative consequences in the form of restrictions on their ability to satisfy an interest that is important to them. The view that any legal duties in the good faith and proper performance of which the public authorities have an interest, as well as any legal prohibitions the violation of which is undesirable to them, have been and always will be a specific form of coercion, and traditionally had opponents. For example, F.M. Kudin writes: "*Without denying the importance of the preventive value of a legal norm, it must be emphasized that its impact on a person, his/her perception and awareness of a legal requirement cannot be considered as coercion, since the choice of behavior depends entirely on the subject himself/herself. There is no imposition of the will of the state contained in the rule of law, no forced or coercive implementation*" [19, p. 108].

This view of the content of legal state coercion cannot be accepted by us, nor can we accept the statement that "...*every legal instigation and every restriction must be considered as acts of mental coercion*". Recognizing that state legal coercion must be understood in a very narrow sense, that "... *the potentiality, the possibility of coercion contained in law enforcement norms is not yet coercion itself*", this is only possible if it is established that the existence of a prohibitive or binding legal rule does not in

itself restrict the freedom of the subject to choose his or her behavior or compel him or her to act in a certain way. However, if such a norm does not also have a coercive effect, then its observance can only be the result of a complete coincidence between the will of the power contained in it and the will of the participants in social relations. Of course, the assumption that such a coincidence is possible in all cases without exception is absurd in itself, because if a certain requirement is voluntarily fulfilled by all, there is no need for it to be enshrined by law.

Considering any legal impact as legal coercion of the state, in our opinion, is not exactly acceptable either. In our view, to support this point of view is to ignore the existence, in the legal sphere of the state, of methods other than coercion to influence behavior. This calculation does not take into account the fact that the purpose of law is to satisfy the needs of people in life. Therefore, in most cases, the patterns of behavior provided by the law coincide with the intentions of the participants in social relations, to the extent that they represent a way to realize their own claims.

D. Baltag draws attention to some points of view in this matter, returning and developing some aspects that have particularly interested legal research, giving a special look at some representatives of legal philosophy and doctrine. According to Aristotle, the constitution of the city, i.e., law, aims at the virtue, good and happiness of the citizens. For Kant, law is a rational expression, a categorical imperative and an end in itself like the moral law itself, like the absolute and like God. Hegel deifies the state, which he considers the holder of all spiritual values, and law is for him the way or "*walk*" of God between people in the world. According to I. Bentham, law is based on the general interest, its purpose being utility. The historical school (Savigny, Puchta) considers law a work of nature, a product of time, an emanation of the spirit of the people "*that is making itself*" like the language we speak. Ihering argues that law is an intentional product and pursues goals, distancing itself. The goal is the creator of all law, and law, states Ihering, is the form in which the state organizes, through coercion, the provision of society's living conditions [17, p. 106].

I. Craiovan, quoting Stammler, mentioned that law is a means by which a goal is achieved: the goal of all sops. Of course, law involves will, and like all will, it pursues ends. Right is a will, but not just any will, but an inviolable, autonomous, cohesive one. Among these attributes, inviolability refers to the imperative and coercive nature of law. According to Stammler, the right is justified to the extent that the goals pursued are just. Just law must always agree with social aspirations [20, p. 196].

According to G. Roubier, quoted by D. Baltag, the purpose of law as a "*science of means*" is constituted outside itself, politics establishing the goals of social governance, and law choosing the means [17, p. 107].

N. Popa notes that in this vision, law has a position of subordination, a vegetative existence, while in a democratic and free society, law must subject to its own censorship the aims and values of society, contributing to the definition of the horizon of ideality that transcends immediate practical needs and considerations of opportunity [21, p. 87].

An overly broad understanding of the legal constraint of the state should be avoided, as this leads to the "*paradoxical assumption that the definition and legislative extension of citizens' rights limits their freedom",* even if only such rights are enshrined and no other rights can be exercised. In addition, the possibilities and nature of exercising the rights are specified. In fact, there is no reason

to believe that a constitutional enshrinement of the right to life or personal dignity, for example, can in any way restrict the freedom of the individual possessing these rights.

The dynamic aspect of state legal coercion is expressed through the implementation of state legal coercive measures. The implementation of such measures is an active and intentional activity of the subjects authorized by the state for the effective implementation of the legal restrictions that constitute the content of these measures. In this case, considering that state legal coercion measures are only those legal coercive measures that are objectified in the written law, the implementation of state legal coercion does not cover the application of those measures that are not directly provided for by law.

The dynamic component of state legal coercion is specific both in terms of its form and content: the external form of expression of the implementation of state legal coercive measures is law enforcement: in its form of law enforcement, its content is the legal behavior of the subject of law enforcement activity. When we talk about the external form of the dynamic aspect of state legal coercion, we consider it necessary to emphasize two circumstances. First of all, legal-state coercive measures can be implemented only in the form of applying the law, and not in the form of using the law, as assumed, for example, by A. I. Kaplunov [22, p. 42].

Justifying his point of view, the mentioned author, as the implementation of measures of legal coercion of the state in the form of the use of law, names: the use of physical force, special means and firearms. It is clear that in these cases the application of the law rather than the use of the law takes place, because, firstly, the subject is not acting in his/her own interest, but in the interest of other subjects (including the state he/she represents) and, secondly, the use of coercion in this case does not represent the exercise of a subjective right, but a way of implementing the obligation to ensure public security, protect public order and protect the rights and legitimate interests of other legal subjects. It is also not without importance that the statement that state legal coercion is implemented only through law enforcement needs to be developed, because law enforcement has a heterogeneous content and is characteristic not only of law enforcement, but also of positive legal regulation. The mentioned circumstance determines that not the application of the law in general, but only the form of application of the law should be considered as an external form of expression of the legal coercive measures of the state.

Also, it cannot be fully accepted, without reservations, that state coercion is achieved only through the application of the law. Realization of the right is a special form of law enforcement and therefore occurs only when laws and regulations are implemented through actions taken by the state, represented by its organs, officials and public organizations authorized by the state. However, considering that not all state coercive actions are carried out on the basis of valid legal prescriptions and with a view to their implementation, it cannot be said that they constitute an act of law enforcement in all cases. Thus, for example, an invasion of the territory of one state by another state without a declaration of war cannot be recognized as law enforcement.

Speaking about legal-state coercion as a legal coercion, the subject of which is the state, it should be noted that its value as a method of influencing the behavior of participants in social relations lies primarily in its effectiveness: through coercion, law is able to achieve such results in the regulation of social relations, which cannot be obtained either by persuasion or encouragement.

Legal coercion does not always prove to be capable of ensuring that the coerced one obeys the legal requirements. Law, though authoritative, is by no means authoritative, so that if a party to a legal relation resolutely refuses to submit to a requirement imposed by law, the result will never be attained, unless the compulsion is exercised by a subject possessing superior force compared to the object of the compulsion. This circumstance clearly demonstrates that the effectiveness of state legal coercion is determined by its state nature rather than its legal nature, and the fact that state coercion is the most irresistible explains why it is the state to which the law primarily delegates the power to exercise coercive influence.

Conclusions

The analysis of the manifestations of general social coercion in the legal-state sphere, as it seems to us, allows us to draw some conclusions:

– State coercion and legal coercion are not identical concepts, because the criteria for distinguishing between these types of social coercion are different. These phenomena also differ in the object and purpose of the influence;

– In the rule of law, the only appropriate coercion is legal coercion of the state, which is not to be regarded as state coercion exercised by means of rights, but exclusively as the exercise of legal coercion by the state, vested with the powers of a subject of legal coercion, while maintaining the rule of law in all relations related to the exercise of such coercion;

– State-juridical coercion is a distinct form of coercion that absorbs the advantages of state and legal coercion, neutralizing their negative manifestations, among which the main ones are openness to arbitrariness and ineffectiveness.

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