



DETERMINANTS OF CHANGE OF LEGAL NATURE OF THE GOVERNMENT IN THE GLOBALISED SPACE

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SUMMARY

The article deals with the problem of changing of legal nature of state authority in a globalized space of contemporary society. The author proves the assertion that state is losing its principal place position in the political system of the society. Variables determinants of legal globalization are discussed in terms of the emergence of global space and global problems under the influence of globalization transforms of the inner essence of government. The attention is focused on the process of denationalization that leads to the phenomenon that state government loses the element of identity and sovereignty.

Key words: state authority, globalization, the political system of society.

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В статье рассматриваются проблемы изменения правовой природы государственной власти в глобальном пространстве современного общества. Автор доказывает утверждение о том, что государственная власть теряет свои позиции основного места в политической системе общества. Переменные детерминанты правовой глобализации рассматриваются в аспекте появления в мировом пространстве глобальных проблем и под влиянием глобальных преобразований внутренней сущности государственной власти. Акцентируется внимание на том, что процесс денационализации государств приводит к тому, что феномен государственной власти теряет элемент самобытности и суверенности.

Ключевые слова: государственная власть, глобализация, политическая система общества.

Foreword. Globalization changes of the modern world conduct to transformation of all social spheres from economy to the right, from culture to policy. The process of globalisation and transformation has not bypassed such phenomenon as government. Enough modern scientists, among which mainly foreign thinkers: U.Bek, G.Mann, A.Ragman, U.Robinson, S.Strange, Y.Sholta were engaged in problem of globalisation changes. One can say that the complex theoretical analysis of transformation changes of the government in globalisation space was not carried out.

The task of this scientific article is to analyse the transformation of the government as legal phenomenon in globalisation space.

Body. There are scientific concepts which prove the following position – in connection with process of globalisation of all spheres of public life the government loses the potential and possibilities of the main regulator of the public relations. On exhaustion of utopian energies of the state welfare Habermas, in particular, is accented. Gyof points to changes of stages of statehood and its new phase, characterises a phenomenon of depotency of the state. At present, state formation occurs as political system which has lost the dominating position in public system, submitting to such subsystems as economy, science, technology and art. The specified acceptances are considered as the methodologically exaggerated. Can really, instead of hypothetically exist «united globalized space» with complete system of economy, right, megaculture

and the united authority centre of influence. The modern gnoseological approach proves more convincingly that such prospect is utopian.

The process of globalisation changes is with it irreversible. It occurs intensively and not to notice or not to analyze it is incorrectly from a position of scientific objectivity. «The world community which was formed in the course of globalisation in many spheres, instead of only economic, weakens, calls into question the power of the national state, penetrating up and down its territorial borders with a set of the different, social dependences not connected with a certain territory, the market relations, a network of the communications, the unlike rights and customs of the population. It is shown in all most important spheres on which the national and state authority keeps: in a tax policy, in the highest powers of police force, in foreign policy, in the field of military safety» – emphasises U.Beck [1, p. 14-15].

The government loses the positions of the main place in political system of society. It is caused in our opinion by double factors. We investigate them.

First, in world space there were problems which one state or group cannot solve. Among them the following global problems: prevention of nuclear war, ecological, raw, energy, food, demographic crisis, overcoming of dangerous diseases, peace space exploration and richness of the World Ocean, overcoming of economic backlog of the developing countries, the status of the person in the modern world and its future, terrorism, distribution of activity of international illegal groups, etc. It is accepted to call them global. Global problems of the present is a complex of the vital universal problems which existence poses threat for all mankind and which demand for the solution of the international cooperation. There are four criteria which allocate the global problems:

a) global are the problems which touch interests of all mankind, the bases of existence of a civilisation. In this sense it is possible to tell that they have universal character;

b) the problems suspense of which creates threat for future mankind are global. These problems should be solved to provide further progress of society;

c) global are the problems which are shown as an objective factor of



development of society in all regions of the world;

d) global are the problems that demand for the solution cooperation in universal scale [2, p. 8].

The separate government even of the strongest state couldn't solve present calls. Also for the sake of justice it is necessary to point that the international cooperation in these spheres not always yields desirable results. Global problems influence both all mankind, and on each citizen of the separate state. To solve the outlined questions is necessary and permanent. However the state and its institutional mechanisms are not allocated with such potentiality. The caused process leads to loss by the government of central place in political system as mechanism of the decision of general social affairs by legal methods.

But there is the following question. Whether the government keeps the potential of the solution of interstate tasks and functions? The internal essence of the government also is subject to change. Integration processes are observed in narrow spheres, and gradually extend on all spheres. In particular, the correlations between the right and policy are transformed under the influence of interrelation globalisation: 1) today quite often the priority directions of a state policy are defined according to international obligations taken by the state on themselves; 2) the state which is the participant of the supranational organisation, frequently delegates a certain part of the powers, a part of sovereignty to the corresponding supranational foundation which is displayed, first of all, on the legislation of this country; 3) under the influence of world «democratical» processes the state policy is modernised so that as much as possible to answer the conventional standards and, first of all, it reflects on the right; 4) in connection with distribution of single legal standards, gradual approximation of legal systems in the world, formation of a single legal framework interaction level raises, interrelations between existing political systems become stronger [3, p. 14]. Legal globalisation changes accents of the government. Double structure of a political system which classically existed as «citizens – government» puts the new subject who takes away a part

of functions from the government and makes it dependent on the international mega-authority subject. That is the real globalisation structure of communications can be displayed as «personality – government – international subject of authority influence».

Along with it the government carries out functions of ensuring the rights and freedoms of the person and providing of law and order within frontiers. It is impossible to argue about possibility of absolute levelling of ontological social institute which is the government. As the Ukrainian scientist V. Sirenko explains «the person lives in the world of variety needs and to satisfy them she is compelled to look for possibility and means of their satisfaction. And these possibilities, or the majority of them, are at the disposal of government, which are the persons that allocated with authority powers which «work» in a certain field of activity. Therefore how many concepts of the power we would not give, they are united by the general beginning — the power as the master of possibilities to satisfy personal, collective, social needs. The possibility to satisfy needs depends on the government — that's general what keeps society's activity» [4, p. 30].

In the sphere of protection of the rights and freedoms of citizens the developed international standards which implemented in the legislation of all states, but specified does not reduce the role of government at settlement of these problems. The dominant sphere of guaranteeing human rights there is a government. It is caused by the following factors: 1) the state possess the real mechanism to ensure the implementation of law rules; enforcement machinery existence; 2) accurately indicated sphere of law rules action that operates, as a rule, within the state territory, and also beyond its limits on the subject of own citizens and juridical resident entities; 3) the modern social state should be pointed first of all on real providing and protection of the rights and freedoms of own citizens [5, p. 61]. As well Head of the European Court of human rights Z.-P. Costa argues that «national authorities play a crucial role in future protection of human rights in Europe» [6, p. 15].

Secondly, there is a process of denationalisation of states. The

government loses its originality element. The phenomenon of originality is characterised as essential and continuous manifestation of those components of cultural property of any society which appears functionally necessary for its further existence, providing its self-preservation and identity at all changes in normative-value and substantial spheres. Originality is a basis for safety inherent of each society principles of socio-cultural regulation [7, p. 12-13]. «Globalisation – inevitable process, but its forms depend on those actors who assume responsibility for its implementation. Thus it is necessary to realise that many possible models of globalisation bear in themselves obvious defective lines which threatens with irreversible negative consequences» – V.Ya. Nechayev writes [8, p. 29].

Globalisation can pass two ways – natural and artificial. Natural globalisation – evolutionary process of perception by different socio-cultural traditions of achievements of the other cultural traditions. This perception occurs mainly voluntary and depends on a level of development of this or that tradition, its desire to acquire and to apply these or those achievements of other cultures in practice.

Artificial globalisation is an attempt to impose with force or other methods: deception, belief, bribery these or those representations about the world. Thus, as artificial globalisation is connected with violent introduction of economic, political, valuable world outlook representations, it is a revolutionary process. The violence cannot eternally last; it wins temporarily, partially or will be defeated. Therefore artificial globalisation in the authority sphere acts as axiological process and can not create conditions at which globalisation phenomena becomes universal, general and absolute value.

Dismantling of the national states deprives the people of Great fatherland. Elite gets the whole world, being released from a national binding and the related obligations. They do it, consistently destroying national spaces and the sovereignties. As a whole the parasitizing globalism is fraught with a demodernisation of contemporaneous society, primitivisation of majority's life. It's the main call of the XXI century [9, p. 395-401]. It is necessary to warn against



death of own state mental essence and unconscious absorption by the states of ideology of a globalism.

«The culture always carries out ideological function for the sake of a consumerism in capitalist global system. Therefore all cultural transnational practices in this sphere at the same time are ideological practices and, thus, cultural-ideological... Global capitalism does not allow cultural neutrality. Those cultural practices which cannot be incorporated in culture ideology of a consumerism, become opposition counter hegemonistic forces which are necessary for taming or marginalization and if it is not possible to make it – to destroy physically» – L. Skleyr emphasises [10, p. 48]. For today there were active transformation processes in societies of the majority of the world countries which are connected with geopolitical changes, attempts to create the multipolar world, developments of new systems of interstate interaction and emergence of the latest state and political association European Union. These processes have radically changed idea of the nature and prospects of development of societies cultures which are involved in global transformation movements, have generated and led to crisis as policy of multiculturalism, and policy of preservation of cultural homogeneity and cultural isolationism [11, p. 1].

Survival of mankind, its further progress under condition of the interdependent and complete world, formation of a united civilisation on Earth demand not only recognitions of such basic humanistic principles, as a freedom of choice the people of own future, increasing diversity of social progress etc., but also their practical realisation [12, p. 78-80]. In any sphere of social space the destruction of systems and traditions is painful process and when it occurs in the authority and legal sphere – this process will receive dangerous manifestations.

For the purpose of minimisation of negative consequences of globalisation and preservation of identity of national legal systems, avoidance and the solution of contradictions and soft entry of international and regional law norms into the national right, considerable interest causes process of a legal infiltration which provides the maximum accounting of formation features and functioning of the

relevant national legal systems. Thanks to a legal infiltration those provisions which are not alien for the relevant national legal systems are borrowed. Effective use of the mechanism of a legal infiltration will promote painless and more effective transplantation of legal statuses contained in the international normative legal acts or in legislations of foreign countries in national legal system [7, p. 17]. Whether the process of an infiltration in the state-authority sphere is possible? Infiltration – penetration of something in unusual environment for it. E.G. Lukyanova entirely reasonably defines a humanisation and democratisation – as one of the main tendencies of right development in globalisation conditions. Democratisation and humanisation of authority state mechanism is that process which we accept and is necessary for modern society [13, p. 88]. But imposing of alien policy in state and authority activity, destruction of classical political values of the state structure does not fall under process of an infiltration and will be rejected as an invaluable intention.

Conclusions. Transformation changes of modern globalised space are irreversible. The government loses the positions of the main place in political society system. It is caused by: 1) emergence of global problems in world space and under the influence of global transformations the internal essence of the government also is subject to change; 2) process of states denationalisation because of what the government loses an originality and sovereignty element.

Efficiency of actions of the government first of all depends on as far as it answers modern needs of society and develops under laws of society and can be essentially corrected according to the needs of society. Therefore extremely important is to identify in each special case of essence the legal and state-authority globalisation, definition of extent of its influence on national factors for the purpose of rational use of advantages which can be received from globalisation processes, and the maximum prevention of deformation incidents which they can put.

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