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TRANSFORMATIONAL CHANGES OF THE ROLE OF THE STATE IN THE CONTEXT OF OVERCOMING CONFLICTS IN LAW

The purpose of the study is to determine the main vectors of the transformation of the role of the state in the process of overcoming conflicts in law. Such scientific approaches as axiological, anthropological, synergistic, hermeneutic and communicative become important in the research process. The basis of worldview perception of scientific research are the philosophical methods of research, and dialectical, metaphysical, and idealistic methods play a decisive role among them. The system of special scientific research methods consists of: systemic, structural and functional, comparative, communicative and formal and logical. The proposed scientific study is devoted to the vectors of transformation of a state activity in the process of overcoming legal conflicts. Legal conflicts become a determining factor in the political, economic and social life of the modern states. Sometimes the life and fate of a person, a group of people or the entire state depends on the dynamism of legal conflicts, their scope of outspread, level of aggravation, subject composition and duration. That is why the study of the nature, essence and structure of legal conflicts and ways of overcoming them is of great practical importance in choosing comfortable and legitimate ways for the state to overcome them within its functional purpose. However, the priority direction of an activity of the state in the field of overcoming legal conflicts is the possibility of finding legal ways to prevent them. Such a result can be achieved only with the help of those legal means that exist in the state and with the help of which the mediator can conduct activities, the ultimate goal of which is a voluntary and fair decision. That is why an important mission is on the state – the acceptance and consolidation of relevant normative legal acts at the legislative level, which would become an alternative on the way to minimizing the resolution of legal conflicts through the courts. The introduction and further formation of the institution of mediation as an intermediate procedure in relation to the judicial form of overcoming of legal conflicts is important in this direction. Mediation helps the parties to avoid the escalation of the conflict and reach a resolution of the dispute, the result of which will satisfy both parties, relieving the court system during that period, as the resolution of conflicts in a pre-trial procedure will lead to a decrease in the number of cases that come to court. Conclusions: 1. The role and purpose of the state are manifested in the essential characteristics of the state, its social purpose as an organization that is able to and can solve various problems that arise in modern society. 2. Legal conflict can be considered as a type of social conflict, which is determined by a special sphere of existence – legal and characterized by two-way communication between subjects, arises on the basis of existing legal contradictions and is overcome with the help of legal means. 3. The legal aspect of the manifestation of conflict at the state level can act both as an object over which a conflict situation arises, and as a means by which it is possible to prevent and overcome such a conflict. 4. On the one hand, the state is viewed as an institution that is able and can resolve legal conflicts with the help of a number of legal means, and that reflects a positive aspect of the activity of the state. On the other hand, the state in the form of authorized bodies can become an organization that provokes the emergence of a legal conflict and is simultaneously a participant in it. 5. The direction of public bilateral coordination of the interests of subjects with the aim of establishing the common good becomes a priority, where the role of the state in such a process is mostly reduced to its essential model as an arbiter state. 6. The introduction of the institution of mediation (restorative justice, out-of-court procedure) and its consolidation at the regulatory level becomes an alternative or intermediate procedure in relation to the judicial form of overcoming of legal conflicts.

Keywords: conflict in law, legal conflict, person, state, transformation of the role of the state, functioning of the state, mediation.

Introduction. Problems of transformational of the changes in the role of the state at any stage of its development occupy an important place in the process of evolution of various spheres of social and political life. That is why research within the framework of issues related to a complete change of the role and purpose of the state should be built taking into account a number of factors.

First, the role and purpose of the state are manifested in the essential characteristics of the state, its social purpose as an organization that is able to and can solve various problems that arise in modern society. That is why the study of the role and meaning of the state is a prerequisite for learning its defining and characteristic features from the point of view of the main directions of its functioning both at the domestic level and at the level of relations with other states (international level). Social, economic and political spheres of activity in this direction are decisive.

Secondly, the purpose and role of the state is connected with the direct structure of its activity, which determines the main techniques, methods and means of organizing the structural elements of the state as a complex organization. The systematic construction of the structural organization of the activity of the state depends on the vectorial nature of social relations and the urgent need to organize them. However, the heterogeneity of social relations and the level of their priority depend on various factors of a social, economic, and political nature that can transform the role and the importance of the state at a certain stage of its development.

Thirdly, any changes occurring within the framework of the transformation of the role of the state and its purpose are directly related to the proper realization of national interests, which ensure the integrity and maximum realization of economic, political, intellectual, resource and other potential under the conditions of maintaining internal stability and consolidation of the nation.

Fourth, transformational changes in the role and purpose of the state play a decisive role in the development of the vectors of its opportunities as a full-fledged and sovereign subject of international relations at the level of international communication. It is the state that is able to establish stable communicative interaction between its structural elements and the international community in order to properly ensure their priority interests and solve urgent problems.

Taking into account the above, it is possible to state that regardless of what factors affect the transformation of the role and purpose of the state, the probability of various contradictions and conflicts in the process of state activity is extremely high, which requires a separate study of changes in the role and purpose of the state in the process of overcoming conflicts in law. This is what determines **the relevance** of the proposed scientific research.

Formulation of the problem. The formation and functioning of any state is undeniably connected with the development and improvement of the law itself. Modern law as the main regulator of social relations, which is formed under the influence of transformational and globalization processes, is characterized by the presence of its main goal – the ordering of society as the legal basis for the functioning and development of the state itself and its institutional components. That is why one of the key tasks of the modern state is the overcoming of conflicts arising in the law in order to ensure the stable development of society. However, recent events taking place in the world in general and in Ukraine, in particular, require a significant modification of the role of the state in the overcoming conflicts in law in the direction of such a change in the course of its activities that would be able to reduce contradictions in society, find comfort for all parties of the conflict, the possibilities of its mitigation and ways of solving them in various spheres of the life of the society.

The purpose of the study is to determine the main vectors of the transformation of the role of the state in the process of resolving conflicts in law.

The object of research is the essence and purpose of the state in the process of regulating social relations.

Methodology. The process of scientific research of transformational changes in the role of the state in the context of overcoming conflicts in law is characterized by the use of scientific approaches, principles and methods, which in general form the basis of methodological knowledge of the research object. Scientific approaches such as axiological, anthropological, synergetic, hermeneutic and communicative are of great importance in the research process, which are based on the study of the essence, nature, activity of a person and the state, the external form and way of being of a person and the state in the process of communication, the value of the institution of the state and a person receiving manifestation in their close relationship and interaction, as well as considering that the legal relationship between them is a bilateral relationship. Objectively, there can and even should be contradictions between the citizen and the state, which are determined by the difference and the otherness in their interests. In this case, the task of the state is to prevent the growth of these contradictions, without leading them to acute social conflicts.

In order to establish the truth of knowledge within the proposed scientific research, it is expedient in our opinion basing it on the principles of comprehensiveness, complexity, systematicity and professionalism, which provides an opportunity to outline the nature and peculiarities of legal conflicts, as well as the functional capabilities of the state in the process of their prevention and resolving.

Philosophical methods of research, among which dialectical, metaphysical and idealistic methods play a decisive role and form the basis of worldview perception of scientific research. The methods, which are mentioned above, provide an opportunity to investigate stable and dynamic legal relations between conflict and rights, the evolution of the functional purpose of the state in the process of their resolving.

The use of a number of special scientific research methods (systemic, structural and functional, comparative, communicative, formal and logical) allows to identify the properties of conflicts in law, the conditions of their functioning, to compare and contrast various factors affecting the transformation of the role of the state in preventing and overcoming conflicts in law.

Main results. Taking into account the established goal and object of the scientific research, it is possible to single out its following problematic aspects.

Study of the etymological and substantive foundations of the category "conflict in law" (legal conflict). The term "conflict" comes from the Latin word "conflictus", which in translation means "collision", "counteraction", "confrontation". However, modern literature offers a huge range of definitions of the "conflict" category, the main idea of which boils down to understanding it as a confrontation between social subjects (individuals, social communities, states) in order to secure their own interests. Nevertheless, in our opinion, the definition of the "conflict" category, which was proposed by the American Sociologist L. Kozer, was the most widespread. Thus, he investigates the defined concept as a struggle for values and the right to a certain social status, power and resources, in which the goal of the conflicting parties is to neutralize the opponent, inflict significant damage on him or even destroy him in general [1, p. 119].

It is obvious that "conflict" as a socio-philosophical category has various forms of manifestation, which, for the most part, depend on the sphere (political, economic, social, etc.) of the occurrence of such a conflict and its subject composition. However, in the scope of our scientific research, we consider it necessary to note that the study of certain aspects of the manifestation of legal conflict at the state level acquires a special meaning, as the state itself is the main entity that ensures the management of society.

At the state level conflicts are at least characterized by the following features: authoritative content, arise in a socially dissimilar environment; involve two-way communication, where the parties to the conflict act on the one hand, and on the other – a sovereign organization of society that has at its disposal special, including legal, means of overcoming the conflict and reaching a compromise [2, p. 5]. Thus, the legal aspect of the manifestation of conflict at the state level requires special research, because the last one is capable of acting both as an object over which a conflict situation arises, and as a means by which it is possible to prevent and overcome such a conflict. At the same time, it is important in this direction to understand not only the regulatory nature of law, but also the communicative side of its manifestation, as law itself is an important means of communication between people, citizens with the state, and different states among themselves.

The legal coloration of the category "conflict" gives rise to the concept of "legal conflict", which can mostly be considered as a type of a social conflict, which is determined by a special sphere of existence – legal and is characterized by a two-way relationship between subjects, arises on the basis of existing legal contradictions and overcome by legal means. Based on this understanding of the legal conflict, it is possible to single out its following features: 1) the presence of a legal contradiction (conflict situation), which essentially acts as a legal prerequisite for a legal conflict and causes obstacles in the realization of a subjective interest; 2) the presence of a subject composition of a legal conflict (person, group of people, state). However, the circle of subjects of legal conflict should be defined and limited by the concept of "subject of law" (person, organization, institution) endowed with the ability to be the bearers of legal rights and obligations [3, p. 5]; 3) presence of two-way communication between subjects; 4) the possibility of certain legal consequences for the subjects of the conflict.

The state as a subject of legal conflicts. The participation of the state in various social processes both at the domestic and international levels can generate certain inconsistencies and confrontations, which in this turn affects the emergence of legal conflicts.

In this direction, the state has a double format: on the one hand, the state is considered as an institution that is

capable and can, with the help of a number of legal means, prevent and resolve legal conflicts, that reflects the positive aspect of the activity of the state. On the other hand, the state in the form of authorized bodies can become an organization that provokes the emergence of a legal conflict and is a participant in it at the same time. In our opinion, based on the essence and purpose of the state, it should, for the most part, act as an arbitrator in a legal conflict, basing its activities on the principles of justice and the priority of the common good. At the same time, in practice, the state can act not as a third, disinterested party, but as an entity that supports the interests of a specific party to the conflict. This is related to the fact that in any heterogeneous society, the ruling elite itself belongs to one or another class, group, ethnic group and, as a rule, supports and ensures its interests, identifying them with the interests of the entire society [4, p. 44].

Thus, in general, the essence of the state as a subject of legal conflict is connected with the essence of the state itself. So, for example, it is appropriate in this direction to talk about the existence of the concept of a liberal and a social state. If we give a simplified analysis of the existing models, then we can name two opposite general concepts: 1) the social state model: a large public sector in the economy, high tax rates and in return high social guarantees from the state; 2) the liberal state model: the minimal role of state-owned enterprises, low taxes and a limited package of guarantees for the population from the state. In this regard, among citizens, representatives of small and medium-sized businesses, there is currently an opinion about clearly expressed injustice in their payment of high taxes.

Therefore, every year in society the number of people who, considering the ineffectiveness of the state in providing guarantees, support the idea of limiting the functions of the state in the economy, which will simultaneously mean a decrease in the scope of its social obligations to the population, increases. Supporters of this point of view declare that they do not want the state that claims many guarantees, which in reality have a purely symbolic monetary dimension.

Instead, they advocate an arbiter state, whose role is reduced to protecting human rights, competition and creating conditions so that everyone can do what they love and receive a decent reward for it. For this, it is sufficient for everyone to pay minimum taxes, which, in addition to the necessary expenses for the state apparatus and national security, will be sufficient only to protect the truly most vulnerable categories of the population. According to this point of view, the issue of pension provision and medicine should gradually become the focus not of the state budget, but of private pension funds and insurance companies [5].

The existence of the specified opposite models of the state clearly emphasizes, on the one hand, the direct participation of the state in legal contradictions existing in society, and on the other hand – the possibility of the state finding ways to resolve such conflicts, for example, by introducing a hybrid (mixed) model of the social state, which involves the presence of the state in the economic sector and in the field of social payments and benefits towards a significant reduction, tax rates are reduced, and the preferential status of monopoly entities is eliminated.

Priority vectors of state activity in overcoming legal conflicts. The state is a complex social institution, which to a large extent is not perfect, and therefore it is a natural environment for the "breeding" of various conflicts and contradictions due to the contradictory nature of humanity itself. At the same time, the mechanism of the state is an extremely powerful tool on the way to overcoming legal conflicts. And so we are not talking about the mandatory use of violent means of resolving legal conflicts. Instead, in our opinion, the priority should be the direction of public bilateral coordination of the interests of subjects with the aim of establishing the common good, where the role of the state in such a process is mostly reduced to its essential model as an arbiter state.

The analysis of various vectors of the development of modern legal systems gives rise to the need for the state to search for alternative ways of overcoming legal conflicts, which would be able to "gently" and "painlessly" find the most optimal solution in order to reconcile the diverse interests of legal subjects. The global trend in this direction is the introduction of the institution of mediation (restorative justice, out-of-court procedure), which should become an alternative or intermediate procedure in relation to the judicial form of resolving legal conflicts. If we trace the development of the mentioned institution of mediation in dynamics, it is possible to apply a comparative analysis, which will allow us to single out the main directions of its development in the countries of Europe.

Thus, the process of implementing of the mediation into the legal systems of some European countries (Poland, the Czech Republic, Slovakia, Hungary) was quite long and difficult. Conventionally, it can be divided into several stages: the spread of the idea of alternative methods of dispute resolution in society, the implementation of pilot projects of mediation, the creation of professional associations and mediation centers, the adoption of relevant regulatory and legal acts [6, p. 24]. In Ukraine, the regulatory basis for streamlining the procedural directions for resolving legal conflicts is the recently adopted Law of Ukraine "On Mediation", which defines the legal basis and procedure for conducting mediation as an out-of-court procedure for conflict (dispute) settlement, the principles of mediation, the status of a mediator, requirements for his training and other issues related to this procedure. The state itself within the framework of law-making activity has finally implemented at the official level the defining provisions and features of the mediation process in Ukraine.

Quite often there is a theoretical discourse about the assignment of mediation exclusively to the sphere of purely legal activity. In our opinion, mediation unequivocally belongs to the field of legal practice and is, in accordance with Article 1 of the Law of Ukraine "On Mediation", an out-of-court voluntary, confidential, structured procedure, during which the parties, with the help of a mediator(s), try to prevent the emergence or settle a conflict (dispute) through negotiations [7]. In addition, the legislator established the scope of the mentioned normative legal act on public relations related to mediation in order to prevent the occurrence of conflicts (disputes) in the future or to settle any conflicts (disputes), including civil, family, labor, economic, administrative, as well as in cases of administrative offenses and in criminal proceedings with the aim of reconciling the victim with the suspect (accused). Legislation may provide for specifics of mediation in certain categories of conflicts (disputes) [7]. Since the purpose of mediation is to reconcile the opposing interests of legal entities in the form of finding a compromise, it is also possible to involve as mediators both persons with appropriate legal education and representatives of other professions in order to fully resolve the legal conflict and reach an agreement. The above implies a comprehensive approach to the mediation process, because it provides an opportunity not only to resolve the legal conflict from a legal point of view, but also to involve other specialists. In our opinion, this is clearly a factor of improving the quality and efficiency of the mediation process.

At the same time, the legislator has clearly defined the role of the state in the process of establishing the status of a mediator. Thus, Part 3 of Article 9 of the Law of Ukraine

"On Mediation" provides that state authorities and local self-government bodies, enterprises, institutions, organizations, regardless of the forms of ownership and subordination, public associations may set additional requirements to mediators they engage or whose services are used, in particular regarding the availability of special training, age, education, practical experience, etc [7]. Enshrining such a norm, the legislator additionally establishes guarantees of the quality of the mediation process from the point of view of making clear demands for the status of mediators.

Conclusions. As a result of the conducted scientific research, it is possible to form the following conclusions.

1. The role and purpose of the state are manifested in the essential characteristics of the state, its social purpose as an organization that is able to and can solve various problems that arise in modern society.

2. The diversity of social relations and the level of their priority depends on various factors of a social, economic and political nature that can transform the role and significance of the state at a certain stage of its development.

3. The legal aspect of the manifestation of conflict at the state level can act both as an object over which a conflict situation arises, and as a means by which it is possible to prevent and overcome such a conflict.

4. On the one hand, the state is viewed as an institution that is able to and can resolve legal conflicts with the help of a number of legal means, which reflects a positive aspect of the activity of the state. On the other hand, the state in the form of authorized bodies can become an organization that provokes the emergence of a legal conflict and is simultaneously a participant in it.

5. The priority in overcoming legal conflicts becomes the direction of public bilateral coordination of the interests of its subjects with the aim of establishing the common good, where the role of the state in such a process is mostly reduced to its essential model as an arbiter state.

6. The introduction of the institution of mediation (restorative justice, out-of-court procedure) and its consolidation at the regulatory level becomes an alternative or intermediate procedure in relation to the judicial form of resolving legal conflicts.

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ТРАНСФОРМАЦІЙНІ ЗМІНИ РОЛІ ДЕРЖАВИ В КОНТЕКСТІ ПОДОЛАННЯ КОНФЛІКТІВ У ПРАВІ

Розглянуто роль і призначення держави як інституції, здатної вирішувати правові конфлікти, і як організації, яка провокує виникнення правового конфлікту та одночасно є його учасником. Пріоритетним стає напрям публічного двостороннього узгодження інтересів суб'єктів з метою встановлення загального блага, де роль держави в такому процесі здебільшого зводиться до такої її сутнісної моделі, як держави-арбітра. Визначено основні вектори трансформації ролі держави в процесі вирішення конфліктів у праві з використанням таких наукових підходів: аксіологічний, антропологічний, синергетичний, герменевтичний і комунікативний; таких філософських методів: діалектичний, метафізичний, ідеалістичний; таких спеціальних наукових методів: системний, структурно-функціональний, порівняльний, комунікативний, формально-логічний. Правовий конфлікт розглянуто як різновид соціального конфлікту, зумовленого особливою сферою існування – правовою, що характеризується двостороннім зв'язком між суб'єктами, виникає на підставі існуючих правових протиріч і долається за допомогою засобів правового характеру. Правовий аспект прояву конфлікту на державному рівні здатний виступати як об'єкт, з приводу якого виникає конфліктна ситуація, так і засіб, за допомогою якого можна і попередити, і подолати такий конфлікт. Досліджено вектори трансформації діяльності держави в процесі подолання правових конфліктів, які стають визначальним фактором політичного, економічного, соціального життя сучасних держав. Від динамізму правових конфліктів, сфери їхнього поширення, рівня загострення, суб'єктного складу і тривалості іноді залежить життя та доля окремої людини, групи людей, всієї держави. Саме тому дослідження природи, сутності, структури правових конфліктів має величезне практичне значення в обранні державою в межах її функціонального призначення комфортних і легітимних шляхів їх подолання, а головне, відшукання законних способів їх попередження. Це можливе лише за існуючих у державі правових засобів, за допомогою яких медіатор може вести діяльність, кінцевою метою якої є добровільне справедливе рішення. Запровадження інституту медіації (відновного правосуддя, позасудової процедури) та закріплення його на нормативному рівні стає альтернативною або проміжною процедурою щодо судової форми вирішення правових конфліктів. Місія держави – прийняття та закріплення на законодавчому рівні відповідних нормативно-правових актів, які б стали альтернативою на шляху мінімізації вирішення правових конфліктів судовим шляхом. Наголошено на впровадженні та подальшому становленні інституту медіації як проміжної процедури щодо судової форми вирішення правових конфліктів. Медіація допомагає уникнути сторонам ескалації конфлікту та дійти до вирішення спору, результат якого задовольнить обидві сторони, розвантаживши при цьому судову систему, оскільки вирішення конфліктів у досудовому порядку приведе до зменшення кількості судових справ.

Ключові слова: конфлікт у праві, правовий конфлікт, особа, держава, трансформація ролі держави, функціонування держави, медіація.

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