NORMS AS DECISIONS

The fundamental ontological categories of Aristotle are in language (Categories, IV 25). They are onto-logical. Norms are not in this classification. They are not descriptive propositions - they can not be true or false. But the logical tradition is concerned with norms as linguistic entities. It is justified by the ideas of Aristotle. The linguistic approach leads to some theoretical difficulties of the contemporary logic of norms.

The non-linguistic conception of norms, suggested by Jan Wolenski (Wolenski 1980, ch.III), is a real alternative of the linguistic approach. But it unjustifiably bypasses the giving of answers to important ontological and epistemological problems. Norms are introduced by performative utterances of the type of: “I state that A is obligatory (prohibited)”, which expresses a decision of certain normative authority. Norm-formulation appeals to “the will”, but it is not devoid of rational grounds. It is asserted that a decision cannot be reduced to its linguistic formulation only; that it is an act of evolvement of normative regulation, a process of forcing an authoritative will through, the result of it is a division of all possible actions into three, mutually-disjoint sets: obligatory, forbidden and indifferent (Wolenski 1982, p.70-71). The decision to enact a norm and its acceptance by the addressee are actions. Norms are ordered pairs of the type of <OAi,Ki>, where OAi∈X, X is a set of initial obligations {OA1,….,OAm}, the variable Ai expresses actions, and for every W∈Ki (the set of possible worlds), V(Ai,W)=1. In the context of logic, “normation” spells out choice of a normative function. It is a choice of a set of postulated possible worlds imposed on the real world (the normed universe) as its deontic alternatives. Obligations and prohibitions, established in the real world, are realized therein. Normativity and, in general, directivity is viewed as pragmatic, not as semantic characteristics of utterance; therefore, it cannot be brought down to the concept of “truth in model”. Normative discourse is made up of deontic propositions and performatives, themselves of a propositional character, as well.

Yet, what is the ontological (and logical) status of a normative decision or performative? It would seem that norms themselves get lost in the act that gives validity to them. If normative authorities are in a relation of subordination, how can
we distinguish between norms enacted by them as per their binding force? In what sense can we regard normative decisions and respective normative regulations as rational ones? The veracity and validity of norms, related to deontic propositions, have common logical properties (Wolenski 1996). If the choice of normative function has, as a premise, a certain knowledge of the real world and its deontic alternatives, why should one reject the possibility to evaluate norms as true or false? Indeed, this is hardly a matter of terminology as considered by H. N. Castaneda (Castaneda 1982, p.24). Could we present the process of normative derogation as performative utterance? Herein lies one of the foremost difficulties inherent to the the so-called expressive conception of norms (Alchourron, Bulygin 1981, p.104-105). How is the will of a normative authority related to the purpose, what realization is aimed at by the establishment of a normative regulation? Are norms and normative decisions subject to verification?

This paper is an attempt to find out the right way to giving grounded answers to some of these key questions. The spotlighting of the philosophical foundations of the theories of normative discourse is a necessary precondition for resolving debates, avoiding paradoxes; for the evolvement of a generally-acceptable system of deontic logic. It would, thereby, have good chances to turn into a method and an effective tool of social knowledge. Deontic logic directly bears on the nature of its specific object of study - human actions and their multiform determinations.

The performative act of promulgation of norms by competent authority does not elucidate its binding force. It is gleaned out via interpretations of the statute-book, and its existence is a mental one, in the first place. In order to be a norm, it should regulate certain social relationships in a concrete form; should establish patterns of correct behaviour and should suggest sanctions for their violation. A norm can be disregarded and derogated. If it is an artificial construction running counter to social requirements, traditions and intuitive law, or it cannot be performed, it will be scrapped. Thus, social reality ensures a specific mechanism of checking up on a norm, envincing its adequacy (veracity) and the other way about. A given legal norm regulates the behaviour of particular addressees under specific circumstances by means of imposing obligations (prohibitions) and giving rights to them. They are expressed directly in its linguistic formulation or could be gleaned out via interpretation. The obligation for one addressee is a right (law good) for another. The performative conception of norms stresses the first and overlooks the second. This, also, holds good for other theories of norms and logical systems.

Norms are prescription for action and they are of an objective nature. They are in World 3 of K. Popper (Bouzov,V., 1993, p.27). The content of a norm can only be expressed in a linguistic form. It is a generally-accepted view that normative sentences can be interpreted in a prescriptive or in a descriptive way (as norms or as deontic propositions related to the validity of a norm in certain normative system). R. Hilpinen is correct, however, in saying that “it is often unclear whether a deontic sentence is used performatively or assertorically, and both kinds of utterances can guide an agent’s actions in the same way” (Hilpinen 1997, p.336). Norms that are not language-dependent, but are treated as abstract entities of certain kind (obligations or prohibitions in deontically perfect worlds), are much like “norms-lekton” (Bulygin 1982, p.132). By analogy with laws of nature, according to Wolenski, norms are
independent of normative decisions. Furthermore, it is not clear whether the linguistic element is a particular information about a decision or is a part of it (Leszczyna, 1996, p.125). It could be said that the linguistic formulation is not only an information on a normative decision - it is its most essential part; is a basic expression of its content. This duality of performatives is noted by the critics of J. Austin’s theory. The mental being of a norm relates to its social and its normative being only by means of language and written texts. Logic is concerned with the linguistic expression of norms.

Normative decision is a choice called upon to substantiate aims of the normative authority (for example a legislator, judge or moral reformer). The latter wants to transform the real world as per its deontic alternatives. Decision is based on knowledge of: the real world, the typical characteristics of human behaviour, and the postulated possible worlds of the valid law. It spells out knowledge of the valid normative system and of social facts subject to normative regulation. It is true that this knowledge is usually insufficient, but it is conducive to a set of admissible decisions. Herein lies the possibility for free choice on the part of a the legislator or an law interpreter. A knowledge underlying a normative decision can be either true or false. It bears on norms as well: a norm should measure up to defined aims and values and to accumulated empirical knowledge determining its veracity. This type of truthfulness can be understood in the context of the coherent theory of truth. A norm can be compared with the available relevant knowledge and evaluative inferences bolstering it. In this way we can also explain the rationality of norms (normative decisions). The truth (or the correctness) of a norm, as it is noticed above, is tested in its application to a particular case. It is a de facto realization of certain situation, forwarded in some of the postulated (deontically perfect) worlds of stated obligations and prohibitions. In addition, it calls for a judge’s evaluation of all the proved empirical facts of a case and of the behaviour of particular subjects. This evaluation plus subsumption, are based on knowledge, true or false alike.

These epistemological considerations on the making of normative decisions lead to conclusions with important logical and ontological implications. It could be said that cognitivism is a more reliable basis for the conception of norms as decisions. The “Jorgensen Dilemma” is outside of its scope, too. A norm is something different from the act of decision. Analogy in respect of laws of nature is irrelevant. A decision is the choice of the most suitable norm for application to human relationships in the real world. This choice can be based on interpretation of statute law-books and on evaluation of facts in a case, on precedent or professional judge’s experience. All these premises are the groundwork-decisions. They lead to “the best” norm in a set of alternative possibilities. The application of a norm to every individual case has unique characteristics. Every decision of a legislator or judge, every interpretation, too, are acts of evolvement of “a new” norm.

The process of picking out a norm is not only an action, it is a completely legitimate inference, as well. Its premises have to impart at least a part of their truth to conclusion. It is also doubtless that truth alone cannot exhaust the dependence of premise and conclusion of a normative discourse. They can be formal and meaningful. Connections between a decision and its props are all too varied. The logic of norms can be justified in the wider context of decision logic. These ideas are

REFERENCES