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Trust, trust relations, legal relations: Correlation, interrelation and manifestation in the work of law enforcement agencies of modern European States

Довіра, довірчі відносини, правові відносини: співвідношення, взаємозв'язок та особливості прояву у сфері діяльності правоохоронних органів сучасних європейських держав

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Abstract

The article explains the problematic issues of definition, correlation, interconnection and peculiarities of manifestation of trust, trust relations, legal relations in the activity of law enforcement agencies of modern European states. It is emphasized that trust in law enforcement agencies of any state cannot be introduced by a powerful command or in a violent way. It should gradually mature in the minds of the subjects of trust under the influence of a number of favorable factors. The relationship between trust and trust relations in activity of law enforcement agencies of modern European states has been outlined. It is emphasized that certain parties and properties of trust affect the nature and content of trust relations, their course and manifestations. The characteristic features of trust relations in the

Анотація

У статті з'ясовуються проблемні питання визначення, співвідношення, взаємозв'язку та особливостей прояву довіри, довірчих відносин, правових відносин у сфері діяльності правоохоронних органів сучасних європейських держав. Наголошується, що довіру до правоохоронних органів у будь-якій державі не можна запровадити владним велінням або насильницьким шляхом. Вона має поступово визріти у свідомості суб'єктів довіри під впливом низки сприятливих факторів. Найбільш стійкі, стабільні і довготривалі довірчі відносини викликає двостороння внутрішня довіра. Окреслено взаємозв'язки довіри і довірчих відносин у сфері діяльності правоохоронних органів сучасних європейських держав. Акцентовано, що певні сторони та властивості довіри

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studied sphere have been distinguished, which made it possible to formulate author's definition of trust relations in the sphere of activity of law enforcement agencies of modern European states and to determine the requirements for them. The ratio of trust and legal relations, as well as their complementary influence, in particular through separation of both common and different features, has been revealed.

Keywords: trust, trust relations, legal relations, law enforcement agencies, law enforcement activity, civil society, state.

Introduction

At the turn of the centuries in the modern world, interest in the study of the problem of social trust in general and trust in law enforcement agencies in particular has increased. These problems are actively researched within the scientific discourse of various fields of knowledge, including jurisprudence. After all, maintaining a high level of social trust in any power structures is necessary to ensure the stability of social development, harmonization of social relations and to create proper conditions for large-scale structural changes in the public or state life of any country.

Increasing interest in the systematic study of various manifestations, parties and varieties of social trust is also due to the intensification of democratic processes, decentralization of state power in many countries of modern Europe and individual states of the post-Soviet space, intensive development of their civil societies, as evidenced by the recent events of 2020-2021 in the republics Belarus, Kazakhstan, etc. (Holovakha et al., 2014).

The reason for the in-depth study of trust, trust relations and other related phenomena is also caused by a number of negative factors taking place in the social life of some modern European states. First of all, these are the following: increased risks and threats caused by the aggressive policy of certain states, which generates tension, political instability and military conflicts; significant corruption of power structures and law enforcement agencies; low level of effectiveness of their activity in protecting the rights, freedoms, interests of citizens and other subjects of civil society, etc. These and other factors create an atmosphere of

впливають на характер та зміст довірчих відносин, їх перебіг та прояви. Виокремлені характерні ознаки довірчих відносин у досліджуваній сфері, що дало змогу сформулювати авторську дефініцію довірчих відносин у сфері діяльності правоохоронних органів сучасних європейських держав та визначити вимоги до них. Розкрито співвідношення довірчих і правових відносин, а також їх взаємодоповнюючий вплив, зокрема і шляхом виокремлення як загальних, так і відмінних ознак.

Ключові слова: довіра, довірчі відносини, правові відносини, правоохоронні органи, правоохоронна діяльність, громадянське суспільство, держава.

mistrust in some societies, which causes conservatism and social isolation of certain subjects of civil society, limitations of interaction and exchange of positive information between them and state bodies, degradation of social and legal relations, in particular, curtailment of other communications between various social subjects, etc. (Holovakha et al., 2014).

The war of aggression of the Russian Federation against Ukraine is a new negative factor that has made the need to study trust issues as urgent as possible. Having maximally consolidated the efforts of civil society and the state to overcome the military aggression of the enemy with the help of the fraternal democratic states of the World, the war revealed new angles of trust. Thus, in connection with the heroic confrontation of the Armed Forces of Ukraine, the National Guard of Ukraine, the State Border Guard Service of Ukraine and other military formations and law enforcement agencies, the level of trust in them on the part of the people of Ukraine and the world community has increased to the maximum.

There is also a complete loss of trust (which has turned into mistrust) towards individual representatives of state authorities at the regional and local levels and law enforcement agencies of Ukraine, who for various reasons have taken the path of collaboration - a direct betrayal of the interests of the people of Ukraine. This transformation of trust into mistrust causes legal consequences in the form of bringing guilty persons to criminal responsibility, and corresponding growth of trust relations into criminal-legal ones.

These problems will become the subject of our new scientific research after the final victory over the enemy by Ukraine and all the progressive states of the World. Therefore, increasing the significance and the level of trust in the extremely difficult conditions of today, expanding the scope of its application, primarily in the activity of law enforcement agencies of modern European states, led to the scientific need for an in-depth study of its connections with trust and legal relations, their mutual influence and interdependence in order to find effective ways of modern state formation (Yaremenko, 2009).

Literature review

The study of problematic issues of trust in power structures, including law enforcement agencies of modern states was envisaged by such scientists as: G. Andrushchenko, I. Bekeshkina, O. Volyanska, E. Holovakha have devoted their scientific works to V. Dodonova, N. Kostenko, S. Makeeva, I. Pidkurkova, A. Seligmen, T. Suprunets, E. Ullmann-Margalit, F. Fukuyama, V. Yaremenko. Particular issues of functioning of the Ukrainian border guard agency within the system if the Ministry of Interior was considered by Balendr (2018), Balendr et al., (2019), Didenko et al. (2020); Komarnytska et al. (2019). However, they did not pay attention to the question of trust in the law enforcement agencies of the respective states as the basis of their fruitful interaction with subjects and institutions of civil society, as well as the basis for the emergence and transformation of trust relations (a specific type of social relations) into legal ones and relationship between them.

Therefore, the purpose of the article is to clarify the problematic issues of the manifestation of trust, correlation and interconnection of trust and legal relations in the field of law enforcement agencies of modern European states.

In order to realize the purpose, it is necessary to solve the following tasks:

analyze modern scientific views on the phenomenon of trust in law enforcement agencies;
 find out the essence of trust as a basis for the formation of trust relations;
 characterize certain types of trust that give rise to trust relations, and offer the author's definition of them;
 outline the interrelations of trust and trust relations in the field of law enforcement agencies of modern European states;

to single out the characteristic signs of trust relations in the researched area;
 formulate the author's definition of trust relations in the activity of law enforcement agencies of modern European states and determine the requirements for them;
 reveal the relationship of trust and legal relations, as well as their complementary influence by highlighting both common and distinctive features;
 consider certain problems of mutual influence of trust and legal relations in the activity of law enforcement agencies of modern European states.

Materials and methods

The accuracy of the results and conclusions obtained in scientific work was provided by a complex of selected methodological tools. Using the methods of structural and functional, formal-logical, special-legal analysis modern scientific views on the phenomenon of trust in law enforcement agencies have been analyzed, the essence of trust as the basis of formation of trust relations, the interconnection of trust and trust relations in the activity of law enforcement agencies of modern European states have been clarified. Also, the characteristics of trust relations in the studied sphere have been distinguished, the author's definition of trust relations in the sphere of activity of law enforcement agencies of modern European states has been formulated and the requirements for them have been determined.

The combination of comparative-legal as a key one, as well as already mentioned special-legal, formal-logical and structural-functional methods contributed to reveal of the ratio of trust and legal relations, as well as their complementary influence by separation of both general and different features; coverage of certain problems of mutual influence of trust and legal relations in the sphere of activity of law enforcement agencies of modern European states.

Methods of classification and grouping in combination with already named methods were used in the characteristics of types of trust in law enforcement agencies, namely, internal and external, which facilitate development of trust relationships, as well as their subspecies.

Results and Discussion

In the modern conditions of state formation, it is impossible to maintain a proper balance of cooperation between society and the state for a

long time, to harmonize social relations in the conditions of objectively existing contradictions between public and state interests, only by forceful methods. A much better result is a combination of coercion and persuasion. As Seligmen (2002) rightly points out: "Power, domination and violence solve only for a while the problem of maintaining social order, organizing the division of labor, etc. However, they are unable to provide a high-quality social basis for maintaining such an order in the long term" (Seligmen, 2002).

The specified basis for ensuring solidarity and order is the establishment of social harmony based on mutual trust between state structures of different orientations of functioning and subjects and institutions of civil society of the respective state. The basis of stabilization of public trust in Western democracies is close control by civil society over the activities of state bodies at various levels (Holovakha et al., 2014), including law enforcement.

Trust in various subjects of law enforcement agencies of the state is based on the recognition of the professionalism, legality, fairness and objectivity of their operational and official activities in the performance of their tasks and functions as those that correspond to the values and norms generally recognized in a civilized self-sufficient society.

Trust cannot be imposed on any subjects by forceful methods, introduced by law or other authoritative instructions. It should gradually mature in the minds of people and their associations, be formed with the help of educational methods, propaganda with the help of mass media, based on the successes of the relevant law enforcement agencies. The elimination of the causes of mistrust, which were formed both in the past and in the conditions of the present, is of great importance in spreading this trust. Thus, the current low level of trust in individual law enforcement agencies and other power structures in some post-Soviet states (Belarus, Armenia, Tajikistan, the Russian Federation, etc.) is largely due to the echo of a pathological fear of them that took place in the relatively recent past, in which a person was completely defenseless before the Soviet totalitarian machine of violence and repression (Shumylo, 2014).

Such fear, unfortunately, returned again in the realities of public life in the mentioned and other states.

The spread of trust in law enforcement agencies is also hindered by hyperbolization of the brutality and corruption of their activity in the opposition mass media, especially in low-level feature films and tabloid literature, which alarms ordinary citizens, produces in them a negative attitude towards the law enforcement system of the respective state, inhibiting formation and spread of confidence in its subjects.

Gradually maturing in the minds of individual and collective subjects, trust in the law enforcement agencies of any state goes through a number of stages. Agreeing in general with Simmel (1996) and other scientists regarding the existence of three temporal modes in the formation of trust, we clarify that it: a) begins in the past on the basis of acquired knowledge about the object of trust and own acquired experience thanks to contact with it or similar objects; b) continues in the present tense as an objectively existing reality; c) directed to the future in the form of a credit of trust to the relevant law enforcement agency or structural element (Holovakha et al., 2014).

Supporting the position of Bekeshkina (2000), it is worth agreeing that the credit of trust is an expectation in the future of more positive intentions, actions, decisions from the object of trust between those existing today and in the past (Bekeshkina, 2000).

As the practice of sociological research shows, the credit of trust applies, first of all, to newly created or reformed law enforcement agencies, or those in which the leadership of especially central and regional, as well as local agencies has been completely updated in connection with the change in the political course of the respective states. An eloquent testimony to the above is the increase in the level of trust in law enforcement agencies of the Republic of Kazakhstan in 2020 compared to 2019 after President Kassym-Jomart Tokayev took office (Ranking, 2021).

It is trust that serves as the basis for the formation of trust relations, which are a type of social relations. Any social relations (moral, customary, traditional, religious, individual corporate, etc.) do not arise by themselves from nothing (Skakun, 2016). Their emergence, change and termination are related to specific life circumstances, so-called social facts. This is the social fact that trust is used in our research. Its presence gives rise to the emergence and change of trust relations between the relevant subjects and objects represented by law enforcement

agencies and their structural elements (employees, management, units, etc.).

However, if the emergence and change of trust relations is caused by trust, then their termination is caused by mistrust, which Polish researcher Sztompka defines as a state in which the subject of the survey refrains from both manifestations of trust and from expressing direct mistrust (Hardin, 2002). This uncertainty also causes the absence or termination of trust relations.

Sometimes mistrust gives rise to a reorientation of the subject of trust to another object due to the disappointment of his expectations and hopes (for example, due to the unprofessionalism of the investigator, the victim turns to his boss with a request to replace the latter).

Different types of trust that give rise to trust relations affect their nature and content. Thus, the most stable and long-lasting trust relations are caused by bilateral internal trust. At the same time, bilateral trust, in our opinion, is characterized by its mutual orientation between the subject and the object of trust, their mutual expectations of the positive, which is explained by the combination and uniformity of the performed official tasks and functions, the commonality and interdependence of the official powers of employees and other subjects and objects of a law enforcement agency.

Internal trust in law enforcement agencies is a state of expectation of a certain subject of trust (employee, manager, etc.) from the object of trust (such as similar persons or structural components of a specific law enforcement agency) of positive intentions of actions and decisions in favor of the subject of trust, other individuals, society or the state in general.

Internal trust in the field of law enforcement activities of the state contributes to the formation of vertical and horizontal trust relations, which in turn contributes to the consolidation of units and awareness of their involvement in achieving a common goal, strengthening solidarity and fruitful interaction between individual employees, units and law enforcement agencies of the security and defense sector of the respective states (Holovakha et al., 2014).

Vertical trust relations caused by internal trust also contribute to the strengthening of vertical subordinate relations in the environment of law enforcement agencies between the superior and subordinates of different levels of subordination,

which qualitatively reflect on their relations and work results.

Therefore, the mutual conditionality of the interests and goals of the subjects and objects of trust in the field of law enforcement generates long-term and high-quality trust relations. External trust in law enforcement agencies, in our opinion, should be understood as the state of expectation of a certain subject of trust, who is not his employee, from the object of trust - a specific law enforcement agency (his employee, the head of a structural unit, etc.) of the reliability of positive intentions, actions and decisions in favor of the subject of trust or other persons who are ready to interact.

External trust is mostly one-sided, as it is produced mostly unilaterally only by the subject of external trust (for example, the trust of an average citizen to a precinct inspector of the border service, a car driver to a police officer, etc.). The specified characteristics of trust, in turn, give rise to changeable, spontaneous, unstable trust relations, which, as a rule, are unable to maintain long-term stable relations of interaction between the subject and the object of trust in the field of law enforcement agencies. In many cases, it is spontaneous, reflexive, changeable, which is rightly emphasized by Ullmann-Margalit (2004).

The existence of external trust relations and their duration are significantly influenced by relevant negative subjective and objective factors, which include: unprofessional assessment of the quality of work of a law enforcement agency (its employee, manager, etc.); own acquired unsatisfactory experience of contact with him; low evaluation of his work in mass media; critical public statements of employees of the relevant law enforcement agency regarding the conditions of service in its environment; negative assessment of methods and means of activity; facts of a poor-quality change in the leadership of a unit or a law enforcement agency; unsuccessful replacement of a responsible law enforcement officer; reorientation to forceful methods of work of law enforcement agencies as a result of a change in the state's political course; low level of competence of employees and management of a separate law enforcement agency etc.

These and other factors significantly reduce the quality of trust relations, and, accordingly, the level, depth and diversity of relations between law enforcement agencies and the subjects and institutions of civil society of a particular state. Therefore, it is no coincidence that the well-

known Polish researcher Sztompka notes that strengthening the relationship between the subject and the object of trust is a positive function of trust (Hardin, 2002).

Also Fukuyama (2004) calls trust relations the most important component of social capital, which contributes to the economic progress of society. Some domestic scientists have a similar opinion. Thus, Volyanska and Pidkurkova (2018) point out that institutional trust, in particular in law enforcement agencies, is not only a social indicator of the level of trust relations between subjects and institutions of civil society and law enforcement agencies, but also the main condition of social communications, thanks to which agreement, mutual understanding and constructive dialogue of the parties is achieved, aimed at finding new opportunities for fruitful cooperation (Volyanska and Pidkurkova, 2018).

Suprunets (2015) also emphasizes that the successful functioning of modern societies is influenced by a number of factors related to the formation and reproduction of trust and trust relations. Speaking about the importance of trust relations in ensuring the subject's identity, Dodonova (2017) states that the problem of trust is a cross section of the problem of identity and the problem of the "Other", which have emerged very acutely in certain modern societies. "Since trust is an informal social relationship that is based on choice and voluntariness, the disorientation of trust relationships leads to the loss of a sense of identity" (Suprunets, 2015).

Based on the analysis of the above, it is possible to outline the following relations of trust and trust relations in the field of law enforcement activities of modern European states:

- 1) the higher the level of trust, the closer are the trust relationship between its subject and object;
- 2) trust is the basis for the emergence, change and reorientation of trust relations from one object to another;
- 3) the basis for termination of trust relations is mistrust or distrust;
- 4) general (abstract) impersonal trust can exist autonomously, without causing the emergence of trust relations;
- 5) trust may continue to exist even after the end of the trust relationship due to the termination of business relations between specific subjects and objects of the law enforcement system (for example, as a state of friendly and benevolent relations between specific employees of different divisions of the same law enforcement body);
- 6) the minimization of trust or its transfer to another object entails the minimization or termination of trust relations with the object, which for various reasons did not meet the expectations of the subject of trust (for example, an employee of a law enforcement agency due to incompetence did not satisfy the legal requirements of the sub object of trust regarding compensation for damages caused to him).

Therefore, certain parties and properties of trust affect the nature and content of trust relations, their course and manifestations. The stated provisions make it possible to highlight the following characteristic features of the trust relations we are investigating:

- a) they are a type of social relations, as they arise between people and their associations (Kozyubry, 2016; Soroka et al., 2019);
- b) tend mostly to moral and ethical relations, as they are based on honesty, conscientiousness, responsibility, justice, moral obligation (Fukuyama, 2004);
- c) their participants are not bound by universally binding rights and obligations, and trust relationships are based on mutual respect, trustworthiness, positive experience of communication with the object of trust, etc.;
- d) their implementation is ensured by internal conviction, moral obligations, upbringing, level of general and professional culture of the relevant subjects and objects of trust relations, etc.;
- e) the state does not ensure the emergence, existence and implementation of trust relations through its legal coercion, but only creates conditions for their emergence, maintenance, stabilization, distribution, popularization of expediency and social significance in the field of law enforcement agencies;
- f) the most effective and efficient trust relations are generated by bilateral internal communication, which holds a key place among subjects and objects of trust in the sphere of activity of law enforcement agencies of modern European states (Hanba & Bomberger, 2021; Hanba, 2022);
- g) external participants in trust relations can be any social subjects without limitation, whose interests to a certain extent fall within the sphere of activity of the law enforcement bodies of the relevant European state;

- h) the emergence, reorientation and termination of trust relations is voluntary on the part of the subject of trust and is based on its inner conviction and expression of will;
- i) the guarantee of the quality and stability of trust relations between the subject and the object of trust is the possibility of assessing the consequences and monitoring the actions of the object of trust as a counterparty (Andrushchenko, 2009).

After analyzing and summarizing the presented features, it is possible to formulate the following definition of trust relations in the researched area - this is a type of social relations of a moral and ethical nature, the participants of which are subjects and objects of trust, which are not connected to each other by universally binding, state-guaranteed rights and duties and which are ensured by internal conviction, conscientiousness, honesty and other moral and ethical means, in order to realize mutual (or one-sided) expectations of positive intentions, actions and decisions in order to establish interaction, cooperation and other communicative connections in the field of law enforcement activities bodies of modern European states.

The definition of trust and trust relations highlighted by us should contribute to further increase of proper interaction and other communicative connections between all subjects and objects of trust of the law enforcement systems of European states, which in turn will activate the efficiency and systematic character of their activities. The above makes it necessary to outline the following requirements for trust relations in the researched area:

stability;
 systemic prevalence among all subjects of law enforcement agencies;
 openness and benevolence;
 mutual conditionality;
 their linear development (continuity of existence);
 mutual initiation of their maintenance and deepening among various subjects of law enforcement activities.

Trust relations are closely related to legal ones, as they contribute to the qualitative and systematic implementation of the latter, thereby increasing the effectiveness of the activities of law enforcement agencies in general, as well as their divisions and individual employees in particular. Therefore, it is important to analyze the ratio of trust and legal relations, their

complementary influence by highlighting common and distinctive features.

In our opinion, the following should be included among the general features of the mentioned relations:

- 1) both trust and legal relations are types of social relations, as they arise and are implemented between people;
- 2) both of them perform the main function of regulating the behavior of people and their associations;
- 3) they pursue a single goal - to establish, maintain and harmonize social relations in society and the state in the interests of a man;
- 4) both of these relations are ideological, since even before their emergence they pass through the consciousness of the relevant subjects, in which they are formed in the form of models of social behavior (Hanba, 2020; Hanba, Liashuk, Balendr & Olytskyi, 2022);
- 5) both of the specified types of social relations are conscious-volitional relations, since they arise and are implemented on the basis of the will of at least one of their participants;
- 6) trust and legal relations are based on the same evaluation category - justice.

Distinctive features of trust and legal relations, in our opinion, are the following:

1. If trust relations are formed spontaneously, on the basis of trust, then legal relations, maturing in society, are recognized or established by the state as universally binding models of behavior.
2. Trust relations are based on the expectation of positive intentions, actions, decisions, which is aimed at the internal moral and ethical world of the object of trust, represented by a law enforcement agency, its manager, employee, etc. Legal relations regulate the external form of human behavior in the law enforcement sphere of state activity.
3. Trust relations do not find their written confirmation in any special acts, as they exist in the minds of subjects and objects of trust. And models of legal relations are necessarily fixed in various legal acts and other sources of law in the form of specific norms. At the same time, the results of their implementation are in law enforcement acts issued by the relevant officials and officials of the law enforcement system of a certain state.

4. If trust relations do not require the intervention of the state in their provision, since they are based on the voluntary basis of a certain subject, then the legal relationship is ensured by the state, the possibility of applying its legal coercion to violators of subjective legal rights and their non-compliance with subjective legal obligation, provided by the prescriptions of the legal norm.
5. If trust relations arise on the basis of trust, and are terminated and transformed on the basis of mistrust, then legal relations arise, change and terminate on the basis of specific life circumstances established by the legislator in hypotheses of legal norms and as legal facts.
6. If any persons can act as subjects of external trust in trust relations on the part of civil society institutions: minors, persons with limited legal capacity, etc., then only persons possessing legal personality (legal capacity, active legal capacity and tortious capacity) can be participants in legal relations.

The differences between trust and legal relations highlighted by us do not mean that there are any antagonisms, incompatibilities, etc. between them. On the contrary, their parallel temporal existence in the field of law enforcement activities of modern European states implies close mutual influence and interdependence. Therefore, there is a need to dwell in more detail on the problems of analyzing the mutual influence of trust and legal relations in the researched area:

- a) trust relations accelerate the maturation of the prerequisites for the emergence of legal relations between the relevant subjects of the law enforcement system;
- b) trust relations contribute to the spread of legal relations, their diversity, thanks to the establishment of friendly relations and the benevolent attitude of the subjects of the law enforcement system to each other;
- c) they contribute to the high-quality and complete implementation of legal relations in the law enforcement sphere;
- d) the specified relationship helps the subject of trust in a more in-depth study of the business qualities and level of competence of the object of trust;
- e) trust relations ensure the openness and transparency of law-regulatory policy in the sphere of activity of the entire system of state law enforcement bodies;

- f) high-quality and effective implementation of legal relations for the benefit of trust subjects, in turn, contributes to the deepening and stabilization of trust and trust relations;
- g) trust relations between subjects and institutions of civil society and law enforcement agencies, various structures of which are embodied in objects of trust, strengthen legal ties and raise the level of their individual and professional legal culture. This increases the intensification, depth and quality of legal regulation and, accordingly, the appropriate level of legal relations.

Conclusions

So, summing up the analysis and generalization of the presented problems, it is possible to reach the following conclusions:

1. Social trust in law enforcement agencies in any state cannot be established by imperious command or by force. It should gradually mature in the minds of trust subjects under the influence of a number of subjective and objective factors.
2. Trust causes the emergence and change of both vertical and horizontal trust relations in the field we are studying, and their reorientation and termination is caused by mistrust and distrust.
3. Specific types of trust affect the nature and content of trust relations. The most stable, sustainable and long-lasting trust relations in the researched area are generated by internal bilateral trust.
4. Trust and trust relations are closely related to each other, which determines their joint existence and mutual influence.
5. Trust relations are characterized by a number of specific features, the outline and analysis of which made it possible to formulate their author's definition.
6. The requirements outlined by us for trust relations in the field of law enforcement activities of modern European states will contribute to the determination of national means of deepening and improving them.
7. Trust relations are closely related to legal ones, which is clearly demonstrated by highlighting their common and distinctive features.
8. Trust and legal relations are in a state of constant dynamic and multifaceted mutual influence, which enriches the palette of their coexistence.

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