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## The Right to Insolation in the System of Human Rights (on the Example of the Russian Federation)

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*The article studies the general description of the modern Russian concept of human rights in dynamics. The authors use the established methodological approaches to the analysis of human rights: in the objective sense, as an established system of human rights, and in the subjective sense, as claiming for specific benefits, action, behaviour.*

*There are 'new' rights and freedoms of man and citizen, such as human right to insolation (right to sunlight). Based on this methodological approach, the authors understand this right in an objective sense as the set of rules governing the legal relations in the field of insolation. Thus, the right to insolation is interpreted as a legal regime, characterised by a set of rules that provide a certain level of solar energy.*

*In the subjective sense, the right to sunlight is a combination of powers belonging to the individual in the realisation of their ability to use sunlight. The authors believe that the right to insolation is complex and is a component of the right to health, the right to housing, the right to favourable environment, etc. for the best implementation of its need to consolidate and develop in federal law.*

*Keywords: sunlight, insolation, right to insolation, right to health, right to housing, right to favourable environment, urban planning, natural lighting, artificial lighting, mixed lighting.*

*Research area: law.*

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**Human rights: general characteristics.** In the modern world in developed countries human rights are characterised as the highest value and as an inalienable property, for example, Article 2 of the Constitution of the Russian Federation enshrines

the following rule: “Man, his rights and freedoms are the highest value. Recognition, observance and protection of the rights and freedoms of a person and a citizen are the responsibility of the state”. Article 2 of the Constitution of Italy establishes: “The Republic recognises and guarantees the inalienable human rights — both of an individual and in social formations which this person is involved in, and demands the fulfillment of inalienable duties arising from political, economic and social solidarity”. These examples are not the only ones. It is important to see that basic laws give priority to human rights.

In legal science, human rights are often considered *in the narrow and broad sense*. Human rights in the broad sense mean a whole range of rights, while in the narrow it is only a part that is derived from the state and implies its provision (the right to life, health, freedom of conscience, religion, etc.). The most successful definition of human rights is given by E. A. Lukasheva. Human rights, by E. A. Lukasheva, are normatively structured properties and features of a person’s being, which express their freedom and are integral and necessary ways and conditions of their life, relationship with society, the state, and other individuals.

The idea of considering human rights in the subjective and objective sense is right.

The human right in the subjective sense is a person’s claim to a particular benefits, behaviour, action (inaction), which depends on the will of the person. Moreover, the subjective right in a legal science, which is important to emphasise, is also defined as the measure of the possible behaviour of the subject of law. The human right in the objective sense is an established system of formally defined obligatory rules of behaviour that reinforce the capabilities and duties of an individual. In other words, in the context of the objective law, human rights appear as the capabilities recognised by the state. Thus, it can be assumed that law in the objective sense provides possibilities for all subjects, and law in the subjective sense implies the implementation of these possibilities by a certain subject.

While characterising human rights, it is also relevant to take into account their dynamics. The idea of ‘new’ human rights deserves special attention. In this regard, we should agree with B. S. Ebzeev, who notes the following: providing security and establishing new forms of freedom, the state creates new rights for its citizens. Among them, there are the right to information, the right to resist oppression, the right to peace, the right to development, the right to security, the right to death (euthanasia), the right to truth, the right to dispose of the body; etc. Thus, human rights in the modern world are assessed as the main component of the national state-legal system. They are

embodied in the objective law as a subsystem of actually existing and guaranteed rules of law and as an inalienable human right to one's own actions. The right to insolation finds its place in this complex hierarchy of rights and freedoms.

***The right to insolation: the concept and content.*** Scientists, including physicians, biologists, architects, and others talk tirelessly about the importance of sunlight in human life. It is known that the sun is necessary to maintain the immune system of the human body; it is a source of vitamins, including vitamin D. In Russian legislation, the term “insolation” is used, which should be understood to mean the irradiation of surfaces with sunlight (Sanitary (sanitary-epidemiological) rules and standards (hereinafter referred to as SanPiN) 2.2.1/2.1.1.1076–01). Generally speaking, insolation is the right of man to sunlight. This authority goes back to ancient antiquity by its roots, even then philosophers and scientists cultivated the Sun factor and its significance for man, his life.

The right to insolation can also be viewed in both objective and subjective terms.

To enforce the right to sunlight there are legal acts regulating the number and duration of sunlight, establishing a list of premises for which insolation is obligatory, etc.

The right to insolation in the objective sense is a set of legal rules governing the legal relations in the field of insolation. In this aspect, the right to insolation can be considered as a legal regime, characterised by a set of rules that ensure insolation, but often its minimal possibilities.

Studying the subjective beginnings of the right to insolation, it should be noted that we are talking about sunlight, i. e. natural light. The luminous flux can be divided into natural, combined and artificial, which follows from SanPiN 2.2.1/2.1.1.1278–03 “Hygienic requirements for natural, artificial and combined lighting of residential and public buildings”. Artificial lighting is achieved with the help of special lighting devices (lamps) and is divided into working/emergency, general/combined. Such lighting is used as specified in clause 3.1.3. SanPiN (see above), for all premises, buildings, as well as areas of open spaces intended for work, attendance of people and traffic. Combined lighting (combination of natural and artificial lighting) is allowed in cases when it is required under the terms of the choice of rational space-planning or town-planning decisions, except for the premises specified in SanPiN. Natural lighting involves the use of sunlight only and in accordance with paragraph 2.1.1. This document is used for premises where people stay continuously.

In connection with the human right to insolation under study, we note the following. The Constitution of the Russian Federation declares that everyone has the

right to housing, Paragraph 2 Article 40 of the Constitution of the Russian Federation establishes that “state authorities and local governments encourage housing, create the conditions for the exercise of the right to housing”. This means that the state should ensure the right of its citizens to housing and guarantee comfortable living conditions.

Thus, it can be stated that the housing standards of the Constitution of the Russian Federation indirectly include the right to insolation. In the federal legislation there are provisions regulating the right to insolation arising from the Basic Law. We are talking about the Federal Act No. 52 of March 30, 1999 “On the sanitary and epidemiological well-being of the population”, Paragraph 1 Article 23 establishes that “living space in terms of area, layout, illumination, insolation, microclimate, air exchange, noise levels, vibration, ionising and non-ionising radiation must comply with sanitary and epidemiological rules in order to ensure safe and harmless living conditions regardless of its duration”.

As it can be seen, this provision requires that residential premises, i. e. living space, should comply with sanitary and epidemiological standards, which include illumination. Article 24 of the Act mentioned above includes a similar requirement: “On sanitary and epidemiological well-being of the population” to industrial, public premises, buildings, structures, equipment and transport. It is obvious that the concept of “sanitary and epidemiological well-being of the population” includes two components: the state of public health and the state of the human environment. Thus, the above requirement in this federal law to the level of insolation reflects the importance of ensuring it.

Meanwhile, the main regulatory legal framework governing the scope of insolation standards is sanitary rules and regulations. First of all it includes SanPiN2.2.1/2.1.1.1278–03 “Hygienic requirements for natural, artificial and combined lighting of residential and public buildings”, SanPiN2.2.1/2.1.1.1076–01 “Hygienic requirements for insolation and sun protection of residential and public premises buildings and territories”, Sanitary rules 52.13330.2016 “Natural and artificial lighting”, Sanitary rules 30–102–99 “Planning and development of low-rise housing”, Building regulations 2.07.01–89 “Urban planning. Planning and development of urban and rural settlements” and others.

Let us emphasise that as a subjective right, the right to insolation should be considered as a set of powers belonging to a specific subject of law in the implementation of their ability to use sunlight. The subjective right is intended to meet the interests of the person, and in this regard gives them certain legal powers.

***The right to insolation and the human rights system.*** Therefore, the right to insolation is an independent legal category related to the most important human

rights, such as the right to health, the right to decent housing, the right to favourable environment, etc. It is noteworthy that the right to light is interconnected with the right to preserve the type of terrain (which becomes more and more interesting for research). It seems that the right to preserve the species, like the right to light, can be recognised as separate types of subjective rights.

According to it human rights have to be considered depending on the anthropological constant (the vital spheres of everyday life) and from the position of the systemic nature of the world. According to other scientists, the first criterion makes it possible to single out life-saving rights, where people, create channels of communication, institutionalise behaviour, and others. In connection with the data of the study we are interested in the classification of life-giving (primary) human rights. As one of these reasons the authors propose a natural-anthropological environment related to the maintenance of corporeality and control from the family (community): samples of demography, hygiene, healthcare, etc. There is no doubt that if we use the proposed approach, the right to insolation by its aspects *goes to natural anthropological rights* associated with the bodily essence of a man.

The right to insolation is an independent type of the subjective right; however, as noted, it is interconnected with other human rights. The component of the right to light is based at least on such rights as the right to health, favourable environment and decent housing.

The right to health, as noted, is not only interrelated, but also impossible without the human right to sunlight.

Human health depends on many factors, such as heredity, lifestyle, medical care, environment, including the influence of sunlight. In the most general form, these factors are divided into physical, chemical and genetic. The most important are the physical factors, which include many so-called external elements, such as light, noise, vibration, radiation, etc.

Considering what is more important, in the relationship between the right to health and the right to insolation, of course, physical factors play the most important role. It is known that the Sun is the source that provides life on Earth: plants, animals and people cannot do without it. In other words, it is impossible to talk about the right to health without such a physical factor as light energy.

The right to health is a category (which includes insolation guarantees), enshrined in many international legal acts. However, one has to state that in domestic social projects and the law-making process legal scholars do not pay attention to this right, despite the universal recognition of the right to health.

Moreover, it is noteworthy that Soviet jurisprudence also proceeded from the principle of differentiating the right to health. V. P. Kaznacheev and L. G. Matros in the composition of the right to health singled out: treatment, labour protection, protection of motherhood and childhood, provision of disability, etc. It was also pointed out to the poor knowledge of its components in legal science.

The right to health, as noted above, contains many components, including measures to protect health, the right to sunlight, the production and sale of food of appropriate quality, etc. Here is another important aspect of insolation, manifested in the implementation of high-quality production of products, where the regulation of the amount of solar energy is important. In this regard, the Food Codex Alimentari (which is an international standard for food) operates in many countries of the world. This Code contains many restrictions on the protection of products from direct sunlight, since light affects the quality and shelf life of products. Thus, one can see the relationship of sunlight and human health due to many factors.

It is known that the level of the ecological state of cities now is deteriorating: the air is polluted, the number of technical means and the number of productions are increasing, green spaces are eliminated. The problem of ecology is increasingly raised in scientific works, for example, E. Gladun and O. Zakharova wrote about this problem in the scientific article "State environmental ideology: from tsarist empire to sustainable Russia". The list of causes of poor environmental conditions can be significantly extended. All of these factors have an impact on the environment.

Favourable environment can be considered in the broad sense based on environmental indicators, visual perception of the city, safety and integrity of historical and cultural sites located within its borders, etc., green spaces, etc.

The location of buildings, the distance between them, the absence of clutter, green spaces, etc. can be attributed to the characteristic of favourable environment.

The daily average insolation depends on a special geometric and energy calculation. Insolation time is a value regulated by sanitary and construction standards in order to ensure favourable conditions for premises and territories. Insolation, apparently, creates comfortable conditions for the existence of people, having a positive impact not only on their health and livelihood, but also creating favourable environment in the village. This can be clearly demonstrated by the example of the flow of sunlight and the humidity level of cities in the Russian Federation. Such cities as Vladivostok, Sochi, Khabarovsk, St. Petersburg are prone to high humidity due to climatic conditions. There are pathogenic bacteria and microbes that are more active there because the climate



contributes to, for example, the development of mold, etc. It is necessary to ensure maximum insolation in these cities, as well as to take into account such circumstance as natural ventilation of the streets.

In addition, Moscow has recently joined the problem cities in terms of the insolation regime. According to the meteorological data over the past few years, Moscow has caught up with St. Petersburg in the number of sunny days, which is about 60 days. As meteorology notes, such a rapprochement was not previously observed in history.

Thus, sunlight has an impact on the human body, while not only physical, but also on the mental state; it helps to maintain favourable environment and a normal level of green space, creates comfortable conditions in buildings and rooms.

As mentioned above, one of the most significant factors affecting a person is the factor of the living environment, which plays an important role since a person spends most of their time in it. Therefore, the urgency of the problems associated with the living environment is particularly high. Sunlight, as a positive factor affecting the living space, is directly related to the right to housing.

The right to housing, as we know, is enshrined in Article 25 of the Universal Declaration of Human Rights, which establishes that “everyone has the right to such a standard of living, including food, clothing, housing, medical care and the necessary social services that are necessary to maintain health and well-being of a person and their family”. In the Constitution of the Russian Federation it is specified in the already mentioned Article 40, “everyone has the right to housing”. There is no concept of “housing” in the Russian legislation, which in practice often causes debates and disagreements. Referring to the existing terminology, “housing” can be defined as a special structure or room specifically designed for people: a dwelling house, an apartment, a room, another dwelling together with a corresponding auxiliary area. Saying that everyone has the right to housing, it is necessary to take into account that this is one of the main elements of life, i. e. housing is the most significant factor determining many elements of human life. That is why a person’s housing should be decent, which is provided by the level of illumination with sunlight. First of all, the right to housing, which was discussed above, implies a decent level of housing — when a person feels safe and comfortable; while housing should not generate negative consequences for the human body.

In conclusion, let us note the following. The right to sunlight (insolation) is an important guarantee of human health. A person cannot develop, be healthy and even exist without solar energy. Human rights system is differentiated (“dispersed”) as

constituting the rights to health, housing and favourable environment. The Russian legal regulation of this authority is mainly based in sub-legal Departmental Acts, which are not enough and sometimes has critical level in a situation of mass development. The elimination of this human right to the federal legislative level is required. There are examples of European countries where the right to insolation (right to light) is best implemented: Germany, Great Britain, Slovakia, Poland and others. Legal science is also lacking behind. Currently, there are no special studies on the rights (and responsibilities, for example, in the area of neighbourhood law) of a person in the field of insolation.

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## **Право на инсоляцию в системе прав человека (на примере Российской Федерации)**

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*В статье рассмотрено общее описание современной российской концепции прав человека в динамике. Авторы используют устоявшиеся методологические подходы к анализу прав человека: в объективном смысле, как к устоявшейся системе прав человека, и в субъективном смысле, как к притязаниям на те или иные блага, действия, поведение.*

*Существуют «новые» права и свободы человека и гражданина, такие как право человека на инсоляцию (право на солнечный свет). Основываясь на данном методологическом подходе, авторы понимают это право в объективном смысле как набор правил, регулирующих правоотношения в сфере инсоляции. Таким образом, право на инсоляцию интерпретируется как правовой режим, характеризующийся набором правил, обеспечивающих определенный уровень световой энергии.*

*В субъективном смысле право на солнечный свет представляет собой совокупность полномочий, принадлежащих субъекту в реализации его права пользоваться солнечным светом. Авторы считают, что право на инсоляцию является сложным и представляет собой составную часть права на здоровье, права на жилище, права на благоприятную окружающую среду и т. д. Для наилучшего осуществления его необходимо консолидировать и развивать в федеральном законодательстве.*

*Ключевые слова: инсоляция, право на солнечный свет, право на здоровье, право на жилье, право на благоприятную окружающую среду, городское планирование, естественное освещение, искусственное освещение.*

*Научная специальность: 12.00.00 – юридические науки.*

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