

FOUNDATIONS FOR THE CLASSIFICATION OF FICTIONS

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The article discusses the discussion of the classification of fictions. It is shown that, depending on the perception of legal doctrine, there are two types of fictions: constructive and destructive. Constructive fiction is an imaginary legal construction that is embraced by legal doctrine. Destructive fiction is an imaginary legal construction that is not accepted by legal doctrine. Depending on the source of origin, fictions are classified as static and dynamic. Static ones come from legal realities and are complex. Dynamic fictions arise in accordance with current legal practice needs. It has been demonstrated that, by the subject matter of generalization, legal fictions are divided into simple and derivatives. Simple summarize the circumstances that exist in society, regardless of the regulation of their legal norms. Derivatives include legal fictions that are associated with legal activity, driven by the need to simplify relationships. It is emphasized that legal fictions are classified by rigidity into axiom fictions and presumption fictions. Axiom fictions are unconditional statements or assumptions that cannot be denied by a court. Fictitious presumptions can be disproved in court. It is revealed that, depending on the occurrence of a certain legal fact, fictions are divided into conditional and unconditional. Unconditional - these are the rules that specify the existence of a particular fact, without any conditions for its occurrence; conditional - contain an indication of the fact, but subject to certain circumstances. It is shown that the sphere of existence of fiction can be divided into theoretical and normative ones. Theoretical are part of the legal doctrine, regulatory fictions - are enshrined in the text of laws in the form of separate regulatory regulations. It has been shown that, depending on the place in the mechanism of legal regulation, fictions are classified into fictions in substantive law and procedural law. The substantive fiction is the main purpose of which is the recognition of existing legal facts that are absent in real life. Procedural-legal fictions can be considered as fictions, whose task is to achieve procedural economy.

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