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СОВРЕМЕННЫЕ ТЕНДЕНЦИИ РАЗВИТИЯ ГОСУДАРСТВЕННОЙ ФУНКЦИИ

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MODERN TENDENCIES OF DEVELOPMENT OF THE STATE FUNCTIONS

Аннотация. В статье анализируются факторы, влияющие на трансформацию и развитие государственных функций глобализационных процессов, и современные концепции в этом отношении. Изложены авторские подходы к содержанию современных тенденций в экономических, политических, социальных и экологических функциях государства, особенно в условиях глобализации.

Annotation. The influencing factors of globalization process on changing and developing the state functions and respective modern conceptions are analyzed in the article. Especially, the author's approach on the essence of modern tendencies of economic, political, social, ecological functions of the state in the period of globalization are presented throughout.

Ключевые слова: гражданское общество, государство, функция государства, суверенитет, глобализация, права человека.

Key words: civil society, state, state function, sovereignty, globalization, human rights.

Today, the processes of globalization have a significant impact on the activities of the states, i.e. the content and nature of their functions and the process of their classification. At the same time, not only the external functions, but also the internal functions of the states, depend on the processes of globalization. As stated in the scientific and educational literature, "The internal and external functions of any state are closely interconnected, because foreign policy, which determines the way of its relations with other states, is largely dependent on the internal conditions of the functioning of a particular state". [1, P.112.]

At the same time, it is necessary to note that the internal function of states cannot be developed without the influence and interests of the international community, based solely on goals and objectives based on national interests. As Z.Islamov noted, the global integration processes are becoming increasingly important in our country in addressing global issues, such as global crime, prevention of environmental disasters, environmental protection, and so on. cooperation with all countries of the world. [2, P.323.]

Advances in addressing global problems have led some scholars to consider the outdated way of dividing state functions into internal and external ones. In particular, "in the present context, the separation of state functions into internal and external functions is to some extent lost, since many internal functions are external functions (for example, environmental activities of the state) or vice versa". [3, P.130.]

From this point of view, in the context of globalization it is advisable to introduce a unified system of classification of modern state functions, ie their classification into 5 groups of general functions:

1) political, that is, the function of the state to manage political life, to form state bodies, to organize their activities, and to maintain people's power;

2) economic function - development, implementation and regulation of the state's main directions of economic development. In addition, the government's economic function is to determine the strategy of economic development of the society, to ensure that various forms of ownership are maintained in an equitable manner, to support entrepreneurial activity;

3) social, social protection of the population, reduction of social inequality, creation of decent life style for people and so on.

4) ideological, that is, the direction of state activity on education of members of society, formation of civil and patriotic values through education, mass media, culture;

5) ecological function - the direction of the state activity on providing more complete needs and requirements of society and improvement of living, working and leisure conditions of members of society, solution of problems of protection of environment, rational use, restoration and reproduction of natural resources.

As the abovementioned government functions are thoroughly explored in the previous paragraph, the following are some of the issues related to the impact of globalization on the content of these functions. It is well known that not every state can function separately from other states, they are interconnected in social, economic, political, legal and cultural spheres and can solve not only global problems, but also nation-wide issues based on the agreement of mutual interests. In particular, today, globalization is making some changes to the content of the political function of the state. It is

worth noting that the creation of all necessary conditions for the development of civil society institutions and the full implementation of the principles of democratic governance of society is the essence of the political function of modern states.

Noting that today there is a process of globalization of democratic values, Lukashuk, in particular, says: “democracy is of universal importance as an international principle. The right to it is recognized as a global right and its implementation is widely supported by the international community”. [4, P. 23.]

It is recognized by many scholars that the main focus of the political function of modern nations is to secure the power of the people. This provision envisages the exercise of the following powers by the people: first, participation in the formation of public authorities; Second, participation in the most important decisions of the state and society (for example, by referendum); Third, strong public control over the activities of public authorities.

During the years of independence, along with the establishment of the necessary constitutional and legal framework in almost all areas of this provision, certain progress has been made in their implementation. In recent years, special attention is paid to the establishment of effective public control over the activities of public authorities and improvement of organizational and legal mechanisms for their implementation.

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Various international economic institutions as a result of internationalization of the world market, increased influence of transnational corporations and economic integration of countries. While globalization in this area has a positive impact on the state's economic function, it is also important to note that these processes limit the countries' ability to manage the national economy. Especially today, the transnational corporations' authority to regulate the global economy is expanding. Globalization in the economic sphere has also led to a deepening of the international division of labor and increased competition in the international market. These circumstances, in turn, urge governments to adapt their economic functions to these processes and to seek new forms of economic policy.

In our view, with the strengthening of globalization in the economic sphere, the importance of economic functions of national states will not diminish, but on the contrary, it will be of a new meaning, when states seek to adapt their national interests to the interests of the international community. After all, the economic prosperity of each state will ultimately ensure the well-being of the entire humanity. From this point of view, it is advisable that the processes of globalization allow economic integration to become a reality.

In the process of globalization, the issue of state sovereignty, which is an important aspect of the political function of the state, is also of special importance. According to some scientists, the phenomenon of state sovereignty emerged in the late 20th and early 21st centuries. In the relevant literature it is suggested that global sovereignty and the emergence of international legal sovereignty will destroy the sovereignty of individual states. In particular, According to L.E.Greene, globalization will result in the change and decrease of sovereign powers of states. Under the influence of certain factors, many states voluntarily allow their own sovereignty to diminish. [5, P. 1.]

In our view, partial or total renunciation of state sovereignty is equivalent to the abandonment of the principle of territorial integrity of the state. After all, state sovereignty is not an archaic phenomenon of the past, but rather a legal and political category that is relevant today. As S.M.Adilkhodjaeva rightly points out, legal sovereignty remains one of the most important symbols of independent states today. [6, P. 25.] Indeed, no matter how widespread the globalization process is today, it is always possible for every nation to live according to its own traditions, laws, religious and other social norms, and freely choose the form of state and social construction that meets the modern stage of development. becomes a sovereign right. At the same time, each state has the right to voluntarily accept certain obligations, universal values and international democratic standards as independent entities of the international community.

Today, it is widely believed that globalization processes have a greater impact on the economic function of the state. [7, P. 130.]

It is not wrong to say that along with other functions of the state, processes of globalization have made some changes in the content of its social function. Because at the end of the 20th and beginning of the 21st century, the essence of modern states is becoming more and more social. Today many European countries are recognized as social states (for example Germany, France, Scandinavia). There are emerging cultural methods and means of addressing social tensions around the world, as well as international standards that characterize and guarantee the states' essential social well-being for every citizen. At the same time, widespread use of modern technologies in production and increased competition in the labor market have led to a reduction in the use of labor, the shift from permanent employment to temporary employment and, as a consequence, job losses.

It is worth noting that the negative impact of globalization on the creation of employment and the labor market is reflected in: the absence of a stable employment guarantee; expansion of temporary employment and the emergence of new forms of employment; reducing the impact of unions on employee protection, and so on. The aforementioned factors require countries to reconsider and further improve their social functions.

Today, the processes of globalization seriously affect the environmental function of states. The whole international community is equally interested in creating a favorable world environment. Therefore, the solution of environmental problems is becoming increasingly global. Countries with high industrial and scientific-technical potential and natural resources play an important role in addressing global problems. After all, these countries have a significant role in the global environmental pollution and global climate change. The growing needs of the market economy often lead to the ignorance of the rules of rational use of nature, conservation and development of forests, flora and fauna. For many years, man has tried to subdue nature completely, considers natural resources as

inexhaustible, and considers them as objects of consumption. As a result, there is an environmentally dangerous situation in the Earth, including in the Central Asian region, in some cities, the levels of toxic gases are exaggerated, and biodiversity is disturbed. Therefore, "ecology is one of the most acute social problems of the modern world, the solution of which is in the interests of all peoples, and the present and the future of civilization depends in large part on the solution of this problem." [8, P. 31.]

In this regard, if each state does not take the necessary measures to maintain proper living conditions in its territory, that is, unless global cooperation with other countries to maintain a normal life in the common natural environment is likely to occur in the near future, a global collapse, a global crisis. not. In general, globalization processes have a significant impact on the functions of states in the areas of human rights and freedoms, defense, ideological, cultural and other spheres. In our view, these issues should be explored separately.

The universal challenges facing humanity are creating new global functions for states to address them. In our view, among these global functions are the protection of human rights and freedoms; addressing demographic, raw and energy issues; the fight against international crime, especially terrorism; cooperation in the field of space exploration; It is also possible to point out such functions as joining forces in the creation of the global information space.

In this regard, it is expedient to include a public function in addressing global problems in the system of state functions. This function envisages interoperability of states in addressing global issues of global importance. In conclusion, the processes of globalization give modern nations the task of expanding cooperation based on the principle of combining national and international interests, and on this basis, making significant changes in the nature and content of internal and external functions.

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КРИМІНАЛЬНО-ПРАВОВИЙ АНАЛІЗ КВАЛІФІКУЮЧИХ ОЗНАК ПІДРОБЛЕННЯ ДОКУМЕНТІВ, ЯКІ ПОДАЮТЬСЯ ДЛЯ ПРОВЕДЕННЯ ДЕРЖАВНОЇ РЕЄСТРАЦІЇ ЮРИДИЧНОЇ ОСОБИ ТА ФІЗИЧНИХ ОСІБ–ПІДПРИЄМЦІВ

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CRIMINAL-LEGAL ANALYSIS OF THE QUALIFICATION MARKS OF FAKING THE DOCUMENTS SUBMITTED FOR THE CONDUCT OF THE STATE REGISTRATION OF ORIGINAL-TREATMENT-ORDER

Анотація. Статтю присвячено кримінально-правовому аналізу кваліфікуючих ознак підроблення документів, які подаються для проведення державної реєстрації юридичної особи та фізичних осіб–підприємців. В межах аналізу розкривається зміст та сутність повторності діяння, вчинення дій за попередньою змовою групою осіб та вчинення дій службовою особою з використанням свого службового становища з огляду на основні положення кримінального законодавства України та практики судових розглядів кримінальних впроваджень за ст. 205-1 Кримінального кодексу України «Підроблення документів, які подаються для проведення державної реєстрації юридичної особи та фізичних осіб–підприємців». Наголошується увага на кримінально-правовому значенні вищезазначених кваліфікуючих ознак для правильної і точної кваліфікації даного суспільно небезпечного діяння.

Abstract. The article is devoted to the criminal law analysis of the qualifying features of forgery of documents submitted for state registration of a legal entity and individual entrepreneurs. The analysis reveals the content and nature of the repeated acts, pre-conspiracy by a group of persons and committing actions by an official using his or her official position in view of the main provisions of the criminal legislation of Ukraine and the practice of judicial review of criminal cases under Art. 205-1 of the Criminal Code of Ukraine «Falsification of Documents Filed for State Registration of Legal Entity and Individual Entrepreneurs». Attention is drawn to the criminal-law significance of the above qualifying features for the correct and accurate qualification of a socially dangerous act.

Ключові слова: підроблення документів, державна реєстрація, повторність, попередня змова групи осіб, службова особа, службове становище.

Keywords: forgery of documents, state registration, repetition, preliminary conspiracy of a group of persons, official, official position.

Постановка проблеми. Захист економічних інтересів суспільства (як держави так і окремої особи) є одним з пріоритетних завдань правової системи України. В ст. 13 Конституції України наголошується на тому, що держава забезпечує захист прав усіх суб'єктів права власності і господарювання, соціальну спрямованість економіки [1]. При цьому, в правовому просторі України, достатньо інструментарія для досягнення цього завдання і забезпечення належного захисту вищезазначених інтересів та прав особи. Одним з таких заходів виступає кримінально-правова охорона суспільних відносин взагалі і відносин у сфері господарської діяльності конкретно, шляхом

застосування положень Кримінального кодексу України (далі – *КК України*).

Кримінальний закон України бере під свою охорону певну сукупність суспільних відносин, які регулюють в українському суспільстві сферу господарської діяльності. Серед цієї сукупності мають власне місце і суспільні відносини, що регулюють законодавчо закріплений порядок державної реєстрації юридичних осіб та фізичних осіб–підприємців [2, с. 160].

В жовтні 2013 року КК України було доповнено кримінально-правовою нормою (набрала чинності лише в березні 2014 року), що встановлювала відповідальність за підроблення документів, які