

# THE CONCEPT OF HOUSING INTEREST AND ITS RELATION TO THE LAW

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**Introduction:** *the article is devoted to the development of the notion "housing interest of citizens" and its relationship with the law. The category of "interest" is widely used in all spheres of public life. Therefore, at the beginning the general definition of interest is introduced in the work. It is directly related to the category "need". Then the concept of interest is projected into the housing sphere and is defined as a model of legal relationship chosen by an individual, mediating the satisfaction of needs. The housing interest is closely related to the law. Objective law is a system of legal norms designed to regulate public relations. As a result, the social subject chooses not just a model of the relationship, but a model of the legal relationship. When choosing a model of legal relationship, the social subject chooses a model of interaction built in accordance with generally binding rules. Such rules of behavior are laid down in legal norms, and the choice of the relationship model, and therefore the interest itself, depends on it. But the most significant is the relationship between interest and subjective law. Subjective law is an effective means of realizing the housing interest.*

**Keywords:** *interest, need, right, housing, citizen.*

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Interest as a social category is important for understanding the essence of law. The law ensures the realization of interests, but also influences their formation and development. The law actively affects the most diverse interests in society. Some aspects of the problem of interest in law were studied in Russian pre-revolutionary science [3], [6]. In the Soviet period, several stages can be clearly traced in the development of issues of interest in legal science.

Initially, legal scholars limited themselves mainly to clarifying the relationship between interest and subjective law. Typical for this period is the use of the category of interest without revealing its nature and content. The concept of "interest", according to V. P. Gribanov, is operated as an axiom, as a well-known concept [2].

Since the mid-60s, more intensive and in-depth coverage of the problem of interest in law has begun. The range of research is significantly expanded. The subject of the research is the role of interests in the formation of law, methods of their legal expression and enforcement, etc. Special attention is paid to the methods and ways of combining public and personal interests. The collectivist principles prevailing in this period led to the study of the problem of interests mainly from the point of view of a combination of public and personal interests. Since that time, there has been a tendency in legal science to reveal the essence and structure of the category of interest with a wide involvement in this field of related sciences-philosophy, sociology, economics, etc.

In the modern period, in the new socio-economic conditions characterized by the transition from the

dominance of state-distributive (public) relations to market relations, the role of individual (private) interests is increasing. This leads to the study of the category of interest in a new aspect. The research of the problems of realization of individual (private) interests in the conditions of a market economy is brought ahead.

In the scientific works created on the edge of the 80s and 90s of the XX century, the authors of which used all the accumulated experience of studying the category of interest, a meaningful method of defining general concepts peculiar to dialectical logic was used [4], [5]. At the same time, the main attention was directed to the study of how the interest arose, what is its origin. It seems that the general acceptance of certain provisions concerning the origin of interest justifies the expediency of such an approach to the study of interest. Research in this case is carried out in a logical sequence of knowledge-from the previously known to the unknown.

The origin of interest is due to two factors generally recognized in the scientific literature: first, the basis for the emergence of any interest is necessarily a need, there is no need, and there can be no interest; second, interest is an exclusively social phenomenon, its occurrence is associated with the emergence of a human community. The analysis of these factors allows us to draw conclusions that should form the basis for identifying this complex social phenomenon.

Since the emergence of interest is related to need, the essence of interest must somehow reflect the interconnectedness of these phenomena, which can-

not be isolated from each other, cannot be opposed to each other, but cannot be identified. In relation to the interest, the need is the initial, defining concept. Therefore, to determine the essence of the interest, a clear understanding of the essence of the need is required. Moreover, since interest is a social phenomenon, as opposed to need, which is both a social and a biological phenomenon, the essence of interest should reflect the "difference between social and biological matter" [5].

Certain ambiguities are associated with the definition of the essence of the need for science, but this question is less problematic, less confusing than the question of the essence of interest. In the scientific literature, the need is defined in different ways, in particular: as the need to observe normal life activity, as the contradiction between the subject and the objective conditions of its existence, as the need for environmental objects, or as the internal necessity of living and social systems in an external object necessary for their functioning and development, etc. And yet, despite the different definitions of the need, researchers agree in its assessment as a category that characterizes the objectively emerging relationship between the subject and the object of the need. Despite all the ambiguity of the term "relation" and its current use in the analysis of almost everything: from the interaction of social subjects to the "relations" of things and their sides in inanimate nature, some researchers reasonably define a need as the relationship of the subject to the object of need. This relationship, this connection, manifests itself as a need, a lack, a need for an object. Therefore, the need should be defined as the relation of the subject to the object of the need, which manifests itself as the need for the object.

Need is an objective socio-biological phenomenon. It is inherent not only in social subjects, but also in all living organisms. Being a manifestation of a need, a lack, a need for something, any need requires its satisfaction. However, the satisfaction of the need in the conditions of the social environment is significantly different from the biological one.

In contrast to the biological sphere, where the satisfaction of a need is immediate and takes place without any links mediating this process, in the conditions of the human community, the satisfaction of a need goes through the process of socialization: the form of satisfaction of a need becomes so complicated that it becomes practically impossible without social relations mediating this process. Moreover, any activity to meet a particular need is conscious and purposeful. Social relations, which mediate the satisfaction of needs, and consciousness, as the motivator of active human activity, are two constitutive factors that distinguish the satisfaction of needs in the conditions of the social environment from the biological one. They determine the essence of interest as a derivative of a need and an exclusively social phenomenon.

The fact is that the satisfaction of the same need of a social subject is mediated by different social relations. Therefore, before satisfying the need, the social subject evaluates all the options for possible social relations and chooses one, the most acceptable, the most optimal option for him. At the same time, the question naturally arises: what does the social subject evaluate in this case and what does he choose at the end? In fact, a social subject evaluates nothing more than models of various social relations, models of interactions, models of public relations between subjects, and, accordingly, he chooses nothing more than a model of a specific social relationship, a model of interaction, a model of public communication. It seems that it is the model of a particular social relationship chosen by a social subject that is its interest. The models of various social relations evaluated by him are possible variants of interest or, in other words, potential interests. Thus, an interest is a model of a particular social relationship chosen by a social subject, within the framework of which, according to his assessment, the need can be met in the most optimal way, which determines his participation in this relationship.

Such a definition of interest, firstly, indicates the interconnection between two phenomena-interest and need, and secondly, reflects the two main (constitutive) differences between social matter and biological matter-social relations and consciousness. Moreover, since the satisfaction of the same need of a social subject is mediated by different social relations and the model of any of them can be of interest, this understanding of the essence of interest explains why the same need generates completely different interests in social subjects.

Interest is a special social phenomenon, the origin of which is seen as its complex dual nature, combining both subjective and objective principles. Being the model of social relations chosen by the social subject, interest is the fruit of his consciousness and will. Therefore, the subjective nature of the interest is obvious. However, the choice of a model of social relations is never a derivative. It is predetermined by the totality of the objective conditions of social life. Therefore, there is an objective beginning at the basis of the emergence of interest.

A clear definition of the essence of interest and its place in the system of public relations determines the successful solution of the question of the relationship between interest and law. In the legal literature, the solution to this question, as a rule, was reduced to determining the ratio of interest and subjective law. The definition of interest proposed in this paper makes it necessary to move away from the traditional approach to the solution, expand the range of research and determine the relationship of interest not only with subjective law, but also with objective law.

Objective law is a system of legal norms designed to regulate public relations, to regulate the interaction of subjects that make up the content of public

relations. This applies equally to social relations that mediate the satisfaction of needs. Although not all of them need legal regulation and, accordingly, not all of them are subject to legal regulation. There are many needs, the satisfaction of which is mediated by social relations that are beyond the limits of legal influence.

And, nevertheless, in the case of regulation by the norms of law of social relations that mediate the satisfaction of a certain need, the social subject satisfies it already being a participant (subject) not just of a social relationship, but of a legal relationship, i.e., a social relationship regulated and regulated by the norms of law. Moreover, before satisfying the need, the social subject evaluates the models of not just social relations, but legal relations. After all, as you know, the regulatory function of legal norms is manifested in the fact that they define generally binding rules of behavior, in accordance with which in the future the interaction of all persons who have fallen into a regulatory situation should be built. The definition of these rules, on the one hand, and the ability of human consciousness not only to reflect what exists at the moment, but also to anticipate the future, to make the so-called "anticipatory" reflection, on the other, leads to the fact that the social subject represents and evaluates models of social relations regulated by the norms of law, i.e. models of legal relations. Accordingly, from among them, he chooses the model of a specific legal relationship that will most optimally mediate the satisfaction of the need and the participant (subject) of which he intends to become in order to meet the need. This chosen model of legal relationship becomes his interest.

Thus, in the presence of legal norms that are aimed at regulating social relations that mediate the satisfaction of needs, the interest of the social subject is transformed from a model of social relations into a model of legal relations. This does not mean that in this case a new social phenomenon becomes an interest, and in the end the term "interest" has a double meaning. Just as a legal relationship is nothing but a social relationship itself, only regulated by the norms of law, so a model of a legal relationship is a model of the same social relationship.

However, the relationship between objective law and interest is not exhausted by the transformation of the latter into a model of legal relations. The relationship between these phenomena is actually much deeper than it may seem at first glance.

Choosing a model of legal relations, the social subject chooses a model of interaction, built in accordance with generally binding rules. The latter are defined by legal norms in the form of models of possible (the model of subjective law) and due (the model of legal obligation) behavior. And what rules of behavior are laid down in the legal norms for the participants of a particular legal relationship, how the interaction of their participants (subjects) will be built in accordance with these rules, depends on the choice of the relationship model, and therefore the in-

terest itself. Consequently, objective law actively affects the most diverse interests in society, influences their formation and development.

And yet, the most significant question is the relationship between interest and subjective law. This is due to the place and role of subjective law in the process of regulating public relations. If objective law, which establishes generally binding rules of conduct for participants (subjects) of public relations – is only the normative basis for this subjective right, as a measure of possible behavior belonging to the subject of a particular legal relationship – is the result of its implementation, this is the goal that regulation is ultimately aimed at achieving. According to S. S. Alekseev's very precise definition, subjective law is a legal phenomenon that gives a specific legal color to the entire mechanism of regulating public relations [1].

Therefore, in every study of the problem of interest in law, the question of the relationship between interest and subjective law is put at the forefront. It seems that the solution of the question of the correlation of interest and subjective law, of the relationship between these two phenomena, depends mainly on the understanding of the essence of interest. Based on the definition of interest proposed in this study, subjective law is nothing more than a legal means of realizing interests. But this conclusion certainly needs clarification. The choice by a social subject of a model of social attitude that mediates the most optimal satisfaction of a particular need, i.e., the appearance of a certain interest in him, is never an end in itself. To become a participant (subject) of the chosen relationship, i.e. to realize the interest – is the goal of all his activities. If a social subject becomes a participant not just in a social relationship, but in a legal relationship, then its interactions with other participants acquire a certain legal form: they are carried out in accordance with their subjective rights and the legal obligations assigned to them. This makes the process of implementing the interest more coordinated, more stable, and more secure.

All legal phenomena that somehow ensure the realization of interests are legal means of implementation. There is a whole system of various legal means. However, among them, those that directly provide the subject with legal opportunities stand out implementation, i.e. legal means in a narrower sense, by which it is customary to understand the legal ways of solving the relevant tasks by the subjects, achieving their goals. These include, first of all, subjective law. Therefore, there is every reason to speak of subjective law as an effective legal means that directly ensures the realization of a wide variety of interests in society.

Having defined what is "need" and what is "interest" in a general sense, it is possible to project these concepts into any sphere of public life, including housing. The housing need is characterized by two distinctive features: first, it is the need for a special material object, which is housing; secondly, it is in-

herent only to a person and belongs to the number of his physiological needs that ensure normal life activity. Housing need can be defined as the attitude of an individual to housing, which manifests itself as a need for the latter. The satisfaction of housing needs is mediated by a variety of relationships on the use of residential premises. All of them are among the property-value relations regulated by the norms of civil or housing legislation.

Among them, first of all, it is necessary to distinguish the legal relations of property. Residential premises owned by citizens can be used by them to meet their housing needs. Within the legal relationship of ownership, the housing need of the owner of the housing is met.

In addition to the legal relationship of ownership, the satisfaction of housing needs is mediated by numerous housing legal relationships. It should be noted that the concept of "housing legal relations" covers not only legal relations on the use of housing. In the legal literature, this concept, as a rule, is invested with a broader content. Housing also includes legal relations for the management and operation of the housing stock, ensuring its safety, accounting for citizens in need of housing and the distribution of living space, etc. And yet, legal relations on the use of residential premises prevail among housing legal relations. All the others are either aimed at their occurrence, or ensure their proper implementation. Emphasizing their special role, very often legal relations on the use of residential premises are defined as housing legal relations in their narrow meaning.

Within the framework of housing legal relations, tenants, members of housing and housing construction cooperatives, members of their families, etc., meet the need for housing. As you can see, housing legal relations on the use of residential premises are very different relations. They arise on different legal grounds, their participants are endowed with different amounts of powers, they have a different legal nature. But, despite all the differences, they have one common feature that unites them – they are all built on the relationship between the user of the residential premises and its owner. Housing legal relations are secondary, derived from the legal relationship of property.

The legal relationship for the use of residential premises, whether it is a legal relationship of ownership or any housing legal relationship, is inextricably linked to the legal relationship for the purchase of

housing. So, in order to use a residential space within the legal relationship of ownership, it is necessary to purchase it on one of the legal grounds, in particular: to build, buy, receive in the order of inheritance, etc.

The acquisition and use of residential premises may be covered within the framework of a single legal relationship. For example: the content of the legal relationship of renting (renting) housing in houses of private housing stock consists of both passive interactions on the use of residential premises, and active on its provision and return. But most often, legal relations for the acquisition and use of residential premises are different legal relations that are inextricably linked by one common goal. For example: the legal relationship of the purchase and sale of housing and the legal relationship of ownership of this residential space, or the organizational legal relationship for the provision of residential space to citizens in public (state or municipal) housing funds and the legal relationship of renting this housing. Taken together, the models of legal relations for the acquisition and use of residential premises constitute the content of housing interest. And yet, the core of this interest, its core, is represented by models of legal relations for the use of residential premises, within which the need for housing is directly met.

Thus, housing interest can be defined as the models of specific legal relations chosen by an individual for the acquisition and use of residential premises, through which, according to his assessment, he can get the most optimal satisfaction of the need and the participant (subject) of which he intends to become in order to meet the need for housing.

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