

# Utopía y Praxis Latinoamericana

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## Revista Internacional de Filosofía Iberoamericana y Teoría Social

Universidad del Zulia, Maracaibo, Venezuela  
Facultad de Ciencias Económicas y Sociales  
Centro de Estudios Sociológicos y Antropológicos (CESA)



AÑO 23, n°82

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DOSSIER: CURRENT ISSUES OF THE CIS COUNTRIES

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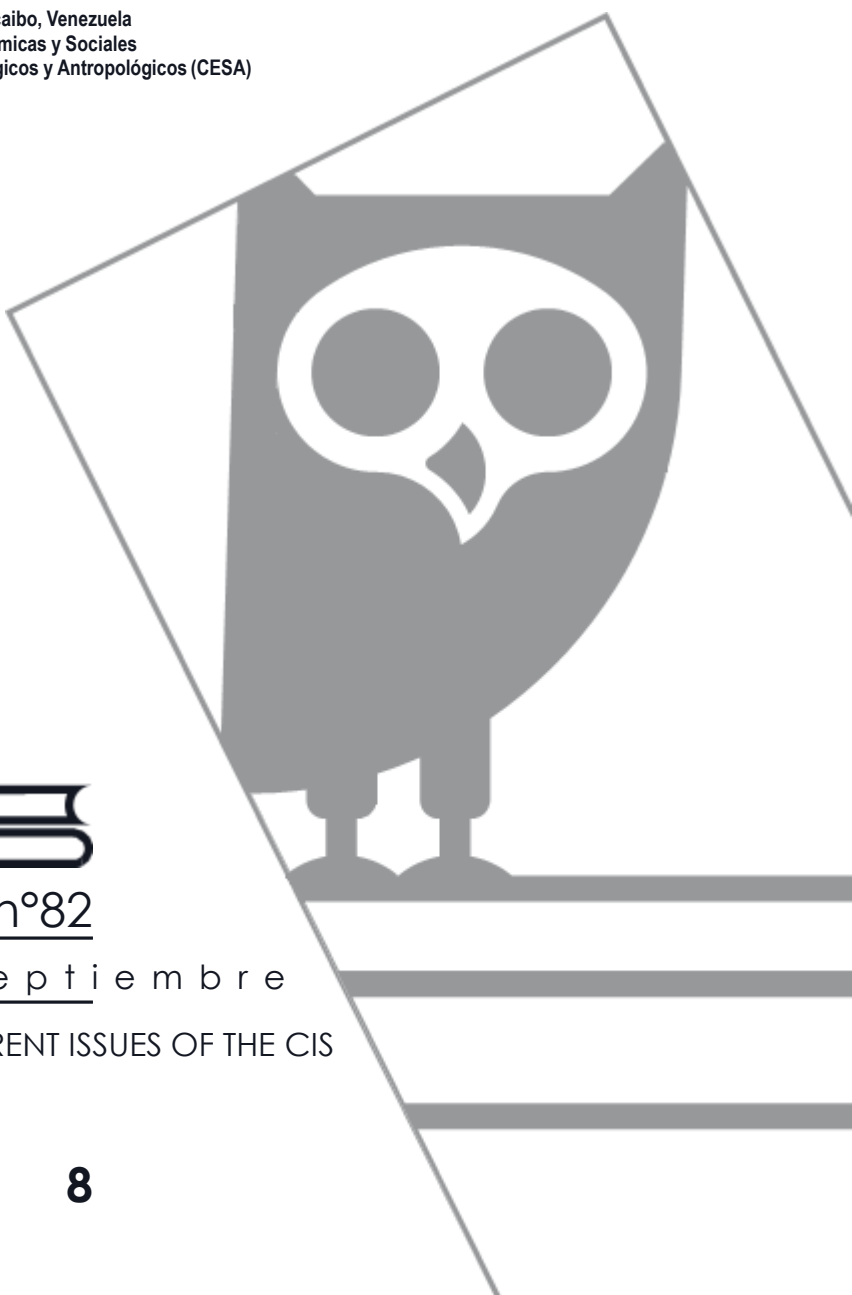


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***Utopía y Praxis Latinoamericana*** nace como una respuesta a la situación de conflictividad política que atraviesa actualmente la democracia y la sociedad latinoamericana. Pero también nace como una respuesta comprometida con el análisis filosófico y la interpretación histórica de la cultura y las ciencias sociales frente a la crisis de la Modernidad. Respuesta que procura la creación de nuevos/as actores y escenarios a partir de los cuales se hagan posibles inéditas alternativas para la teoría crítica y el cambio social efectivo. Una respuesta en dos sentidos: la utópica porque todo proyecto existencial auténtico debe enmarcarse y definirse por el universo de sus valoraciones humanas; la práctica porque, a diferencia de la necesaria teoría, implica un tipo de acción cuyo movimiento es capaz de dialectizar la comprensión de la realidad, pero también de transformar a los sujetos que la constituyen. Con lo cual la noción de praxis nos conduce de retorno a la política, a la ética y, hoy día, a la ciencia y a la técnica. Es una respuesta desde América Latina, porque es a partir del ser y pensar latinoamericano que la praxis de nuestro proyecto utópico se hace realizable.

***Utopía y Praxis Latinoamericana*** es una revista periódica, trimestral, arbitrada e indexada a nivel nacional e internacional, editada por la Universidad del Zulia (Maracaibo, Venezuela), adscrita al Centro de Estudios Sociológicos y Antropológicos (CESA) de la Facultad de Ciencias Económicas y Sociales, y financiada por el Consejo de Desarrollo Científico y Humanístico (CONDES) de esta misma Universidad. Las áreas temáticas que definen el perfil de la revista están insertas en las siguientes líneas del pensamiento iberoamericano y latinoamericano: Filosofía Política Latinoamericana, Historia de las Ideas, Epistemología, Teorías y metodologías de las Ciencias Sociales, Antropología social, política y filosófica, Ética y pragmática, Filosofía y diálogo intercultural, Estudios de Género. Las sub-áreas respectivas a cada área general serán definidas por el Comité Editorial, con la ayuda de sus respectivos asesores nacionales e internacionales, a fin de establecer la pertinencia de los trabajos presentados.

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Current Issues of the CIS Countries

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## **Presentación**

### ***Utopia in the world political-legal theory and practice***

**Prof. Denis Pylypenko**  
*National Academy of Legal Sciences of Ukraine*

The history of political and legal thought is inextricably linked with multiform approaches to the study of the essence of the state as a multi-element category. Scientists tried to find ways and means of creating a society that could become a prototype and model of an etalon union of people leading to the universal happiness and balance of interests of each individual in it. In the search for the best or best form of the state, the concepts of difficult to execute and sometimes even illusory forms of social management were forming, which were defined as utopian projects.

Achieving a better life arrangement is the goal of every society being. It implies the absence of negative elements within the collective, such as: corruption, the threat of rebellion, food shortages and the like. In the search for ideal forms of the state, ideas appeared that describe a model of society, where negative factors are excluded, and society is managed fairly and in the interests of all segments of the population. Utopia as a standard of society and the state is an image of an ideal social union, inside of which all its elements, such as: population, authorities, law, are aimed at the welfare and prosperity of the state.

The difference of utopia from other types of social structure is the absence of restrictions in the formation of its structure and content, for example, historical background, technical development, the internal state of the nation and others. A utopian project is always a project of a concrete mind, which is striving to describe and give explanations to all the elements and interrelations of holistic system of an ideal society. This is a certain social "absolute", which, in the opinion of its creator, is the "golden" state of the state, to which it can come while respecting the basic principles of life.





**ESTUDIOS**

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## French Historiography of Central Asia

*Historiografía francesa de Asia Central*

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### ABSTRACT

Article presents the analysis of historiography of French scientists concerning Central Asia in common and each of its republics separately. We have studied the works of leading French researchers from 1991 to the present. The study has revealed, that region of Central Asia has lost its homogeneity: each state in the region is developing in its own way, according to its own model and has only its own international guidelines. A careful analysis leads to the need for a more accurate study of the system of analytical structures and their functioning within the framework of geostrategic and foreign policy discourse.

**Keywords:** Central Asia; cultural and civilizational transformation; French historiography; post-soviet republics.

### RESUMEN

El artículo presenta el análisis de la historiografía de los científicos franceses sobre Asia Central en común y cada una de sus repúblicas por separado. Se han estudiado las obras de las principales investigaciones francesas desde 1991 hasta el presente. El estudio ha revelado que la región de Asia Central ha perdido su homogeneidad: cada estado de la región se está desarrollando a su manera, según su propio modelo y tiene sus propias directrices internacionales. Un análisis cuidadoso conduce a la necesidad de un estudio más preciso del sistema de estructuras analíticas y su funcionamiento en el marco del discurso geoestratégico y de política exterior.

**Palabras Clave:** Asia central; transformación cultural y civilizational; historiografía francesa; repúblicas postsoviéticas.

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## **INTRODUCTION**

The first half of the 90s of the XX century was marked by serious changes in the geopolitical position and composition of the most important and largest countries on the world map due to the very important political and economic transformations in the world economy. The self-dissolution of the USSR and the formation of new independent states in the post-Soviet space determined qualitative transformations in the external perception of the regions that once belonged to it. In turn, it caused the emergence of new spatial and political concepts and theories designed to provide in an integral system form the foreign policy approaches of specific states to the changes (Kuzio, 2002).

Historically formed in the Russian-speaking Soviet tradition, the name of the region "Central Asia and Kazakhstan" was used in the USSR during the period of the 30s – early 90s of the XX century for a specific functional reason. It was the fact that most of the republics located in Asia and were part of the USSR (Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) were considered as constituting the so-called "Central Asian economic region", while Kazakhstan stood out in a separate economic region as the Kazakh SSR. The independence of these republics contributed to the expansion of the Central Asian region and its renaming as Central Asia. In fact, this happened at the meeting of the CIS heads of state in 1993 (Allison, 2008; Roy, 2000).

The debate on the geographical definition of Central Asia was active during the last third of the XIX and early XX centuries in both Russian and foreign scientific literature. This was largely due to several factors. The main ones were:

- foreign penetration into the region and competition among the Great powers for influence in it;
- strengthening the transit and resource importance of Central Asia in military and economic terms (Ulunjan, 2008).

The cultural and geographical space of Central Asia has been given a rather broad interpretation by UNESCO in the six-volume edition of the History of Civilizations of Central Asia, the decision on which was made at its XIX session, held in November 1976 in Nairobi (United Nations Educational, Scientific and Cultural Organization, 1976). The project started in 1981. Geospatial information according to UNESCO, Central Asia included Mongolia, Western China, Tibet, northeastern Iran, Kashmir, Afghanistan, Pakistan, Eastern Russia, South of the taiga zone, Soviet republics of Central Asia, Uttar Pradesh, Haryana, Himachal Pradesh, Punjab, and Pakistan.

After 1991, the problem of the spatial interpretation of regional boundaries had already acquired a special significance geographically. The importance of the States included in the Central Asian region for the changed system of international relations, their fate as sovereign States in political, economic and military-strategic relations – all this has attracted the attention of political and expert circles in Europe, the United States and, of course, in the countries neighboring the region.

## **MATERIALS AND METHODS**

The appeal to geospatial theories in the system of international relations is due to several factors, the main ones are:

- necessity to determine the foreign policy vector of specific states;
- subjective need for spatial positioning of individual countries or groups of countries on a regional or global scale;

- requirement to synchronize changes in the global distribution of power centers with the needs of the foreign policy in the context of the existing political, military-strategic and economic opportunities of the respective States or their associations (Ulunjan, 2008).

In this article, we will use the first classification of the Central Asian republics, i.e., within this region we consider Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan and Turkmenistan. As the title of the article suggests, we will analyze the historiography of French scientists about these republics as a region as a whole, in the period of modern history – from 1991 to the present. The article do not paying attention to analysis of historiography of French scientists regarding Kyrgyzstan – we do not see it possible, because we have not found a reliable historiographical description of these studies.

A careful analysis of the work of the mechanism of political decision-making in the West, geopolitical and strategic approaches leads to the need for a more careful study of the system of analytical structures and their functioning within the framework of geostrategic and foreign policy discourse, including in those areas that affect the security and geopolitical position of Central Asia.

The main topics of interest to the French authors are:

- formation of new independent States in the region;
- building of statehood;
- their international situation, geopolitical environment, relations with Russia and among themselves;
- policy of the leading powers in the region;
- influence of Islam, security problems, etc., i.e. foreign experts are interested in virtually all aspects of political and socio-economic life of post-Soviet Central Asia (Laumulin, 2016).

Even with a cursory acquaintance with the literature about Central Asia, it is evident that Kazakhstan is undoubtedly the leader among all Central Asian States as objects of study by Western political science. This applies both to the quantitative parameters of the literature published abroad about the country and the degree of development.

The political science literature presented in the article is of interest to us first of all from the point of view of ascertaining changes in traditional society, demographic and cultural-civilizational transformation, Islamic problems, i.e. in the context of topics that affect traditional Oriental studies.

## **RESULTS AND DISCUSSION**

### **Historiography of French scientists concerning republics of Central Asia in common**

Central Asia was undoubtedly part of the geopolitical confrontation. For centuries, even millennia, its geopolitical fate was connected with Eurasia, i.e. with continental forces. Moreover, Central Asia itself produced continental impulses in the geopolitical sense. However, after the collapse of the USSR, the geopolitical future of the region becomes unclear. After being acquainted with the theory of geopolitics, it is obvious that Central Asia after 1991 acquired significant geopolitical importance for the major world players. A number of concepts of global and geopolitical nature have caused a wide resonance not only among scientists, but also among public over the past decade. These concepts, or theories, directly affect the subject of this article – geopolitics in Central Asia. Western geopolitical thought had to respond appropriately to the new challenge of the time, which was the decline or transformation of States based on a planned economic system and managed rigidly built state-totalitarian vertical. As a natural alternative to this as it seemed then not viable, the model had to be a market economy based on democratic state institutions (Laumulin *et al.*, 2008).

Thus, we can state that during the 1990s, before Western scientists had two objectives: the first was practical; they had to give clear and unambiguous recommendations to the political leadership of their countries, how to build policy towards the newly independent States of Central Asia; the second is theoretical (it can be called also "practical geopolitics"); for their solution predictions are made, are created concepts and modeled the different options political evolution of the region.

The evolution of views on the geopolitical role of Central Asia and its strategic importance for the West can be observed on the example of publications of Western political scientists. The assessments depended on the nature and state of international relations at one time or another. But the common feature of all concepts is the understanding by all Western authors without exception of the fact that the region should not be left without the attention of the West. At the same time, various reasons are cited as reasons for the West's concern:

- threat from Islamic fundamentalism;
- return to the Russian region;
- fate of democratization;
- threat of ethnic clashes;
- importance of resources, etc.

All of this indicates that Central Asia is considered in the eyes of Western strategists as a sphere of geopolitical and strategic interests of the West.

In France, in 1995, V. Fourniau, who for a long time headed the French Institute for Central Asian studies (IFEAC), published a book "The History of Central Asia", in which he devoted the last Chapter to the modern development of the region. The French scientist assumed that the disappearance of the USSR influenced the international balance, as well as the regional interests of the various border areas of the former USSR. The situation was complicated by differences related to history. For example, there was a risk to see the construction of Great Uzbekistan or Great Tajikistan. The differences between the republics are becoming more apparent. The differences between the republics are becoming more apparent. V. Fourniau came to the conclusion that the states most represented in the international arena, and this is Kazakhstan or Uzbekistan, would like to break the regional logic through which Central Asia is seen as a world policy, in particular, to avoid the fate of becoming a place of duel of regional powers, such as Turkey, Pakistan or Iran. V. Fourniau identifies three main factors that will further develop the situation in Central Asia: openness to the Islamic world, openness to the Asian world and the desire to enter the world markets for its products, mainly minerals. Regional powers, such as Turkey, Iran, Pakistan, compete with each other, as well as with Russia and the United States for the spread of its influence in the region. There is also the rivalry between Kazakhstan and Uzbekistan for regional leadership, and, according to French researchers, win the one who best adapt to the new geopolitical realities (Laumulin, 1999).

Another well-known French specialist on Central Asia fellow, National Center for Scientific Research (CNRS), O. Roy in his book (Roy, 2000) believes that the emergence of five new states marked the formation of a new geopolitical space between Russia, China, the Middle East and South Asia. However, to call the Central Asian region is homogeneous is quite difficult because of the existing antagonism between the two countries and the attempts of major powers and regional power centers to strengthen and expand its influence in the region.

French author G. Raballan published in 2005 the book "Central Asia or the fatality of enclave?" The work is devoted to the problems and specifics of the geographical position of the region, sandwiched between major geopolitical forces in the center of Eurasia, paying special attention to the so-called problem of "closure" (land-locked). The author sees the main reason of all geopolitical problems of the region, deprived of access to free

access to world communications. R. Legvold dedicated his regular work "New us strategy in Central Asia" to the revision and development of new approaches to Washington's policy in the region (Laumulin, 2000).

The book by M. Laruelle and S. Peyrouse is called "Globalizing Central Asia: Geopolitics and the Challenges of Economic Development". This time, the authors consider the region in terms of the impact of globalization processes on it. Thus, geopolitics in the book is considered from the point of view of geo-Economics. The region's rich natural resources attract global geopolitical players, among which Russia and China dominate. Against this background, local regimes face a dilemma: on the one hand, they need to sell their resources in international markets; on the other hand, to keep control over them in order to preserve the sovereignty of their States in the face of the aggressive behavior of global economic players. Thus, according to the authors, the internal needs for the development of the Central Asian countries become a key factor in the process of attracting and emerging external players and form the mechanism that provides them a place in the globalized world (Laruelle and Peyrouse, 2015).

In the first part of the book, the authors consider the "Big game" and the so-called "small games" in terms of strategy and methods of external players, respectively, large and small. The list of such players involved in Central Asian policy is quite extensive. Each major player is devoted in the book a separate chapter.

The second part of the monograph is devoted exclusively to the problems of economic development of Central Asian countries in the context of their involvement in globalized relations. Let us pay attention to the value of this publication. The book's undoubted advantages include a rich factual and statistical material on many, and especially the economic aspects of the development of the Central Asian countries. The appearance of this monograph is evidence of the departure of foreign (primarily Western) political science from the traditional study of the region in terms of geopolitics, which dominated in the 1990-2000-ies., to the approach of the study of the real place of the region in world politics and economy from geo-economic positions. At the same time, it considers both the impact of the global economy and the processes of globalization on Central Asia, and, conversely, the transformation of international economic relations due to the emergence of Central Asia.

In another paper, M. Laruel concludes that foreign policy choice is often determined by internal reasons, especially in young States that need to gain legitimacy both internationally and domestically. She draws attention to the following points of principle. So, the author notes that today it is impossible to talk about the unity of Central Asia in international affairs: Ashgabat and Bishkek or Astana and Tashkent look at the world differently. At the same time, discussions about the role of Central Asia in international affairs often suffer from two shortcomings:

- first, the main focus is directed at external actors, near or far, and the Central Asian countries themselves are considered as passive, as victims of a geopolitical game, on the course of which they cannot influence in any way;
- secondly, all attention is focused on how the Central Asian States behave with regard to the main international problems, while their position is not associated with what is happening within the countries themselves (Laruelle and Peyrouse, 2015).

M. Laruelle concludes that national identity is one of the main elements of foreign policy and it is at least as important for domestic policy. Central Asian States have to deal with several multidirectional processes. The government attaches great importance to the sovereignty. Central Asian countries want to be open to the world, but at the same time to be isolated from neighbors (Laruelle and Peyrouse, 2015).

An important component of political research in Central Asia is the direction that deals with the internal political problems of the region, the development and evolution of local regimes, their political genesis. It is impossible to consider domestic political and sociological problems without studying the historical, ethnographic and Oriental context, as some authors do. In one way or another, this problem was touched

upon in the works of R. Pomfret "The Economies of Central Asia" (Pomfret, 1995). M. Laruelle in her section covers the issues of national identity in the conditions of the requirement of building a nation-state. Conceptually, she did not add anything fundamentally new, which was not in her previous brilliant monographs on ethnicity and statehood.

O. Roy, in his work "The New Central Asia" notes, that the key to understanding the region's problems lies in understanding its own historical and political culture, which he formulates as a cult of strong power (as a consequence, authoritarian presidentialism), based on regionalism and political clans. The legacy of Soviet political culture has a serious impact on the behavior of modern Central Asian elites and causes rejection of opposition and criticism in the media, psychological unavailability to implement deep transformations in the economy, imitation of the Soviet system of power, the cult of personality, sometimes taking caricature forms (as, for example, in Turkmenistan). According to O. Roy, another important feature of the political development of the Central Asian countries is the institutionalization of regional and clan relations. Regional groups can be ethnic in nature (genera, tribes, zhuzes), and come from administrative units of the Soviet system (collective and state farms) (Roy, 2000).

Among the works devoted to the cultural development and civilizational orientation of the Central Asian states, one should also mention the book of the Turkish scientist B. Balci, made within the French Institute of Anatolian Studies "Missionaries of Islam in Central Asia". The author has done a great deal of work to study the long-term consequences of the missionary activity of Turkish and Muslim educational institutions in the region and the education of children and youth in schools and madrasas of the Middle East.

The conclusions reached by B. Balci are shocking: the Turkish and Arab Islamists are working purposefully with the elite of the region and, in addition, conduct a wide educational coverage of other segments of the population. Young people charged with Islamist ideology, with well-developed stereotypes and with a certain way of worldview come out of the walls of such schools. And it's not always outdoor Islamism; most such schools, particularly Turkish, are disguised as secular. Given the long-term perspective, there is a purposeful activity on education in the future generations with a new cultural and civilizational orientation, which is aimed at the Islamic Middle East. At the same time, Turkish missionaries, willingly or unwittingly, play along with Arab Islamism. The only way to avoid the fatal path of development when in the future will come to power people for whom will be relatives or friends of the Arabic language, and the texts of the Quran will replace ideological orientation, is a:

- further construction of the national-oriented States;
- education of the young generation in a patriotic spirit;
- completion of the construction of nation-States in Central Asia (Laumulin, 2008).

A. Heinemann-Gruder and H. Habershtok believe that local regimes can be considered as semi-autocratic, or "sultanist". The authors focus on three states in the region in their analysis: Kyrgyzstan, Uzbekistan and Turkmenistan, whose regimes are forced at any cost to maintain stability, which, in turn, is the key to their legitimacy. The authors believe that main dilemma of such regimes is a fear of any political changes or steps towards reform, which can cause erosion and even collapse of the regime (Laumulin, 2015).

### **The Republic of Kazakhstan in the works of French historiographers and political scientists**

During the years of independence in the West was published a number of books about modern Kazakhstan (with a rich historical context). In addition, over the years, saw the light of a large number of works of smaller format. Kazakhstan also appears in almost all collective and monographic publications devoted to Central Asia as a whole.

The book by the famous French orientalist, the head of the permanent seminar on Central Asia at the national Institute of Oriental languages and civilizations, Dr. C. Poujol "Kazakhstan" (Laumulin, 2000) has

filled an unfortunate gap in modern French political science, dedicated to independent Kazakhstan. C. Poujol is a carrier of the traditions established in the French historiography of Central Asian studies such as A. Bennigsen, C. Lemerrier-Quellejey and H.C. d'Encausse (Bennigsen, 1980; Bennigsen and Lemerrier-Quellejey, 1967; d'Encausse, 1979). She had a good opportunity to apply the methods developed by her predecessors in the 1960-1980s in relation to the Central Asian States, in the conditions of getting those real independence, which predicted the meters of Sovietology in the late 1970s – early 1980s. If the Anglo-Saxon authors paid more attention to geopolitical problems, the French authors focused mainly on the problems of national and cultural identity, as well as Islam (Laumulin, 2000). However, the beginning of C. Poujol's book allows us to think that she decided to write it more in the Anglo-Saxon style with an emphasis on geopolitics. She writes that "Kazakhstan has entered the international arena thanks to its President Nursultan Nazarbayev, as well as its extraordinary energy and strategic potential, which immediately attracted the attention of many partners who sought to overtake each other."

C. Poujol sees the geopolitical framework within which Kazakhstan got from the first days of its independence, as follows. With the loss of the Soviet Union in the winter of 1991, the Republic of Kazakhstan woke up, becoming the fourth world nuclear power, in a new political, economic and social environment, where everything changed dramatically, maintaining a strange way familiar appearance. This was only the first step in a new era of history, which had to link pragmatic social balance policies with controlled economic change in order to consolidate the fragile rule of law. What previously seemed natural-to lean accordingly to the traditional ties with Russia, its culture and diverse population, had to be revised (Laumulin, 2000).

Kazakhstan is actually located in the force field, restrained by the surrounding sedentary States. As a transition zone in human, cultural terms, as well as in geographical terms, Kazakhstan today is a product of extraordinary synthesis between different ways of economic management, subordinating nomadic cattle nomads, settled agriculture and industrial development of rich raw materials. Finally, it combines various cosmogonic and religious beliefs (shamanism, Islam and Christianity) with some political and social structures that include or exclude tradition and modernity.

One of the main contradictions laid in the Foundation of independent Kazakhstan, C. Poujol guesses in the problem of a new interpretation of Kazakh-Russian relations: "Thus, the question is put in reducing the gap that exists between the exogenous writing of history and modern endogenous rewritten history in the form of information accounts. The difficulty is that you need to get to the point with the "privileged nation": to relate the Kazakh nation to the territory that existed before it and that it lives as a titular nation in an appropriate way, which is not completely identical to the one used by the Russians" (Laumulin, 2000).

The task and purpose of her book C. Poujol sees that from the structural misunderstanding between the forced culture, which criticizes the government today and is looking for ways to retrospectively prevail over the past, which should be shared with many other ethnic groups, and exdominant culture, which should get along with the new political reality, should still appear the necessary consensus to maintain civil peace. Structurally, the book consists of three parts: "Kazakh space and Eurasia" covers the history of the territory of Kazakhstan from ancient times to the early twentieth century, "Soviet Kazakhstan" – respectively, the period from 1917 to 1991 and, finally, "the Fragile giant"-is devoted to modern Kazakhstan.

From the political, legal and psychological points of view, Kazakhstan is a diverse society, which is the legacy of the Soviet era. The next inevitable challenge facing the new Kazakh political class is the consolidation of society. The younger generation of the Republic demonstrates a successful ability to adapt modern political and technological innovations, and this, in turn, allows us to hope that the remaining path of Kazakhstan will be faster than it has been so far.

Also in the book, the author groups the problems in three main areas, which, in her opinion, deserve attention in the study of modern Kazakhstan:

- political life of the Republic, political and legal changes, ensuring the security of the Republic, the government and the opposition;
- Kazakhstan's foreign policy, participation in international and regional organizations, relations with Russia, "privileged partnership" with the United States, "attentive neighborhood" with China;
- problems of culture and deep mutations in society, the restructuring of the education system and youth policy, religious Renaissance, the shock of health care.

C. Poujol believes that Kazakhstan in the international arena is experiencing the so-called cross, "restrained" influence from various sides. The new partners of Kazakhstan began to engage in a specific dialogue in which their perception of the young state varies according to their own cultural, economic and political needs.

In the internal structure of Kazakhstan fully reflected its original state, resulting from the synthesis of the European model, transplanted from Russia, and the internal Turkic-Muslim core, preserved in the traditional sphere. The multi-ethnic, multi-confessional nature of Kazakhstan's society, according to the author, was seriously injured by forced subsidence and secularization.

C. Poujol is not original, considering that the system of power in Kazakhstan operates on the basis of the system of enema, which, in turn, is the result of the system of regional governance, going back to the old zhuz system. These factors, the author believes, provide social relations and bear a clear imprint of the agricultural mentality, subjugating the social relations in the urban layers. In the late 1990s in the policy of Kazakhstan, the author notes, the priorities of its development were clearly distinguished:

- creation of a national (Kazakh) state;
- harmoniously existing in the conditions of globalization of international relations;
- leading in the region as a "snow leopard";
- remaining faithful to its Eurasian environment.

All these assumptions for the further development of Kazakhstan, draws the attention of Poujol, are fixed in the program of its development until 2030.

Studying the cultural policy in post-Soviet Kazakhstan, the author raises questions that she cannot answer: the authorities carry out such a General education policy, which is experiencing a double dependence: discarding the Soviet model, accused of totalitarianism and the strangulation of cultures, it is in search of a new *modus vivendi* (state), trying not to ignite ethnic tensions.

But how do you accomplish this difficult mission with a bloodless state budget in a multi-ethnic social continuum vulnerable to social inequality? How to curb the trend towards retraining of personnel, which is very low-paid, how to contain the wave of departure of Russian personnel, suffering from new political and cultural orientations of the Republic, mainly national, which significantly worsened their status? How to avoid the process of cultural decomposition, which has already deeply penetrated into the environment of the young generation?

As the only medicine, the author offers Kazakhstan time and expectation: only now the society, and posteriori assesses the impact of European culture caused by Sovietization. This explains the increase in calls for the return of traditional morality, which is seen in the official messages and media of Kazakhstan. And only after the exit from the present transition stage, where the euphoria of some and the nostalgia of others give way gradually to the aspirations of all, Kazakhstan will wake up from injuries caused by the collapse of the structure of its lifestyle, thoughts and actions.

Social and economic changes in Kazakhstan were brutal and differed, on the one hand, de-Sovietization, restructuring of the education system, and on the other-the unification and creation of "transnational" ideology, which was hiding the desire of the ruling elite to maintain political control. In education, the author believes that a significant role to play foreign high schools, such as the Turkish – secular and religious, which provide the possibility of obtaining alternative, derusification education. Poujol assesses the efforts to support the Kazakh language as a state language in Kazakhstan as unprecedented.

The most obvious ideological changes can be seen in the Humanities. The place of "Soviet" disciplines – scientific atheism, Marxist theory, the history of the CPSU, socialist realism – came new: the history of religion, the history of the Kazakh state, market economy and cultural studies. The author considers the religious Renaissance to be an integral part of the changes of social character taking place in Kazakhstan. At the same time, traditional religions – Islam and Orthodoxy – are fighting in cooperation between themselves and the authorities against the sharply increased popularity of various sects.

According to the French scientist, the territory of Kazakhstan after independence has become a testing ground for various paramedical, anti-scientific and irrational exercises, luring a variety of sorcerers, shamans, hypnotists, charlatans and propagandists "Herbal life". Another area where the de-Sovietization of public consciousness, is a rapid development alternative to the official press, the emergence of various criminal, scandalous and erotic publications.

Thus, all these phenomena destroy the conservative and moralizing character of the Soviet society, of which Kazakhstan was a part. According to C. Poujol, the failure of traditional religions is planetary in nature, and in this case Kazakhstan is no exception. Thus, the passage of Kazakhstan's transit phase is accompanied by the inevitable injury of public consciousness and the fall of the standard of living. It must necessarily end with the release of both euphoria and excessive illusions, and nostalgia for the past, which is an indispensable consequence of the destruction and restructuring of the usual way of life, thoughts and actions taking place in this Republic.

In conclusion, C. Poujol notes that the history of Kazakhstan is paradoxical. Over the centuries its territory was the field of the rule specifically nomadic way of life and linguistic monopoly Turchinov. In the XVIII-XIX centuries it was integrated into the sphere of Russian politics, which was accompanied by the beginning of the process of settlement, the emergence of the administration, health, Russification of school education, the construction of canals, the birth of capitalist relations, the appearance of the Slavic element and the Orthodox religion (Laumulin, 2000).

The post-Soviet transition period is not over, C. Poujol believes. The reconstruction of Kazakhstan, which should be completed, requires more time than it would take to "catapult into independence". In order to engage a society that suddenly lost its orientation, the new relationship had to be clearly determined, which is allowed and not allowed.

Political figures of post-Soviet Kazakhstan should use their imagination to create a code of laws that is understandable to the whole society, especially carefully highlighting the "original community" of the dominant nation to which they belong. This ambitious project allows for a selective revision of history, based on the exaltation of Kazakh nationalism, in particular to the right to land. But it is not workable without social splash (Dave, 2007).

However, the conclusions of the French scientist are generally optimistic. Kazakhstan has advantages from which it should benefit if the combination of internal and external circumstances gives it the opportunity. Rich in rare minerals, with a skilled workforce and a population accustomed to hardship, enterprising youth able to adapt to political and technological innovation, Kazakhstan can hope for a future as long as its past.

From a global point of view, C. Poujol writes, Kazakhstan is called upon to play its role in transcontinental economic relations and return to its historical mission of the axis of the Eurasian continent. Having experienced a series of cultural shocks in its time, Kazakhstan is actually a successful synthesis between the Asian East



and the European West, between the Kazakh and Russian origins, between atheism and Orthodoxy, Islam and shamanism.

The future of Kazakhstan, the author concludes, will undoubtedly be connected with the West. However, the Asian heritage, of course, will still have an impact on the Kazakh society, which demonstrates from time to time attempts to revive its nomadic roots. These attempts – to return to the defeated nomadic identity or artificially reconstruct it – are, without a doubt, illusory, the author concludes.

According to C. Poujol's book, she pays more attention to internal, cultural and socio-psychological factors that influence the evolution of Kazakhstan. This is the main difference of her book from the works of her Anglo-Saxon colleagues, who are more focused on geopolitical issues, referring to the current development of Kazakhstan or the situation in Central Asia.

It is also surprising that the author pays little attention to Islam, given the rich tradition of Islam in the French school of historiography. In our opinion, the striving for C. Poujol to circumvent Islamic perspective reflects its real policy relevance for Kazakhstan. At the same time, the author warns against excessive attempts to cultivate the nomadic cultural tradition of the Kazakh society, considering that the future of Kazakhstan is associated with the evolution of the Kazakh society in the direction of modern society and the completion of modernization in the Western model.

### **Situation in the Republic of Uzbekistan according to the ideas of French historiographers and political scientists**

The Republic of Uzbekistan is a unique country in the Central Asian region. It is the only republic bordering all other Central Asian states. Large communities of ethnic Uzbeks live in all our neighbors, including Afghanistan, without exception. These factors could not but affect the nature of Tashkent's foreign policy and its relations with its neighbors, which are, of course, specific.

The attitude of the outside world to Uzbekistan immediately after the collapse of the USSR was formed in favorable conditions. For the West, Uzbekistan seemed to be a kind of "Central Asian Ukraine" – a country with relatively large demographic and economic potential to resist the restoration of Russia's positions in Central Asia. For the (Muslim) East, Uzbekistan was the heir and guardian of the millennial traditions associated with the brilliant Islamic past of the region, the owner of Muslim shrines such as Bukhara and Samarkand. Uzbekistan was also seen as the second largest Turkic country in the world.

For the (Asian) East, Uzbekistan was a densely populated country with preserved traditions of culture and ethics of persistent and methodical work, i.e. a kind of Central Asian analogue of the East Asian "tigers" (new industrial states). It was assumed that when creating a favorable investment climate and importing appropriate technologies, Uzbekistan would follow the path of the APR and Southeast Asian countries (Dave, 2007).

It is important to note that the formation of Uzbek clan regional elite groups was influenced not only by regional affiliation. The Uzbek political and financial groups were more flexible than the strictly territorial clan, because, in addition to the regional community, there were other important factors, such as access to financial resources, family ties, friendly relations and other subjective and objective moments, as well as other circumstances. Based on this, the Tashkent and Samarkand political and financial groups could include representatives of different regions and nationalities, which greatly increased the resource capacity of each clan.

It should be noted that this alignment was for many reasons rather conditional. Uzbekistan is the most popular (after Kazakhstan) object for foreign political scientists, which is not surprising. This Republic has always been considered in the West as a key in the region due to its strong historical traditions, large population, relatively independent foreign policy within the CIS (and in relation to Russia), influence on neighboring countries, including Afghanistan, as well as in the context of its competition with Kazakhstan for leadership in Central Asia.

M. Laruelle published a collective study entitled "Migration and Social Upheaval as the Face of Globalization in Central Asia" (Laruelle, 2013). In order to solve the fundamental problems, M. Laruelle gathered a wide international group of authors, including Central Asian ones. In the preface to the publication, the expert notes that migration has long been a global social phenomenon. She adds that the territory of the former Soviet Union was no exception in the planetary picture of large migration flows. On the contrary, the population of the post-Soviet States is actively involved in the migration process. And within the CIS region of Central Asia, in her opinion, occupies a unique position (Laumulin, 2008).

Central Asia has not only become the largest "supplier" of the Slavic and Russian-speaking population to other regions, but also a source of powerful flows of labor migration. According to the author's estimates, about 5 million people from Kyrgyzstan, Tajikistan and Uzbekistan are permanent and temporary migrant workers in Russia and about 1-2 million in Kazakhstan. Immigrants from Central Asia as migrant workers can also be found in the United States, Canada, Israel, Germany, South Korea and the Arab countries of the Persian Gulf.

M. Laruelle draws attention to the fact that mass migration affects the relations between individuals, between them and the state, as well as affects the economic strategy of the state. The author quite rightly considers the main specificity of Central Asian migration to be the fact that it is primarily based on ethnic and tribal ties. But modernization inevitably penetrates into this environment and erodes it in line with the adaptation of new generations of migrants within the permanent diasporas to the environment. The book makes a number of conclusions. Thus, the economic crisis showed that migration is a powerful stabilizing factor for the economies of a number of republics in the region. This is reflected in the fact that migration compensates for the lack of jobs at home. In addition, the crisis has forced Russia as a recipient country to streamline the system of bilateral and multilateral agreements with countries – migration donors (Laruelle, 2013).

Based on the studied materials and sociological data, the authors are more or less inclined to see Uzbek and Tajik women involved against their will in migration processes, victims of the socio-economic shocks that hit the post-Soviet population in the 1990s and the economic model and economic relations that have formed on the ruins of the socialist system. Thus, we have before us a fundamental work designed to highlight the entire complex fabric of migration processes that affect the political, socio-economic and demographic aspects of the development of not only Central Asia, but also a larger geographical and geo-economic space.

### **Analysis of works on the French historiography regarding Tajikistan**

Tajikistan (RT) is the Republic with the most difficult fate among other Central Asian States. Back in Soviet times, it was a Union Republic with the lowest standard of living, high birth rate, insufficiently developed infrastructure and a high degree of preservation of traditional and archaic public institutions. In the period of perestroika in Tajikistan for the first time in the USSR there is the Islamic party "Islamic party of revival" (IPV). Here the collapse of the Soviet Union coincided with the change of power in the party elite, acute political and interregional struggle, which then grew into a bloody civil war (1992-1994).

The tragedy was compounded by the neighborhood with Afghanistan, which itself experienced a prolonged political conflict in the first half of the 1990s, Expelled from the Republic, the Islamists shifted their base to neighboring Afghanistan, where for three years continued to attack the secular regime of Dushanbe. In fact, the conflict has become dualistic and developed with the active intervention of external forces – Afghan Mujahideen, Russia and Iran. The situation was aggravated by the factor of drug trafficking.

It is difficult to overestimate the role of Russia, which has been one of the parties to the conflict since the beginning of the crisis. In relation to Tajikistan, it is quite natural that the works devoted to the dramatic events of the civil war of the early 1990s dominate. They include: "Ideology and Islamic resistance in Tajikistan" by H. Emadi, a collective monograph in French (ed. M. Jalili and F. Grar) "Tajikistan on the threshold of independence" (Cherkesov, 2001). After normalization of the situation and the creation of a coalition

government in the Republic of Tajikistan in the West and in the East, a number of works devoted to a qualitatively new situation in the Republic. This research of A. Seifert, P. Foroughi and S. Chatterjee (Seifert, 2002; Foroughi, 2002; Chatterjee, 2002). Thus, as we can see, the number of works devoted to Tajikistan is not numerous and it is not possible to draw any extensive conclusions.

### **Review of the French historiographers concerning of Turkmenistan**

The development of the situation in Turkmenistan has always been one of the most closed topics for any outside observer. Nevertheless, it is known that in this Central Asian Republic an exotic regime was created, headed by the former first Secretary of the Turkmen SSR, then the first President Saparmurad Niyazov. He himself, his personality and his domestic and foreign policy have repeatedly become the focus of world public opinion due to their unusual nature. Thus, S. Niyazov declared Turkmenistan a "neutral state".

Turkmen neutrality was officially recognized within the UN, CIS and a number of other international organizations. Very quickly, Turkmenistan's neutrality turned into an almost complete isolation of the country. S. Niyazov's policy towards Islam was characterized by the same reasons as in other spheres of political, social, cultural and spiritual life: to prevent the transformation of religious institutions into an opposition regime, to take them under control and to reduce their influence on society as much as possible. The political historiography devoted to Turkmenistan is relatively modest, but a number of works can be called here.

S. Peyrouse's book "Turkmenistan: a Destiny at the Crossroads of Empires" (Peyrouse, 2007) written in 2007, but after the change of government in Ashgabat, so its relevance from the point of view of historical analysis of the regime of President Niyazov's has no doubt. In an effort to attract the reader's attention, he writes that this country is the most unexplored in Central Asia. Its ancient culture was nurtured by the great empires on the famous roads of the great silk road. After more than a century of Russian-Soviet period, the country entered in 1991 on the path of independence, which she never thought. Populated by five million people, Turkmenistan has significant gas reserves and occupies a strategic position in the center of the continent.

S. Peyrouse reduces the concept of his book to a number of the following problems. He wonders if the future nation was the Creator of its own history. Does the Central geopolitical position of the country automatically mean its political and cultural significance? For him, there is no doubt that the belated formation of the Turkmen nation under the influence of radical social and political processes introduced by the Soviet regime makes it difficult to reflect on the identity of the people, thus implemented (Peyrouse, 2007).

How to divide and distribute the historical moments and great personalities, equally related to the whole region, and how to enter them into the national heritage of each country? What is the place to take away the Russian-Soviet heritage, which, although worn, however, nevertheless, is still visibly present? What role is destined to play Islam, the division of clan and regional affiliation, national minorities?

The Turkmen Republic was already one of the most backward in the Soviet Union, but two decades of independence brought the population to complete impoverishment: the prevalence of cotton culture, the lack of private sector, environmental disasters, the elimination of public services. As for the political system, it gained the most caricatured form of Stalinism: the cult of personality, an almost complete cultural autarky, isolation in the international arena and nationalist megalomania in public rhetoric, the megalomania of state projects in the architectural field, the massive corruption of state structures, the insatiable desire of the transformation of nature. But the author points out that, for all its caricature, the Turkmenbashi regime was considered in the international arena, since all of the above does not detract from the strategic role of Turkmenistan in the international plan: the Caspian sea is doomed to be a growing energy pole, Russia continues to dominate economically over the region and there are new neighbors that have remained in the shadow and now declare themselves.

Therefore, according to S. Peyrouse, modern Turkmen society is at a crossroads. Rightly proud of its ancient and glorious history, but remaining a young political nation, Turkmenistan, which has acquired its

borders, created its literary language and developed its national feeling in the XX century, violently denounces Russian colonialism, which formed this country. The official historiography criticizes the Soviet regime as an alien phenomenon, while the Turkmen elite allegedly managed to curb the system and bind it to its own needs and prospects. Remaining deeply marked by Russification and Sovietization, Turkmen society is still based on hierarchical traditions and clan relations (Peyrouse, 2007).

Then the French researcher moves to the most interesting part of the history of post – Soviet Turkmenistan-the personality of Turkmenbashi. He notes that the first 15 years of Turkmenistan's independence are inextricably linked with the ambitious personality of President Niyazov. It was he who modeled both the political institutions of the country and cultural life and left a negative trace, the long-term consequences of which are still difficult to measure. Then S. Peyrouse goes to the analysis of the political system created by Turkmenbashi. During Niyazov's reign, no one could pose a threat to his power. The omnipresent state was extinguished by the slightest attempt at public protest. The scattered opposition could only act in exile, and the clans could not organize against the President. There was no civil society, and every individual was under the watchful control of the police and the judicial self-government eye. And yet, with the death of the dictator, the first phase of the history of independent Turkmenistan has ended and new prospects for political and social restructuring are opening up.

Further S. Peyrouse makes a small digression into the history of post-Soviet Turkmenistan. After the collapse of the USSR, declared by three Slavic republics on December 8, 1991 near Minsk, Turkmenistan officially enters the Commonwealth of Independent States, proclaimed in Alma-ATA on December 21 of the same year. This Union allowed the former Soviet republics to maintain at least temporarily a single military command and to ensure a minimum common market between the new States. But soon Ashgabat demonstrates its isolationism and abandonment of any regional structure, preaching bilateral relations instead of multilateral ones.

S. Niyazov categorically does not accept the General integration, "imposed", in his opinion, by Moscow, and prefers to see the CIS limited only by Advisory functions. Turkmenistan also refuses to join the collective security Treaty of 1992. It does not participate in the collective forces of the Central Asian republics to prevent civil war in Tajikistan. The country is practicing a "policy of the empty chair" at most of the meetings of the CIS.

In 1996, he refused to join the Customs Union established by Kazakhstan, Kyrgyzstan, Russia and Belarus. In June 1999, he emerges from the Agreement on visa-free passage for citizens of CIS countries, signed on 9 July 1992. In August 2005, during the meeting of heads of CIS States in Kazan, the President solemnly declares that Turkmenistan is leaving its status as a member of CIS and is limited to the role of associate member. It is quite obvious that after independence the Republic could not develop according to the "European model", which is constantly presented by the West as the only one for the evolutionary development of democratic institutions and market relations. However, on the other hand, it is impossible to remove responsibility from President Niyazov for the policy of the allegedly special Turkmen way of development, which sometimes took anecdotal and even pathological nature and was a drama for those who suffered all this.

Monography of S. Peyrouse "Turkmenistan: strategies of power, the development dilemma" is a sequel to his book "Turkmenistan: a destiny at the crossroads of empires" and in many respects it repeats, especially at the conceptual level (Peyrouse, 2015).

The French researcher proceeds from the fact that Turkmenistan belongs to those countries that are called upon by their history and location to occupy an appropriate niche in the XXI century, which causes them a keen interest.

The first 15 years of independence of the Republic were inextricably linked with the ambitious personality of the late President. It was he who modeled both the political institutions of the country and cultural life and left a negative trace, the long-term consequences of which are still difficult to measure. The French researcher

puts the question: was there a thaw? (about it is told in the previous book). As a result of reflection, the author comes to the conclusion that the beginning of the reign of Gurbanguly Berdymukhamedov turned out to be only "an illusion thaw".

Here you can watch some of the paradoxes and the dramatic metamorphosis of the Turkmen politicians, in particular the emergence of a kind of gas of the triangle Russia – Ukraine – Turkmenistan, the use of Iran for the containment of Moscow, an increased interest in the TAPI project, the shift to China and the European Union.

S. Peyrouse does not avoid such acute and sensitive issues as, for example, the transformation of Turkmenistan into a transport hub for Afghan drugs, and notes the growing sinophilia in the policy of Ashgabat. S. Peyrouse said that the country's foreign policy is mainly determined by the possession of hydrocarbons and the place that Turkmenistan wishes to occupy in the international arena.

In view of the enclave nature of its position, Turkmenistan's economic development is particularly dependent on the ability to cooperate with its neighbours, regardless of their political regime. Yet the country has managed to establish some semblance of integration with immediate neighbors such as Iran, or more distant ones such as Turkey and China. Contacts with Russia remain difficult, as the Turkmen regime still harbors resentment at the "big brother" in terms of infringement of his independence, but at the same time leaves Moscow control over the export of its gas.

The change of regime in 2006 gave this country a new opportunity to maneuver: fulfilling its obligations, Turkmenistan, softening the policy of isolation, had an opportunity to find its place in the structures of regional integration and to resume contact with Western countries.

The author believes that during the five years of G. Berdymukhamedov's rule, relations with great powers – such as the US and the EU, as well as with international and post-Soviet organizations-have been almost completely restored. A purely pragmatic economic partnership, far from the problems of "democratization", was maintained by Ashgabat with large regional neighbors of Turkmenistan.

In his opinion, the new "energy game" confronts the interests of major international players, which include the United States, the European Union, Russia, China, Iran, India and Pakistan, i.e. Central Asia remains a strategic place where the powers "compete in force and relations". It is hoped, S. Peyrouse concludes, that in this difficult game Turkmenistan will use its favorable situation and will be able to solve its own strategic goals for the benefit of its long-suffering people (Peyrouse, 2007).

## **CONCLUSION**

Thus, despite the diversity of opinions, and sometimes the polarity of points of view in the political literature of the 2010s, some conclusions about the political development of the region and the geopolitical drift of Central Asia can already be made. Right are those observers who say that Central Asia is not what it was at the time of the collapse of the Soviet Union.

Therefore, the first conclusion is the region has lost its homogeneity (if only it existed in reality). Today we can state that there is no single Central Asian identity. Each state in the region is developing in its own way, according to its own model and has only its own international guidelines. Paradoxically, this became possible only after the loss of the former Soviet identity, which at the very least consolidated the republics of Central Asia. The way the construction of nation-States have dissolved the republics of the region from each other.

The second conclusion is that Russia is hopelessly losing its once dominant position, which is agreed by both Western and Russian (sometimes with reservations) observers. This is a complex, multi-factor and painful process, which includes economic, strategic, socio-civilizational, demographic and linguistic aspects. But there is no doubt that this is happening. Discussions can only be conducted on the scale of Russia's

residual influence and the preservation of "special" relations with some of the States of the region (Kazakhstan, Kyrgyzstan).

Even a cursory acquaintance with the historiographical and source heritage associated with the history of the study of Central Eurasia, part of which are Central Asia and Kazakhstan, shows that at different times this space (the term "region" is too tiny) played a huge role in the history of mankind. To reflect this outstanding role of Central Eurasia was the purpose of this study. Another goal was to show a picture of Central Asian research in the world of science in all its diversity. I would like to express the hope that this goal has been achieved.

Unfortunately, to make a full review of the rich scientific heritage is almost impossible for any researcher. Therefore, we have limited ourselves to the main areas of the leading disciplines related to the subject of research. However, many questions remain unanswered. The main one is how, when, how, from where, on what routes and with what consequences ancient people moved in the Western and South-Western (mainly) direction from the depths of Central Eurasia for tens of thousands of years, not even thousands of years.

The main problem is to answer the questions: what is the fate of Kazakhs and their neighbors in Central Asia? What paradigm and vectors will they develop in, will they return to a new Eurasian education? How deep will go the processes of demodernization? What model of political and socio-economic structure will be chosen to preserve their cultural and ethnic identity and simply the physical survival of their population (alas, in some republics the question is in this plane), the new regimes are already knocking on the door of the political process.

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Unfortunately, Western political science, fixated on geopolitical issues, or cannot, or does not want (which, most likely, more like the truth) truthfully answer these difficult questions. Therefore, we will have to look for answers ourselves, i.e. local scientists and political scientists. In this regard, it is more important than ever to rely on the experience of previous academic science. We hope that even if an incomplete review of the achievements of French Orientalism will serve us all to help in determining the historical fate and place of the Kazakhs and other peoples on the planet – the disappeared and existing – Central Eurasia.

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## ESTUDIOS

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# Psychological and Pedagogical Foundations of Quality Activities of the Teachers of Legal Disciplines in Higher Education Institutions

*Fundamentos psicológicos y pedagógicos de las actividades de calidad de los profesores de disciplinas jurídicas en las instituciones de enseñanza superior*

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### ABSTRACT

The aim of the research is to identify and theoretically substantiate the psychological and pedagogical foundations of high-quality professional activity of the teachers of legal disciplines in higher education institutions and to identify experimentally the level of its manifestation. In order to achieve the purpose of study the various general scientific and specific methods of research were used. It was established that the quality of the professional pedagogical activity of the teachers of legal disciplines is its crucial feature. The basic psychological and pedagogical components of qualitative professional pedagogical activities of the teachers of legal disciplines are identified.

**Keywords:** Higher education institutions; psychological and pedagogical components; psychological and pedagogical reliability; teachers of legal disciplines.

### RESUMEN

El objetivo de la investigación es identificar y fundamentar teóricamente los fundamentos psicológicos y pedagógicos de la actividad profesional de alta calidad de los profesores de las disciplinas jurídicas en las instituciones de educación superior y determinar experimentalmente el nivel de su manifestación. Con el fin de lograr el objetivo de estudio se han usado diversos métodos científicos generales y específicos de investigación. Se estableció que la calidad de la actividad pedagógica profesional de los profesores de las disciplinas jurídicas es su característica fundamental. Se identifican los componentes psicológicos y pedagógicos básicos de las actividades pedagógicas cualitativas profesionales de los profesores de las disciplinas jurídicas.

**Palabras Clave:** Componentes psicológicos y pedagógicos; docentes de disciplinas jurídicas; instituciones de educación superior; confiabilidad psicológica y pedagógica.

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## INTRODUCTION

Nowadays, there are many talks about the need for the teachers of higher education institutions to develop pedagogical culture, pedagogical excellence, pedagogical competence, and, in general, about the need for them to develop a high level of professionalism. Various scientific studies are conducted in these directions. But there are not many discussions about the quality of the professional activities of the teachers of higher education institutions. At the same time, according to the Article 1 of the Law of Ukraine "On Higher Education", the emphasis is on the quality of higher education, which implies "the level of knowledge, skills and competences acquired by a person that reflect his/her competence in accordance with the standards of higher education" (Law of Ukraine..., 2014). This Article also interprets the quality of educational activities as "the level of organization of the educational process in a higher educational institution, which corresponds to the standards of higher education, ensures the acquisition of qualitative higher education, and facilitates the creation of new knowledge" (Law of Ukraine..., 2014).

As one can see, the quality of professional pedagogical activity of the teachers of higher education institutions is not explicitly mentioned. Although within the Bologna process, it is precisely the quality of training of specialists that is one of the crucial criteria of education along with

- strengthening of trust among the subjects of education;
- the compliance of the education with the European labor market;
- mobility;
- compatibility of the qualification at the stage of higher education and the postgraduate stage;
- strengthening of the competitiveness of the European education system (Stepko *et al.*, 2004).

However, once again, the quality of the professional pedagogical activity of the teachers of higher education institutions and its criteria are not mentioned.

As a rule, in higher education institutions of Ukraine, the quality of professional pedagogical activity of a separate teacher is determined sometimes on the basis of the students' success (how high is the average grade of a student group and the quality of the students' education, which is calculated in percent as a ration of the sum of "good" and "excellent" grades to the total number of grades in the group), and more often in the form of a rating based on the number of research papers, textbooks, manuals, et al., the time spent on teaching, methodical, scholarly, organizational and educational work, et al. In this context, it should be noted that this does not reflect the quality of the professional pedagogical activity of the teachers of higher education institutions, since students in the group could have had different achievements in secondary schools (colleges, gymnasiums, et al.), could have a different level of knowledge or abilities, et al (Aleksiuk, 1998).

Our studies show that teachers of higher education institutions (the teachers of legal disciplines among them) may have a highly developed set of pedagogical skills, sufficiently formed pedagogical competencies, various abilities, even have high professional and pedagogical qualities, may publish research works, textbooks, study guides and so on. But due to various reasons (for example, they are going through age, professional or life crisis, grief, social and/or economic deprivation):

- they are being in a state of professional (mental, emotional) burnout;
- they are overworked (for example, they are working in several places, et al.);
- they might not apply them when performing the tasks of the educational process.

In other words, the quality of their professional pedagogical activity may be average, below average, low, and even very low.

In Ukraine, with a tacit consent, it is believed that a high level of pedagogical culture, pedagogical excellence, pedagogical competence, et al. of the teachers of higher education institutions automatically mean

the high quality of their professional pedagogical activity. Therefore, in this direction, in this direct formulation, there is virtually no research on the quality of professional pedagogical activities of the teachers of higher education institutions, or the methodology and mechanism for its identification either (Minetska, 2004).

The objective of the article is to discover and theoretically substantiate the psychological and pedagogical foundations of the high-quality professional activity of the teachers of legal disciplines in higher education institutions and to reveal experimentally the level of its manifestation.

Proceeding from the objective, the following tasks are set:

1. Theoretically substantiate the psychological and pedagogical foundation of the high-quality professional pedagogical activity of the teachers of legal disciplines in higher education institutions and to reveal its components;
2. Empirically identify the levels of the high-quality professional pedagogical activity of the teachers of legal disciplines in higher education institutions with different length of teaching experience.

## **MATERIALS AND METHODS**

In order to achieve the objective and to solve the set tasks, both general scientific and specific methods of research were used:

1. Theoretical methods: analysis of research literature, comparison, generalization, classification and systematization of the received information in order to determine the key provisions of the study.
2. Empirical methods:
  - a. in order to identify in the teachers of legal disciplines the level of development of their psychological and pedagogical skills and properties and the effectiveness of their application in practice – "Method for determining the effectiveness of the teachers' use of pedagogical skills and qualities in pedagogical practice" (Varii, 2013).
  - b. in order to determine whether a teacher of a higher education institution is motivated for professional activity: for success – Th. Ehlers's "Method of studying the motivation to success" (Raygorodsky, 2009);
  - c. with regard to avoiding failures – Th. Ehlers's "Method for studying the assessment of motivation to avoid failures" (Raygorodsky, 2009);
  - d. in order to reveal the style of management of the educational process – the method "Assessment of the style of management" (O. Kozlovska, A. Romaniuk, V. Urunskyi) (Kozlovska *et al.*, 1999);
  - e. to determine the style of behavior and relationships of the teachers of legal disciplines with their colleagues, students and student groups – the method of identifying "Communicative and Organizational Abilities" and "T. Leary's method for diagnosing interpersonal relations" (Raygorodsky, 2009);
  - f. to determine the professional orientation of the teachers of higher education institutions – the method of "The questionnaire for the orientation of behavior" (V. Smekal, M. Kucera) (Kominco and Kucher, 2005);
  - g. to determine psychological and pedagogical reliability (through the inverse coefficients of the emotional burnout, depersonalization and reduction of personality achievements that reflect professional deformation) – "Method of detecting the "burnout syndrome" in professional activity" (Maslach and Jackson, 2002).
3. Methods of mathematical statistics:
  - a. to determine the coefficient of the quality of professional activity of the teachers of legal disciplines – a method of determining the geometrical mean;

- b. to reveal a statistical connection between different components of the quality of professional activity of the teachers of legal disciplines – Spearman's rank correlation coefficient (Sedgwick, 2014);
- c. to reveal the influence of individual components on the quality of the professional pedagogical activity of the teachers of legal disciplines – multi-factor regression analysis.

Statistical data processing was performed using the SPSS 17.0 computer program. All components of the high-quality professional activities of the teachers of legal disciplines are in a complex integral and probabilistic inter-subjective psychological and pedagogical interaction with one another, and they determine the concrete level of its manifestation: very low, low, below average, average, above average, high, and very high.

For the practical identification of the level of the quality of professional activity of the teachers of legal disciplines, we conducted an empirical study at the Educational and Scientific Institute of Law and Psychology of Lviv Polytechnic National University. The sample consists of 60 teachers of legal disciplines and covered 6 groups in accordance with the length of pedagogical experience, namely:

- subgroup I (1-5 years of teaching experience) – 10 people;
- subgroup II (6-10 years of teaching experience) – 10 people;
- subgroup III (11-16 years of teaching experience) – 10 people;
- subgroup IV (17-23 years of teaching experience) – 10 people;
- subgroup V (24-30 years of teaching experience) – 10 people;
- subgroup VI (over 30 years of teaching experience) – 10 people.

The sample comprises 12 male teachers and 48 female teachers.

It should be noted, that the quality of professional pedagogical activity of each teacher of legal disciplines in higher education institutions is determined by us on the basis of the calculation of the coefficient of quality –  $C_{qpa}$  – which is represented as the geometrical mean of the coefficients of the quality of all of its components, that is:

$$C_{qpa} = \sqrt[6]{C_{ea} \times C_{pm} \times C_m \times C_r \times C_{po} \times C_{ppr}}. (1)$$

Where:

$C_{qpa}$  – is the coefficient of the quality of professional pedagogical activity of the teachers of legal disciplines;

$C_{ea}$  – is the coefficient of development of pedagogical skills and qualities and the efficiency of their application in pedagogical practice by the teachers of legal disciplines;

$C_{pm}$  – is the coefficient of development of positive motivation for professional pedagogical activity by the teachers of legal disciplines;

$C_m$  – is the coefficient of development of the appropriate style of management of the educational process of students;

$C_r$  – is the coefficient of development of positive behavior and relationships with colleagues, students, and student groups by the teachers of legal disciplines;

$C_{po}$  – is the coefficient of development of positive professional orientation by the teachers of legal disciplines;

$C_{ppr}$  – is the coefficient of development of professional psychological and pedagogical reliability by the teacher of legal disciplines.

Since the variables of all the coefficients have different intensity of manifestation, value, and probabilistic distribution nature, it is the geometrical mean that most accurately reflects the coefficient of the quality of professional activities of the teachers of legal disciplines in a particular period of time.

The geometrical mean is often also called the mean proportional, since the measurement is centered on the set of values of  $n$  variables (in our case  $n=6$  variables) expressed by  $n$  (6) root of the product of the coefficients of these six variables.

It should be noted, that the components of the quality of professional activities of the teachers of legal disciplines are determined by the appropriate methods (by the number of points received). Thus, because of different point scales, we translate them into coefficients, each of which is calculated as the ratio of the sum of the received points to their maximum possible quantity for this component by the following equation:

$$C_{cx} = \frac{\sum Sx (1 \dots N)}{N_s}, (2)$$

Where:

$C_{cx}$  – is the coefficient of the quality of an  $x$ -component of the professional activities of the teachers of legal disciplines ( $x = 1,2,3,4,5,6$ );

$\sum Sx (1 \dots N)$  – is the sum of the points received for all statements that reflect the  $x$ -component of the quality of the professional activity of the teachers of legal disciplines;

$N_s$  – is the maximum possible amount of points, which reflects the highest level of  $x$ -component of the quality of the professional activity of the teachers of legal disciplines.

The coefficient itself reflects the real value of one or another component in the development of the quality of the professional pedagogical activity of the teachers of legal disciplines, as well as of the component itself, depending on the number of factors that determine it.

Each level of both the quality of the professional pedagogical activity of the teachers of legal disciplines and its components is practically determined by the corresponding magnitude of the coefficient of quality, which lies within  $0 \leq C \leq 1$ , namely:

- very low: with  $C = 0 \div 0.143$ ;
- low: with  $C = 0.144 \div 0.285$ ;
- below average: with  $C = 0.286 \div 0.427$ ;
- average: with  $C = 0.428 \div 0.569$ ;
- above average: with  $C = 0.57 \div 0.711$ ;
- high: with  $C = 0.712 \div 0.853$ ;
- very high: with  $C = 0.854 \div 1$ .

## RESULTS AND DISCUSSION

### Definition of quality of professional pedagogical activity of the teachers of legal disciplines

Based on the study of the works on the quality of professional pedagogical activity of the teachers of higher education institutions (HEI), including of the teachers of legal disciplines (LD), we established that this quality is not the same as the notion of "pedagogical culture" or the notion "pedagogical excellence", "pedagogical competence", or "pedagogical skills". The quality of professional activity of the teachers of higher education institutions is most closely related to its effectiveness. Thus, in the Great Explanatory Dictionary of Modern Ukrainian, the word "quality" is defined as:

- degree of value, worth, suitability of something for its intended use;
- one or another characteristic feature, property of someone, something;
- set of characteristics of products or services regarding their ability to meet the established and expected needs (Busel, 2007).

In its turn, the word "effective" means:

- the one that leads to the desired results, consequences, gives the greatest effect.
- the one that causes an effect (Busel, 2007).

In this context, the quality of professional pedagogical activities of the teachers of higher education institutions appears as a derivative of its effectiveness, which is its integrated feature, property.

We should note that, in general, the professional pedagogical activity of the LD teachers is aimed not only at the transfer of knowledge, skills and abilities to students, at the formation of their general and professional competencies. It is also aimed at creating conditions for their socialization, adaptation, harmonious development, and the formation of readiness for continuous education during life, independent search for the latest knowledge, as well as professional, moral and civic qualities, et al.

No wonder that today's scientists view professional pedagogical activity in a higher education institution:

1. Depending on the peculiarities of its course as:
  - a. the transfer of the culture and experience accumulated by mankind from older to younger generations;
  - b. preparation for professional activity and public life;
  - c. an important stage in the socialization of the younger generation;
  - d. harmonious development of future specialists.
2. Depending on the functional composition as:
  - a. organization of the educational process;
  - b. management of the educational process;
  - c. forecasting, planning and designing of the educational process.
3. Depending on the content of the activity as educational, methodical, scientific, organizational, et al.

The teaching of legal disciplines in higher education institutions has its own peculiarities, which lie in the fact that when studying these disciplines:

- students undergo intellectual reflection through the content and semantic analysis of laws, individual articles, of the procedure of law enforcement activity, of investigation, trial, et al.;
- the content of the professional training of lawyers gets complicated and transforms significantly in connection with the expansion of the scope of legal regulation, formation of the new branches of law, and respectively, new branches of legislation, in connection with the interdisciplinary nature of modern legal knowledge, et al.;
- there is a personal, group, and inter-subjective reflection of the requirements of legal norms and their real observance;
- the state legal reality, which is aimed at recreating the mechanism of the constitutional right and the state, processes of legal regulation, is taken into account;
- the understanding of law-making and law-enforcement activities as a process of democratization and development of civil society, strengthening of the state, which extends the concept of coordination of all the branches of government in terms of correlation of formalized and non-formalized components in it;
- students are prepared to respect the rule of law, justice;
- principle of equality of all before the law is affirmed, and so on.

On a practical level, professional pedagogical activity in HEI manifests itself as:

- active psychological and pedagogical interaction of students and teachers with the purposeful supervision of it by the latter;
- teachers' realization of a leading role in the organization and implementation of students' educational process;
- process of transfer and mastering of professional knowledge, skills and abilities, formation of competencies;
- process of continuous psychological and pedagogical impact on students; fifthly, as the process of formation of personal traits and qualities by students, which are necessary for professional activity, social and public life.

Based on the above-stated, we came to the conclusion that the quality of professional pedagogical activities of the teachers of legal disciplines is its crucial feature, a property that reflects:

- integration of the appropriately focused content;
- pedagogical functions and tasks of the teachers' active psychological and pedagogical interaction with the students and student groups;
- motivation for professional activity;
- adequate management style of the students' learning and educational process;
- teachers' implementation of a set of appropriate psychological and pedagogical influences.

All of this together contribute to the students' qualitative acquisition of modern professional knowledge, skills, abilities and competence, as well as to their formulation of personal qualities and properties that are necessary for future professional activities, social and public life.

### **Components of the qualitative professional pedagogical activity of the teachers of legal disciplines**

In our opinion, in order to carry out qualitative professional pedagogical activity, the teachers of legal disciplines must, first of all, possess not only the necessary set of skills, which are formed on the basis of the relevant knowledge, not only have the appropriate abilities, pedagogical properties and qualities, but also use them appropriately in the course of the educational process. Therefore, *the first component* of the qualitative professional activity of the teachers of legal disciplines is their possession of a set of pedagogical knowledge, skills, abilities, properties, and qualities and their effective use in the course of realization of the tasks of the educational process.

A large number of research works is dedicated to the topics of pedagogical knowledge, skills, abilities, properties, and qualities, while significantly fewer works study the psychological and pedagogical conditions for their effective application in the course of implementation of the tasks of the educational process. A large number of researchers are talking about a certain set of qualities of teachers, which, in their opinion, is a prerequisite for effective professional pedagogical activity. For example, according to the Secretary General of the European University Association L. Wilson, the main professional qualities of the teachers of higher educational institutions should be:

- general psychological and pedagogical erudition;
- methodological thinking and activity;
- democratic thinking and behavior;
- professional pragmatism;
- flexibility in communication and ability to navigate in unconventional situations;
- high level of organizational skills (Minetska, 2004).



Possession and excellence of pedagogical skills and abilities, and developed positive personal qualities of the teachers of legal disciplines are a necessary, but insufficient condition for a high-quality professional pedagogical activity. As we have stated before, for various reasons teachers may fail to apply them in the course of the educational process. This can be also influenced by the lack of motivation to qualitative professional pedagogical activity. Therefore, *the second component* of the high-quality professional activity of the teachers of legal disciplines is their positive motivation for the implementation of all tasks of the educational process.

For a high-quality professional activity of the teachers of legal disciplines, the motivation for the achievement is important; this motivation is expressed in the need to overcome obstacles, realize their abilities, achieve high performance in their activity, constantly develop, compete with others, et al. Actually, the motivation for the achievement of the teachers of legal disciplines lies in the willingness to improve their results, to seek new ways and means of professional training of students, in the pursuit of yet new achievements, et al. We established that the teachers of legal disciplines that have a high level of motivation to succeed, seek ways and means to achieve goals, improve teaching methods, are confident in a successful outcome, act actively and decisively in uncertain pedagogical situations.

Motivation, as a combination of driving forces, has been studied in many works, including those by E. Ilyin (Ilyin, 2006), A. Maslow (Maslow, 1954), and others.

The absence of an expressed desire of the teachers of legal disciplines to succeed and improve, attempts to avoid failures lead to a decrease in the quality of their professional pedagogical activity.

*The third component* of the qualitative professional activity of the teachers of legal disciplines is their appropriate management of the educational process of students.

It is known that the professional activity of the teachers of legal disciplines is presented as a realization of a certain set of functions. The views of the scientists on the functional composition of the work of the HEI teachers differ substantially. In fact, professional pedagogical activity of the teachers of legal disciplines, as well as of any other HEI teachers, is multifunctional because it requires teachers' simultaneous implementation of various functions in the educational process depending on a situation. At first glance, it might seem that all functions of the pedagogical activity of the teachers of legal disciplines are equal. However, research suggests that it is the supervision function that is the leading one that influences all the others. For example, A. Aleksiuik argues that the subject of pedagogical activity in higher education institutions is the management of the process of education, teaching and training of students, the appropriate organization of their professional development (Aleksiuik, 1998).

A researcher of pedagogical psychology V. Yakunin generally views teaching from the standpoint of the systematic approach and the theory of management (Yakunin, 1998).

In the functional and procedural management of the educational process, in the course of students' learning a certain legal academic discipline, teachers simultaneously perform various functions. Thus, they must:

- constantly supervise and analyze how this particular discipline is comprehended by student;
- supervise and analyze the activity of students (learning) and their own (realization of informational, diagnostic, reflexive, gnostic and other functions);
- forecast the course of studies given the corresponding influence, the attitude of students to the content of the laws (realization of orientation, information, research, prognostic and other functions);
- design measures of influence aimed at activating and ensuring the effectiveness of the subject studied (realization of projective, constructive, goal-setting, instrumental, methodological and other functions);

- change the influence on the educational process of students (realization of educational, methodical, research, educational, incentive, mobilizational, organizational, communicative, corrective, and other functions);
- occasionally identify and evaluate the results of the quality of learning of a discipline (realization of diagnostic and informative functions);
- carry out correction of the educational process of students (realization of reflexive, corrective, projective, prognostic, illustrative, and other functions).

An essential feature of the management function is that the teachers of legal disciplines also need to teach students to conduct self-management; that is, at a certain stage of the relationship they need to start providing students with some of the functions of management.

In the course of the study, we found that an important psychological and pedagogical peculiarity of LD teachers' management of the educational process is the fact that this management manifests itself as a reflexive management at all the stages of its implementation. In our context, psychological and pedagogical influences, interaction, control and evaluation are reflected both by the teachers of legal disciplines and students. Thus, the management of the reflexive process takes place in the continuum of an individual/group entity. The main idea of the Bologna process is based on the synergic and systematic centrality of the managerial function.

During the study, we found out that the quality of the educational process management by the teachers of legal disciplines depends on the appropriate combination of the authoritarian and democratic management styles.

*The fourth component* of the qualitative professional activity of the teachers of legal disciplines is their positive behavior and appropriate relationships with their colleagues, students, and student groups. In order to fulfill the tasks of the education process, the teachers of legal disciplines must effectively interact with their students and student groups, influence their behavior, interpersonal relationships, relationships within student groups, resolve conflicts, and so on. The relationship between the teacher and students is realized through a bilateral interaction: 1) official interaction; it is characterized by formal connections and relations; 2) informal interaction; it is characterized by simplicity, accessibility, freedom of expressions, thoughts, and suggestions, the possibility to defend one's opinion, to object, et al. The peculiarities of this socio-psychological contact determine not only the dynamics of the students' moods, but also the dynamics of their cognitive activity, even attitudes to laws, law enforcement activities, et al.

The pedagogical environment is a meaningful and notional area of interaction of all participants in the educational process, therefore, the application of personal, group, interpersonal, content, and intellectual reflection in the analysis and realization of relationships allows raising their qualitative level both in the student groups and in the "teacher – student" system of relationships.

The behavioral style of teachers of legal disciplines is very important. With regard to the influence on the interaction with students, the behavioral style can be positive, neutral, or negative, as pointed out by Yu. Fokin (Fokin, 2002). The quality of the teachers' interaction with students also depends on the peculiarities of the styles of their professional communication and interaction – authoritarian, democratic, liberal and indulgent, which are sufficiently represented and described in the academic literature.

*The fifth component* of the qualitative professional activity of the teachers of legal disciplines is their positive professional orientation. We shall pay attention to the fact that some researchers consider the professional orientation of teachers of higher education institutions through the prism of the teachers' possession of professional qualities and the degree of development of the latter; while the others – through the prism of the aim (purposefulness) of a behavioral act.

We support the opinion of the second part of the researchers, which proceeds from a number of statements, first of all, from the theory of functional systems, in accordance with which, human behavior is purposeful, and all people's actions are determined by goals. The main criteria of purposeful behavior according to the results of A. Newell and H. Simon's (Newell and Simon, 1972) research are as follows: determining of sub-goals; the choice of means to achieve the sub-goals and goals; avoidance of repetitions; saturation.

If the goal-oriented system reaches a state that is similar to the one desired, it completes the action on the grounds the goal has been achieved (Blake and Mouton, 1990).

For a qualitative characteristic of the professional orientation of the teachers of legal disciplines, one can distinguish three vectors of their activity in terms of its content:

1. First vector – "orientation on the case". It contributes to the effective professional activity of the teachers of legal disciplines. This vector is characterized by its focus on the educational process of students, cooperation with students and student groups, examining and solving their problems, being demanding to them, as well as on the purposeful resolution of pedagogical tasks and conflicts, improvement of students' learning conditions, constant search for new forms, methods and pedagogical technologies of development, et al.
2. Second vector – "orientation on formal interaction". It is the teachers' formal approach to the performance of their duties, simulation of active commitment but only in order to appeal to the students, on the one hand, and, on the other hand, to avoid criticism and complaints about inaction. These teachers often make concessions to their students, even give them good grades, do not criticize them, do not require feedback, do not really control their cognitive activity, et al.
3. Third vector – "orientation on oneself". It lies in the fact that the teachers solve only their problems. They are not interested in either problems or difficulties of their students or in the quality of their learning, et al.

*The sixth component* of a high-quality professional activity of the HEI teachers is their professional psychological and pedagogical reliability. Over the years, the specifics of the professional pedagogical activity of the teachers of legal disciplines affect its quality. Therefore, the issue of their professional psychological and pedagogical reliability arises. This reliability implies the high level of development and continuity of professional and pedagogical abilities, properties, qualities, value orientations, motivation, style of behavior and management of the educational process of students, relationships, attitudes, emotions, et al.

### **Professional deformation of the teachers of legal disciplines in the context of quality of professional pedagogical activity**

The level of professional psychological and pedagogical reliability of the teachers of legal disciplines is in reverse proportion to the level of their professional deformation. The latter means a loss of professional ability to qualitatively solve pedagogical tasks as a result of a destruction or distortion of the previous system of personality traits, qualities, motivation, emotions, feelings and value orientations; it also means an aggravation of the teachers' behavior, of their relationships with their students and colleagues, attitudes towards their duties, et al., which have a negative impact on the quality the professional pedagogical activity.

It is believed that most often professional deformation of the teachers of higher education institutions occurs due to the development of a burnout syndrome by them. To date, the burnout syndrome is included in the International Classification of Diseases (ICD-10). According to the WHO definition, "a burnout syndrome is a physical, emotional or motivational exhaustion characterized by a performance deterioration and tiredness, insomnia, compromised immunity, as well as by the consumption of alcohol and other psychoactive

substances in order to obtain temporary relief, which tends to develop a physiological dependence and (in many cases) suicidal behavior" (World Health Organization, 2004). The psychological phenomenon of burnout is described in many works of domestic and foreign scientists. By the way, foreign scientists C. Maslach and J. Goldberg (Maslach, and Goldberg, 1998), K. Much (Much *et al.*, 2005), G. Roberts (Roberts, 1997), P. Rothlin and P. Werder (Rothlin and Werder, 2007), W. Schaufeli (Schaufeli *et al.*, 2009), and others view burnout as a multi-faceted phenomenon. Most often, foreign scientists view professional burnout as a long-term stress response that occurs as a result of prolonged profession-related stresses of moderate intensity (Maslach and Goldberg, 1998).

With regard to the manifestation of emotional burnout, V. Boyko sees it as a sequence of three phases:

1. Stress: the experience of psycho-traumatic circumstances, dissatisfaction with oneself, feeling of being "trapped", anxiety and depression;
2. Resistivity: inadequate choice of emotional response, emotional and moral disorientation, expansion of the sphere of emotional thriftiness, reduction of professional duties;
3. Exhaustion: emotional deficiency, emotional detachment, personal detachment (depersonalization), psychosomatic and psychovegetative disorders.

The researcher identified such personal factors in the development of an emotional burnout syndrome as a tendency to: emotional coldness, intense experience of negative circumstances in professional activity, a weak motivation for the professional activity (Boyko, 1999).

The modern science recognizes three models of "burnout". In the first model, a "burnout" is a state of physical and mental exhaustion, caused by a lasting experience of emotionally charged situations. The second model of "burnout" is described as a two-dimensional construct consisting of emotional exhaustion and depersonalization, which manifests itself in people's changing their attitude either to themselves or to others. The third model of the "burnout" syndrome, developed by American researchers C. Maslach and S. Jackson (Maslach and Jackson, 2002), views the "burnout" syndrome as an emotional exhaustion, depersonalization, and reduction of personal achievements. Emotional exhaustion is considered to be the main component of professional "burnout" and is manifested in lowering the emotional background, indifference or emotional oversaturation. Depersonalization is manifested in the deformation of relationships with other people. This may be an increase in dependence on others, or an increase in negativity, emergence of cynical attitudes and feelings towards others. The reduction of personal achievements is manifested either in the tendency to a negative assessment of oneself, one's professional achievements and successes, in emergence of negativism towards professional achievements and opportunities, or in limitation of one's opportunities, responsibilities towards others (Maslach and Jackson, 2002).

Based on the above-stated, we can conclude that the professional deformation of the teachers of legal disciplines is the result of development of a psychological burnout syndrome by them, in the first place. In its turn, the syndrome emerges under the mutual influence of the factors of the professional (in a narrow sense) and external environments, especially social and economic ones. Secondly, professional deformation is also the result of a depersonalization, which manifests itself in the deformation of properties, qualities, relationships, feelings, motivation, "I-image", et al. Thirdly, professional deformation is the result of the reduction of personal achievements, which primarily manifests itself in revision, reevaluation, reconsideration of one's professional achievements and success, life values, attitudes, et al., which leads to the deformation of professional and life values, motivation to professional activity, behavior and relationships, as well as to the change of attitudes towards people, activities, responsibilities, et al.

The higher the level of the professional deformation of the teachers of legal disciplines, the lower the level of their professional psychological and pedagogical reliability.

### **Determining the level of development of the professional pedagogical activity of the teachers of legal disciplines**

Thus, the quality of professional pedagogical activity of the teachers of legal disciplines is its crucial property, which reflects the effectiveness of the realization of:

- the totality of their pedagogical knowledge, skills, abilities, and qualities and their expedient application in the course of the educational process;
- positive motivation for the implementation of the tasks of the educational process;
- effective management of the educational process;
- positive behavior and appropriate relations with the colleagues, students, and student collectives;
- positive professional orientation;
- professional psychological and pedagogical reliability.

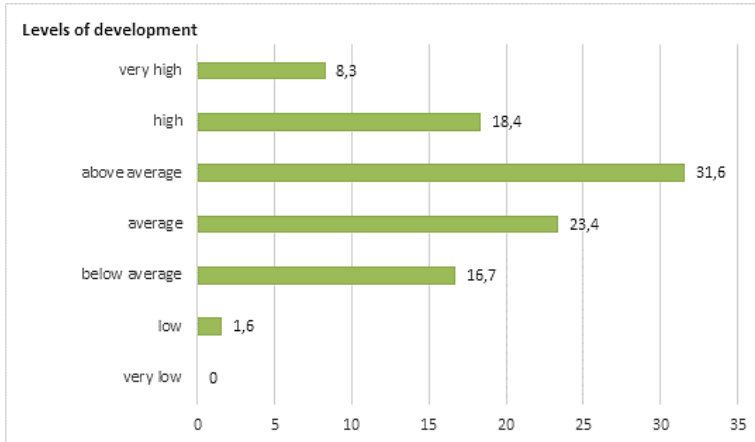
These components (factors) are in a complex integral and probabilistic inter-subjective psychological and pedagogical interaction with each other in the course of realization of the tasks of the educational process and determine a concrete level of the quality of professional pedagogical activity of the teachers of legal disciplines. Having substantiated the main provisions of a high-quality professional pedagogical activity of the teachers of legal disciplines, we conducted an empirical study aimed at determining the level of development of the professional pedagogical activity of the teachers. By applying the above-mentioned methods, following the Equation (2), first we determined the coefficients of manifestation of each separate component of a high-quality professional pedagogical activity of the teachers of legal disciplines.

Then, on the basis of the Equation (2), we calculated the coefficient of a qualitative professional pedagogical activity ( $C_{qpa}$ ) of each teacher of legal disciplines (with the help of the program of statistical analysis SPSS 17.0, we arrived at the indicators of the geometrical mean, which served as an indicator of the quality of professional activity of each teacher) and determined its level.

As a result of the analysis, it was established that the quality of the professional pedagogical activity of the teachers of legal disciplines (Figure 1) is available:

- at the very high level – 5 persons (8.3%);
- at the high level of development – 11 persons (18.4%);
- at the above average level of development – 19 persons (31.6%);
- at the average level of development – 14 persons (23.4%);
- at the below average level of development – 10 persons (16.7%);
- at the low level of development – 1 (1.6%) person.

Figure 1: The levels of quality of the professional activity of the teachers of legal disciplines and their percentage value



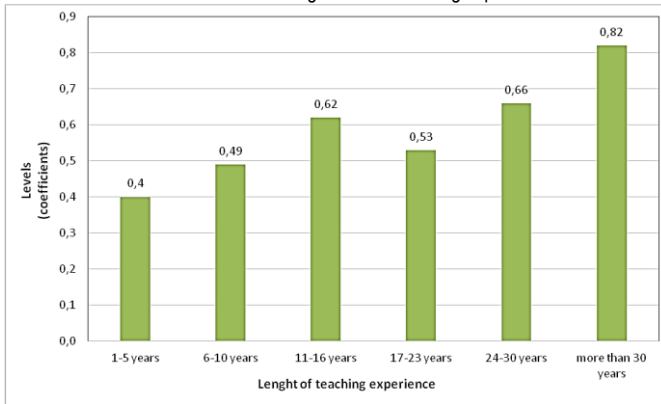
With regard to the subgroups of teachers of legal disciplines in terms of the length of their teaching experience, the development of the quality of their professional activity is available (Table 1 and Figure 2):

- at the high level – subgroup VI (over 30 years of teaching experience);
- at the above average level – subgroup III (11-16 years of teaching experience) and subgroup V (24-30 years of teaching experience);
- at the average levels – subgroups II (6-10 years of teaching experience) and IV (17-23 years of teaching experience);
- at the below average level – subgroup I (1-5 years of teaching experience).

Table 1: The quality of the professional activities of the sub-groups of the teachers of legal disciplines in accordance with the length of their teaching experience

Indicator	Sub-groups of the teachers of legal disciplines in accordance with the length of their teaching experience					
	Subgroup I (1-5 years of teaching experience)	Subgroup II (6-10 years of teaching experience)	Subgroup III (11-16 years of teaching experience)	Subgroup IV (17-23 years of teaching experience)	Subgroup V (24-30 years of teaching experience)	Subgroup VI (more than 30 years of teaching experience)
Coefficient	0.40	0.49	0.62	0.53	0.66	0.82
Level of development	below average	average	above average	average	above average	high

Figure 2: The levels of development of the professional activities of the sub-groups of teachers of legal disciplines in accordance with the length of their teaching experience



In order to calculate the correlation between the variables (components) of the quality of the professional activities of the teachers of legal disciplines, we chose Spearman's rank correlation coefficient ( $r_s$ ). It was calculated using the program SPSS 17.0.

The analysis of the correlative relationships was carried out. It is revealed that, in the first place, there is a strong negative correlation between the indicators of the high-quality professional activity of the teachers of legal disciplines and their professional deformation ( $r_s = -0.834$ ,  $p \leq 0.01$ ). This means that when the teachers of legal disciplines develop emotional burnout, depersonalization and reduction of personal achievements, their professional psychological and pedagogical reliability, and hence the level of quality of their professional and pedagogical activity, is reduced.

Also, there is a strong bilateral connection between the indicators of a high-quality professional activity of the teachers of legal disciplines and the motivation for professional activity ( $r_s = 0.804$ ,  $p \leq 0.01$ ). The higher the level of development of the motivation to professional activity the teachers of legal disciplines have, the higher is the level of the quality of this activity.

A moderate positive correlation is traced between the indicators of the high-quality professional activity of the teachers of legal disciplines and positive professional orientation ( $r_s = 0.496$ ,  $p \leq 0.01$ ).

A weak correlation is traced between the indicators of high-quality professional activity of the teachers of legal disciplines and the development of their pedagogical skills, personal qualities and the effectiveness of their application ( $r_s = 0.332$ ,  $p \leq 0.01$ ).

A moderate bilateral connection is traced between the high-quality professional activities of the teachers of legal disciplines and the individually-democratic style of management of the students' educational process ( $r_s = 0.574$ ,  $p \leq 0.01$ ), and *vice versa* – there is a negative connection between the qualitative professional activity of the teachers of legal disciplines and the passive style of management of the students' educational process ( $r_s = -0.453$ ,  $p \leq 0.01$ ). This means that when the teachers of legal disciplines use the passive style of management of the students' educational process, then the quality of their professional activities is reduced.

However, the existence of a correlative connection between a high-quality professional activity of the teachers of legal disciplines and its components is insufficient evidence that these are these components that influence it. In order to check this, we conducted a multi-factor regression analysis. The coefficients of the multiple-factor correlation between the factors (components) and the general quality of the professional activity of the teachers of legal disciplines were calculated with certainty ( $p \leq 0.05$ ). On the basis of the coefficients of the multiple-factor correlation, the coefficients of the multi-factor determination were calculated, which are

equal to the square root of the coefficients of the multiple-factor correlation ( $R^2$ ). For the factors (components) of the qualitative professional pedagogical activity of the teachers of legal disciplines  $R^2 = 0.635$ , which indicates the dependence of the change in the quality of the teachers' professional pedagogical activity on these components by 63.5%.

## CONCLUSIONS

It was revealed that the quality of the professional activity of the teachers of legal disciplines is its crucial feature, a property that reflects the integration of the appropriately focused content, pedagogical functions, and tasks of the teachers' active psychological and pedagogical interaction with the students and student groups, motivation for professional activity, adequate management style of the students' learning and educational process, the teachers' implementation of a set of appropriate psychological and pedagogical influences, which together contribute to the students' qualitative acquisition of modern professional knowledge, skills, abilities and competence, as well as to their formulation of personal qualities and properties that are necessary for future professional activities, social and public life.

It is proved that a high-quality professional pedagogical activity of the teachers of legal disciplines is an integrated reflection of the influence of six main components:

- the totality of their pedagogical knowledge, skills, abilities, and qualities and their expedient application in the course of the educational process;
- positive motivation for the implementation of the tasks of the educational process;
- effective management of the educational process;
- positive behavior and appropriate relations with the colleagues, students, and student collectives;
- positive professional orientation;
- professional psychological and pedagogical reliability.

The identified psychological and pedagogical components (factors) are in a complex integral and probabilistic inter-subjective psychological and pedagogical interaction with one another, and they determine the concrete level of the professional pedagogical activity of the teachers of legal disciplines.

Based on the results of the empiric research, it was established that the quality of the professional pedagogical activity of the teachers of legal disciplines has the following levels of development: very high – 5 persons (8.3%); high – 11 persons (18.4%); above average – 19 persons (31.6%); average – 14 persons (23.4%); below average – 10 persons (16.7%); low – 1 (1.6%) person. The quality of the professional activity of the sub-groups of the teachers of legal disciplines in accordance with the length of their teaching experience is presented at the following levels of development: high level – subgroup VI (over 30 years of teaching experience); at the above average level – subgroup III (11-16 years of teaching experience) and subgroup V (24-30 years of teaching experience); at the average levels – subgroups II (6-10 years of teaching experience) and IV (17-23 years of teaching experience); at the below average level – subgroup I (1-5 years of teaching experience).

The conducted correlation analysis showed the dependence of the quality of the professional activity of the teachers of legal disciplines on all of its components. The calculated coefficient of the multi-factor determination confirms the dependence of the change in the quality of the LD teachers' professional pedagogical activity on these components by 63.5%.

The prospect of further research is to broaden the study of all six components of the quality of the professional pedagogical activity of the teachers of legal disciplines, as well as of the impact on them of various external and internal factors.



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## ESTUDIOS

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### Social Aspects of Religious Matters in the Comparative Analysis of the Historical and Contemporary Feature Materials of Kazakhstan

*Aspectos sociales de las cuestiones religiosas en el análisis comparativo de los materiales históricos y  
contemporáneos de Kazajstán*

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#### ABSTRACT

The paper deals with the relevant problems of religion in the Kazakhstan society and social components of the national unity in the historical prerequisites. The authors have studied the Alash intelligentsia, particularly, their influence on the formation of the public opinion regarding the acute religious problems. The authors have also considered the problem of the religious fanaticism in the context of the state's choice of the way for the secular way of development. They have concluded that the government having based on the secular and democratic principles, adopted various measures to solve the religious disagreements in the country.

**Keywords:** Alash Party, National Religion, Religious Fanaticism and Formalism, Religious Sociology.

#### RESUMEN

El documento aborda los problemas relevantes de la religión en la sociedad de Kazajstán y los componentes sociales de la unidad nacional en los requisitos históricos. Los autores han estudiado la intelectualidad Alash, en particular, su influencia en la formación de la opinión pública sobre los problemas religiosos agudos. Los autores también han considerado el problema del fanatismo religioso en el contexto de la elección del estado como el camino para el desarrollo secular. Han llegado a la conclusión de que el gobierno, basándose en los principios seculares y democráticos, adoptó diversas medidas para resolver los desacuerdos religiosos en el país.

**Palabras Clave:** Partido Alash, religión nacional, Fanatismo Religioso y Formalismo, Sociología Religiosa.

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## INTRODUCTION

Nowadays Kazakhstan is deemed as a multi-confessional state. Since the 19<sup>th</sup> century, in Kazakhstan, the Alash intelligentsia was formed, who dealt with the solution of the public matters by means of journalism and publicism. The Alash leaders achieved and put on the agenda the issues, worrying the society that had become an obstacle in the development, offered the public discussion of them and finding the solutions, which would lead to the positive changes in the formation of the public consciousness (Kesici, 2017). The religious cognition was put in a row with such relevant problems of that time as land issues, the matters of culture and public education. So, it quite reasonably provokes the following questions: why the Alash publicists were worried about the religious matters, and also what components composed the meaning of such notion as 'religious belief', which in the modern world is acutely discussed among the journalists and public figures.

According to the Oxford Dictionary, religion is "a belief in the supernatural powers of control or God" (English Oxford living...). Religion is an integral part of the human history, where in the different time the religious forms changed, but the essence (the belief in the higher powers) remained. The faith takes a special part in the human history; comparatively, the religious belief may be considered as an enormous process in the human development, as the acquisition of fire and the invention of the wheel. The Soviet regime became the state having the religious eradicated and constituted an extremely atheistic phenomenon caused the emergence of the cruel society of faithless people. The declaration of independence was followed by the emergence of the vacuum in the Kazakhstan society, which is currently taking attempts to fill it with various religious movements. The spur increase in the religious trends has an adverse effect on the population's mentality (Naushabekov, 2014; Yerekeshova, 2004).

The prerequisites of the religious sociology were formed in the age of Enlightenment (the 18<sup>th</sup> century). In religious science, there are two criteria assessing the relations between the religion and society: disintegrating and integrating. The advocates of the disintegrating criterion base on the principal differences in the system of the belief and society. They believe religion is initially not a social subject. Religion for them is transcendental (the life beyond), so it is impossible to cognate religion. As society is fully a 'product of the interaction between people' and the process of the cognition of the society complies with the parameters of this world. Only specific aspects of religion, such as religious organization, religious institutions, and religious communities are social. As for the advocates of the integrating criteria, then they do not strictly separate religion from society (Habermas, 2006).

In the early 20<sup>th</sup> century, among the Alash intelligentsia, two different positions were formed regarding the place of religion in the process of the development and progress of the Kazakh state. That time, the 'Aykap' Magazine prioritized the opinion that the Kazakh state was to be based on the laws of the Islamic religion, i.e. on the Shariah laws, while the founders of the 'Kazakh' newspaper believed that in the governance of the Kazakh state one should use the European system. But at the same time, they stood for the fact that Islam, the national traditions, and customs should be wrapped in cotton-wool, the religion of the ancestors and as the source of the spiritual values (Sak, 2014). The review and the analysis of the Alash feature heritage and their periodicals allowed concluding that these two trends had formed the public opinion.

## GENERAL CHARACTERISTICS OF THE ALASH MOVEMENT

The Alash Party's attitude towards the religion and their policy regarding this matter are reflected in the programme of the party. The fourth section of the Alash Party's program called 'The Religious Cause' says, "Religion should be separated from the state. The belonging to it or the exiting is free for everyone. The belonging to muftis among the Kazakhs should be a private matter. Such issues as marriage, divorce,

funeral, and naming are performed by the mullahs, while the case of widows is considered in court". (The Kazakh library..., n.d.) It means, the religion was separated from the state and declared to be a private matter, however, the regulating functions of the state were enhanced, thus one can see the explicit aspiration of the Alash Party to the creation of the secular state. After the declaration of independence, they introduced to the Constitution of Kazakhstan the articles close by their meaning to the above-said.

Among the leaders of the Alash movement, there are many patriots and fighters, who contributed much to the prosperity of the Mohammedan faith in the Kazakh state. For this purpose, they regularly published the articles in the periodicals. Among them there was one of the most active members of the Alash movement, the first Kazakh mufti Humar Karash, the author of many religious articles; Ahmet Baytursunuly, Mashhur-Zhusip Kopey, Mirzhakyp Dulatuly, Shahmardan Alzhanuly, Zhigansha Seydalin; the authors of the articles regularly reporting on the religious situations in the regions Muhamedsalim Kashimov, Dosan Amanshin. One should note Makysh Kaltayuly from Karaotkel and Sabyrzhan Alkormashy, the teachers of Faysilrakhman Zhikhandaruly, acting under the slogan 'Not all the traditions and customs are applicable in the modern world' and criticized the Shariah laws contradicting the new contemporary trends, as well as the authors of the religious-educating articles A. Zhusipuly, Yerzhan Kulakbayuly, Galaldin Mamikuly etc (Sak, 2014; Subkhanberdina *et al.*, 1998; Subhanberdin, 1994; Subhanberdin, 1994; Subkhanberdin and Dautov, 1995; Abdimanuly, 1993; Sak, 2014; Rakymyzy, 2011; The third issue..., 1918).

The Alash members, who participated in the activities of the Islamic Quriltai, introduced a special section devoted to religion into the Alash Party's Programme. The main reason is the problem of religion for the Kazakhs is a symbol of the national unity, the same as the problem of land and the national language. If not using this phenomenon as a means for uniting the people under the single flag, then it might become the reason for the civil strife and animosity. The entire corpus of the analyzed Alash publicism has a leitmotiv of the deep understanding of the meaning of religion in the process of spiritual perfection and in the enhancement of the true faith of the nation.

They saw that without the religious faith the progress of the society was impossible, and this way would lead to a dead end, but at the same time they agreed with the words of Alikhan Bukeykhan, who said that "Religious fanaticism will lead to the maelstrom". This is regarded by the author of documentary 'Alashorda', journalist Bolat Mursalim as "According to the opinions of Sultanmakhmut Toraygyrov, Mirzhakyp Dulatuly, Alikhan Bokeykhan takes an example that the peoples of Turkestan are distinguished with their fanatic religious beliefs and do not actually aspire to the secular education, and 'Being the union with the weak may lead to the liquidation of the new Kazakh autonomy'" (Rakymyzy, 2001).

This concern expressed by the Alash leader was far from groundless. An educator of the Kazakh people Akhmet Baytursunuly in his article 'Primary School' published in the 'Kazak' newspaper, writes, "*The government needs all the different peoples of the state to have the single language, single faith, and writing. While the peoples wish they all have their own religions, languages, and writings. Based on it, the primary school should first of all be aside from the missionaries and politics... The Kazakhs adopted their religion in the dark times, and now it is just a waste of time and efforts to make them choose another religion*". In another article titled 'The Matter of Land was interrupted by the Matter of Religion', published in the 46<sup>th</sup> issue in 1914 of the 'Kazakh' newspaper, he reported on the Kazakhs, who were 'hooked' by the Russian missionaries and became baptized: "*The Report 1893 of the Altay and Kazakh missionaries says: in 1893 69 people, men and women, were baptized among the Kazakhs. The Christianity is the most easily accepted by the poor people from the steppe, who started farm-laboring in the city. They gradually learned the Russian language, got acquainted with the Russian customs and traditions. Thereafter encouraged by their masters they accepted the Christian religion*". (Subkhanberdina *et al.*, 1998)

Thus, Ahmet Baytursunuly openly, at the top of his voice warns of the danger, which eats the Kazakh people from inside out and that it is necessary that they urgently adopted the preventative measures. The missionary intentions of the imperialistic state aimed at the mass baptizing of the Kazakhs, are convicted

and explained by Ahmet Baytursunuly as follows, *"The Land Ministry accepted the case 'Creating the Conditions for the Kazakhs' Settled Way of Life One should do Everything Possible in order to finally Encourage the Kazakhs to adopt Christianity', approved by the Senate. And this case we reprinted in the recent issue of the 'Uakyt' newspaper. It states that in order to achieve this goal of the Senate, the Kazakh and Russian men should be settled in equal proportions. And the number of the Kazakhs should not exceed the number of the Russians. Then, the quantitative superiority of the Russian population will affect the superiority of the Russian language, Russian way of household, which subsequently will naturally lead the Kazakhs to the adoption of the Christian faith"* (Sak, 2014).

These facts are the most convincing proof of the tsar policy's goal, according to which the Kazakhs were to concede their abundant lands to the colonists, while the qualitative superiority of the Russians was to cause a gradual disappearance of the religion and the native language of the Kazakhs. Here, in our opinion, it is suitable to quote the words of Paul-Henri Holbach, "The choice of the religion by the people depends on their ruler. The people will adopt the same religion that their ruler belongs to". And second, the information convinces us that the poor are always ready to change their religion, and this trend had also taken place in our history before. This was a particular time optimal for the central authorities to distribute the Kazakh people to various religious groups by applying the 'divide and rule' principle. It provokes regular questions. What are the roots of the religious situation in the modern society? Isn't the religion gradually becoming the dividing and destabilizing factor, betraying its true purpose – the unification of people?

The analysis of the Alash leaders' works on the religious matter shows that they wanted to enhance the uniting and nation-integrative function of religion. And to eliminate the reasons that can lead to the religious conflicts in the society, the Alash leaders promoted active discussion of such issues in the periodicals.

## **ASPECTS OF RELIGIOUS BELIEF IN THE PUBLICISM OF THE ALASH LEADERS**

### **The problem of the Mullah's Charlatanry in Madrasahs**

Influenced by saying "Beaten by the Mullah avoids Hell", parents sent their children to semiliterate mullahs, who used to humiliate and abuse their students, and the latter turned into timid, fearful and deceitful people because of their constant beating. And this widely spread problem became the leitmotiv of many Alash feature materials, through which they aspired to awake their dormant people and to protect the growing generation from the despotism of the illiterate mullahs. An author of the 'Turkistan Ualayaty' writes, *"The mullahs justify themselves as 'the child is not able to comprehend something until it is beaten'. In our schools, this is the only method applied by the mullahs"* (Sak, 2014).

The author of an article published in the 'Dala Ualayaty' newspaper points at the fearsome methods, the mullahs use during their education, *"The mullah while kneeling, keeps holding a stick and hysterically shouts at the children. And those not able to read aloud got beaten with the stick. The poor children are being humiliated and suffer so much. They are not taught they are only made go through the hell from the very childhood"* (Subhanberdin, 1994).

### **The Procedure of Conducting the Religious Rites**

As part of the subject of this research, the authors published the informative-gnostic materials, such as the execution of pilgrimage – hadj, the almsgiving procedure – Sadaqah, religious behavior of the faithful, Islamic customs and traditions etc. For example, in the 'Turkistan Ualayaty' newspaper, an article was published titled 'The Subject of Issuing the Tickets to the Muslims living among the Russian Population' (Sak, 2014).

The 'Aykap' magazine published an article titled 'The Problems of the Muslims' Living', where the author Yerzhan Kulakbayuly sets the goal of the increase in the level of literacy among Muslims and the population's consciousness through the interpretation of the Islamic religious rules (Sak, 2014).

### **Analysis of Non-Moslem Behavior of some Mullahs**

There are some grounds to guess that not everyone is able to highlight such a topic in written form. It was given only those Alash leaders who reached perfection and wisdom in the publicism. One couldn't just ignore the problem. Article 'The Subject of Hadj' may be provided as an example, published in the 'Turkistan Ualayaty' newspaper, alongside with article 'What I saw in Kokshetau', published in the 'Aykap' magazine (Subkhanberdin and Dautov, 1995).

The author, teacher Sarsekeev in his article 'To the Glorious Sons of Alash' writes, "In the developed countries the reach educated people become benefactors and build madrasahs and schools. While our wealth collected as the alms from the people goes to the prosperity of kyzylbases, false hadjes, and false seits".

In the 'Kazak' newspaper we can see the article by Mirzhakyp Dulatuly 'A Special Word. Hazret Sultan' saying, "*The poor timid and shy Kazakh people have become the spoils of the begging hadjes. The Turkestan hadjes don't even think about the restoration of our ancestors' graves. They have no craft, except for deceiving and robbing the fellow shippers pilgrimaging to holy places.*" (Subkhanberdina et al., 1998).

The article published in the 'Aykap' magazine says, "*Who will be prosecuted for the revilements if those great scholars blessed by the God are referred to not as true scholars and they deceive simple people? The truth is the sinful those mullahs will be, who know the truth, but hide it for their profit and benefit.*" (Subkhanberdin and Dautov, 1995).

### **Problem of Baptizing of Difficult Families and Orphans**

A. Zhusipuly in his article 'What the Shariah says about the Education', writes, "*The first thing, the children should be taught to, is our religion. Only thereafter should they learn Russian*". (Sak, 2014) The article 'The Marriage among the Kazakh Turks', says, "*If the Kazakh becomes poor, he will be a farm-laborer of the Russians, but he is afraid of the fact that he will be baptized having become the farm-laborer. That's why, the Kazakhs not to become the poor, have the only way, which is to become a nomadic stock-breeder*". These two articles were published in the 'Aykap' magazine in 1914 (Subkhanberdin and Dautov, 1995).

In the same article, the author writes about the social significance for the Kazakhs of the bride-wealth problem. If earlier one could give a part of the own land as a bride-wealth, then that time when the entire land happened to belong to the colonists, a farm-laboring Kazakh works up to forty-fifty years to collect the necessary sum of money. And the sad results of it are that the Kazakhs are obliged to adopt Christianity, "*In the Zhetusy Region, nearby Almaty in the Yesik station, fifteen-sixteen people already gave up the Islamic religion. The guys hired by the ukies who can't marry have found another method. They convince the others' wives to escape with them and save themselves by baptizing*". The author is upset that the number of such monstrous situations in the society increases (Sak, 2014).

### **The Fight for the Integrity of the Kazakh Language against the Religion-Mocking Terms Destroying the Language**

The 'Dala Ualayaty' newspaper published the article 'The News of the Household' (Subkhanberdin, 1994). It is remarkable by the fact that the sentences of the text are composed of the borrowed words unclear to the reader. In this regard, the Alash leaders spearheaded by Ahmet Baytursunuly and Mukhametzhon Tynyshbay consider this problem widely and such an approach towards the use of the borrowed words is considered harmful for the development of the Kazakh language. Such a problem, unfortunately, exists even now. Such an approach can be especially seen in the speech of the pro-religious



authors and is becoming a problem of the modern culture of the Kazakh language. The use of the Arabic words in the original with the Kazakh sentences, despite an alternative in the Kazakh language, may be a manifestation of simple imitation.

### **The Rights of the Kazakh Girls**

In the Alash publicism, one of the most relevant and acute problems was the problem of the Kazakh girls' rights, which were violated under the disguise of the Shariah laws. They could not get an education and were destined to be sold to elderly men, much older than them.

Here it is suitable to use as an example the article by Shahmardan Alzhanuly 'The Drawbacks of the Kazakh Match-Making', where he writes, *"If a poor man has an adolescent daughter of 13-14 y.o., and to her misfortune, a rich man becomes a widower, then this poor father will be happy to sell his young daughter to this elderly man as a wife. Thus, the poor man harms his young apple tree, feeding it to a dog. He tears off a fresh flower and leaves it to fade and shrivel. Instead, it would be better, if her parents provided their daughter with education, and as she would grow enough, be able to distinguish the good from the bad, they might have matchmaking according to her free will. Thereafter they might collect the dowry based on their capacities and marry her. It would be true happiness both for the parents and for the girl. And it is never late to make such a good act"*. (Abdimanuly, 1993)

Sakypzhamal Tleubaykyzy, the journalist, in her article 'To the Fathers of the Kazakh Girls' on behalf of all her female age-mates writes the address to the entire Kazakh society, *"Our dear fathers! We are as good children, as your sons are. If we also got the education, were well-behaved and mannered, wouldn't this make you happy? Which of the Shariah laws says to elevate sons, give them education, but to mistreat daughters, depriving them of education and decent upbringing?"* (Sak, 2014). Further, the author considered the problem of the voluntary matchmaking and education of girls.

### **Articles about Openings of Madrasahs and their Main Tasks**

The Alash leaders believed that it was necessary to open available madrasah for the simple people, which would contribute to the increase in the literacy of the population. In their articles, they wrote that such there are thousands of such schools among the neighboring peoples as the Tatars, the Nogais, but among the Kazakhs, there are few of them. The parents themselves, due to their barbarism, are not able to distinguish a real Teacher from the hypocritical mimesis of a mullah. One should educate the parents to send their people to a madrasah, in order to teach their children to real knowledge.

*"By setting aside all our remnants, we will act in agreement and harmony with each other if we don't sacrifice with our own benefits in vain, if we think about the benefit of the people, build our own madrasahs together, and teach our children according to usul taglim – the pedagogical system – if we issue our own magazines and newspapers then we will achieve the top of maghrib – education"*, – Yerzhan Kulakbayuly wrote in his article 'The Problems regarding the Islamic Lifestyle. The Address to the Kazakh People', published in the 'Aykap' magazine (Subkhanberdin and Dautov, 1995).

However, not everything was so easy as we guess and as the Alash leaders would like it to be. Tsarist Russia had its own principles and mindsets regarding the Kazakh Islamism. *"The rules stipulating that it is enough to open for an entire ulus only one mosque and one school were not accepted by the people. Due to these rules (Nizam), many Kazakhs built their own underground mosques and madrasahs. This explains the emergence of the conflict between the population and the rulers"*, – Karatayev says in his speech (Sak, 2014).

It means that dark time a decree was adopted, which prohibited opening madrasahs. However, despite the prohibition, many people appeared promoting the increase in the number of madrasahs. For example, in articles 'How the Kazakhs opened Madrasahs' and 'The Report on How the Kazakh teach their Children', published in the 'Dala Ualayaty' newspaper, the author supports the above-mentioned subject. He writes, *"If*

*you build a madrasah, then it will be really beneficial to you. The madrasah is designed for the education of people. In a madrasah, a person obtains the knowledge on the ways of building a good life, about the world and the everyday life*" (Sak, 2014). Thus, they aspired to create the conditions for the education of children of the Kazakhs, and they also, by all means, protected them from the alien religion.

### **Educating Articles connected with the History of Religion in the Kazakh Land**

The educating articles devoted to the history of religion, about the basics of the traditional religion are especially necessary for the spiritual growth of the Kazakh people. And such a space was not ignored by the Alash publicists. For example, Mirzhakyp Dulatuly published in the 'Kazak' newspaper the article titled 'A special Word. Hazret Sultan', where he described the history of the Hodj Ahmet lassau's Mausoleum.

Muhametzhah Tynyshbay published a series of articles about the history of the Kazakhs, including a series of essays acquainting with the religious cognition of the Kazakhs. A.Zhusupuly in his article 'What does Shariah say about Education?' interprets the religious canons and agitates everybody to the knowledge and science, "All your worldly acts and the acts in the eternity are based on the knowledge and science, and it explains why we were initially obliged to be educated and not to remain ignorant" (Sak, 2014).

### **Problem of Freedom of the National Religion**

The in-depth roots of all the above-mentioned themes, devoted to the religion, mentality, are finally originated from the problem of religious freedom of the Kazakhs. Considering the problem deeply, the Alash intelligentsia has cognate that without the freedom of a religious belief the causes of enhancing the slaves' consciousness will only be multiplied.

The limitations of the religious freedom, the alienation from the ancestors' religion have become a relevant problem on the agenda. The article 'The Meeting of the Council', published in the 'Aykap' magazine says, *"To the same extent the Kazakhs are open to the government for a friendship, it harms them... Before 1905, it called the Kazakhs' children to enter the medium and high school. This way they planned to eliminate the national lifestyle and gradually lead them to their adoption of the religion strange for them. But now it has become worse, on the one hand, it does not allow freely living according to the rules of their religion, on the other hand, it closed the way for education in the governmental schools..."* (Subkhanberdin and Dautov, 1995).

Dosan Amanshin bitterly reports that *"In Russia, they started a suspicious attitude towards the twenty millions of Muslims..."* Further the author discontentedly writes about the limitation of the Kazakhs' freedom and is based on the following, *"The 136-Article of the Steppe Provision states that the land will not be sold to the outlanders, as well as to the people who have not been baptized."* Reporting on the tough destiny of the Kazakh people, humiliated on their native land, and the author continues his narration with the thoughts on the threats may catch the Kazakhs in the future, *"On 18 June, the Duma adopted a law. It states that in the Samarkand Oblast, the lands previously being the desert, and now equipped with the channels and irrigation ditches, the fruitful soils, where they started to seed grains, where the cotton producers work, from now on will be sold only to Christians"* (Sak, 2014).

As we see from the above-said, tsarist Russia limited the Kazakhs in every possible way in the vital things in order to make them refuse from their religion.

### **Critics of the Religious Fanaticism and Formalism**

In the article 'To the Kazakh Brothers' by Faysalirahman Zhihandarov agitates the readers not to consider everything new happening as haram, but to read newspapers and magazines, and to take an active part in the life of the society, *"In the modern world, the level of science and knowledge is determined by the number of books. Some mullahs agitate not to read newspapers and magazines because they are*

not mentioned in the Shariah. But in fact, they knew nothing about the newspapers and magazines and the benefit coming from it, so they bitterly say so. Actually, according to the Shariah, the newspaper is not a haram". This is an attempt by the author to awaken the consciousness of the young generation (Sak, 2014).

If to look thoroughly into these words, one may compare it with the today' religious fanatics, considering TV as a sin and sometimes even throwing away the TV-sets. It is quite obvious that some today's 'misguided mullahs' have convinced such our contemporaries that all the achievements of science and technology are forbidden, a haram. In the periodicals, one may find the articles on the remnants of the past, religious customs, taking an adverse effect on the development of the Kazakh society. For example, in the 'Turkestan Ualayaty' newspaper, the journalist Zhazushi Baysalbay published an article about the tricks of the mullah and bakhshy doing their best to deceive the Sart and Kazakh, *"If a Sart's wife runs to a mullah, the wife of our Kazakh gives everything up and runs meet halfway to bakhshy... The bakhshy goes to the aul in his ritual cloths, on the white horseback and holding a long wand in his hands, cries out pathetically indistinct words, which even greater irritates people, making them strange... Thereafter he arrives at the aul. And here the most interesting thing begins. The young Kazakh's wife meets the bakhshy reverentially, presents him all her valuables and asks the bakhshy to start his prediction as soon as possible. The bakhshy, being shocked with such a reception, starts his shamanistic ritual, using a set of ritual words unclear to everybody. And after staying for a day or two, he pads his pockets"* (Sak, 2014).

This particular problem is considered by the author of the article 'Bakhshy and Dervishes' published in the 'Dala Ualayaty' newspaper. Here the author deeply analyzes the reasons for the origination of the society's demand for bakhshy. If some of them do they work as they inherited this quality from their ancestors, then other bakhshy are forced to do it because of some hardships and solely for the life concerns. Also, the author notes that the social consciousness develops with every year, and the position of bakhshy in the social system gradually vanishes. *"Today the number of bakhshy gradually decreases. The Kazakhs don't almost believe them. If earlier only one their word made people thrilling, then nowadays his word is deemed to be shameful. For example, a light-minded garrulous person may be called 'a bakhshy'"* (Sak, 2014).

Here the publicists do not only criticize the dervishes and bakhshy, they focus the people's attention to the fact, that the role of bakhshy and dervishes in the modern world is gradually deprived of the respect, and instead of the generation's idols they turn to the shameful image, so one should always avoid a contact with them. Gradually the public mass will understand the deceitful actions of these impostors and blow the lid off them. So, the article published in the third issue of the 'Zhas Azamat' newspaper 1918, the authors write that *"The worship of the Karatau hodj is peculiar to the nature of the trustful Kazakh. But the country council does not approve such worship, as the time has passed, when a ghastly person could become a mullah for the simple people"*. (The third issue of..., 1918)

## **PROBLEM OF THE DETERMINATION OF THE IDEOLOGICAL ROLE OF RELIGION IN COMPLIANCE WITH THE VECTOR OF THE COUNTRY'S DEVELOPMENT**

If one part of intelligentsia saw the religion in tight connection with the social life, then the other part understood that for the Kazakh society it was necessary to choose the European way of development and be closer to the values of the secular and civilized living, to keep as far as possible from some dogmatic canons, enchaining the human mind and stopping the development. Sultanmahmud Toraygyruly in his article 'Alikhan's Arrival in Semey' wrote how Alikhan had made a report and said that *"The acceptance of the Autonomy with Turkestan is as if to fill your pockets with stones and to go swimming in a river. In the Tashkent City Administration, the Sarts have adopted a decree, saying that 'To take a vaccine against plague is a sin against the God's almightiness, one needs no treatment'. And it proves us that the*

*autonomy's cart was harnessed by a camel and donkey at the same time, which will lead to no good"* (Rakymkyzy, 2011).

However, not everybody understood it correctly, and there were some people, who started declaring that one cannot create a society alienated from the Shariah. For example, in the same article 'The Results of the Joint Meetings of the Kazakhs on Religious, Land and Legal Issues', published in the 'Aykap' magazine, the author says that, *"According to these issues, the proposal of Alikhan Bokeykhan that 'for the Kazakh the preservation of the Kazakh custom and tradition is vital', is denied by the council and considered to be illegitimate. Its protection from the judges of for a long time forgotten customs and traditions will finally cause that the Kazakhs will have been separated from the rest of the Islamic world and will become the munafiq for the policy of Russification"* (Subkhanberdin and Dautov, 1995).

These sayings confirm that the remoteness from the Shariah canons was understood by them as complete acceptance of the baptizing policy of Tsarist Russia. One thinks that this proposal was made by Alikhan Bokeykhan after the in-depth study of all the ways of the European development, including the analysis of the Paris Commune Decree 1871, in the first section of which there is an annex about the separation of the church from the state, which could also serve the reason for his decision. Having accepted the secular way of development, our country again set the issue of the religious fanaticism caused by the difficult religious situation in the world, on the agenda. 'Touching upon the Islamic factor in the Kazakh society, we should take into consideration that in our country Islam has never had an extremists' and fanatic nature", – the religious scientist A.M. Dayyrova says (Dayyrova, 2005).

According to the scientist studying Alash Kairat Sak, *"There is some interconnection between the integrity of the people, the religious integrity and the integrity of the state"*. (Sak, 2014) Exactly the point of this interconnection provokes the disputes for those using it to gain their profit. Unfortunately, with every year the number of such people penetrating into the masses to distract people increases. They stir up rebellion and violate the peaceful life of the population. In fact, they don't realize that they serve the ideology of the alien states.

The state-run religious policy of all the countries of the world considers the peculiarities of its historical-spiritual-cultural development, distinguishing the internal structures of the society and the religion. Nursultan Nazarbayev has noted, *"We are proud of the fact that we are a part of the Islamic world. These are our traditions. But we should not forget that we also have the traditions of the secular society, that Kazakhstan is a secular state. We should form the religious consciousness corresponding to the traditions and cultural standards of the country"*. (Message of the President..., 2012) The president reminded that *"one of the techniques of the external influence is the distribution of the religious beliefs alien to us"*. According to professor of the Institute of the Religious Science Bakytzhan Satershinov, there are people among us, who completely deny the national tradition and culture, do not accept the principles of the secular state, do not accept the arts and literature, science and philosophy are considered by them as a 'delusion', and the role of rationalism in the process of cognition is narrowed to zero, based only on the literalism and dogmatism, are proud of their godliness, while the opinions and the lifestyle of the others are deemed by them to be recreance, who exchanged the good-naturedness of their hearts for the cruelty of the fanaticism of religion (Satershinov, 2012).

Affected by many factors, their consciousness developed the rules that were contradictory to the universal human consciousness and national development. A part of the youth acts affected by the external factors, while another part even unconsciously having no explicit encouragement may start such a dangerous way. So we believe that this ever relevant problem, which was actively dealt by the Alash members and worrying the today's Kazakh society will be solved only based on the secular knowledge. For the progressive development of the society, one should do everything possible in order to avoid the repetition of the previous mistakes. It was the heritage of great people, the Alash leaders, which has become not only the proud of the country but also its support (Jurtbay, 2016).

## CONCLUSION

The analysis of the Alash publicism shows us that the theme of religion is very significant for the Kazakhs. Based on the publications in the periodicals, the Alash government and the national leaders tried to solve this problem from the different angles: based on the secular and democratic principles and the hope for the national integrity of the people. Through the powerful influence of the publicism, the following measures were adopted:

- Provision of the people with the information about the insidious methods of baptizing the Kazakhs as one of the directions of the imperial policy of the colonizing country as well as the preventative measures;
- The unmasking in the periodicals of the unfair people distorting the essence of the religion;
- Publication of the religious-educating articles;
- Call for the refuse from the old customs and traditions as the remnants of the old time.

Almost all the feature materials are written in an acute manner and provide undoubted facts and are threaded with the freedom of the religious choice.

The Alash leaders aspired to solve the problems of the religious by the political forces. The methods and ways chosen by them may be presented as follows:

- The creation of the Kazakh own association of muftis (which resulted in the fact that the Alash leader Human Karash became the first Kazakh mufti);
- Regular meetings on the religious law;
- The creation of the political organizations protecting the Muslims' interests;
- Determination of the ideological role of religion according to the vector of the country's development.

Thus, the leaders of the Kazakh nation defined that the maintenance of the religious integrity of the country ensures the guarantee of the bright future for the people. And in the solution of all the problems regarding this issue, the Alash leaders demonstrated their perseverance.

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**ESTUDIOS**

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## Formalization of the Enterprise International Economic Activity Efficiency Management

*Formalización de la administración por la eficiencia de la actividad económica internacional*

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### ABSTRACT

Nowadays, development of the enterprise, at international market, depends on its ability to adapt the development of technologies. It was found that reengineering changes the structure of an enterprise so that it combines functions of several divisions in one. As a result, it was investigated that in 2015, volume of export production and sell price for export goods had the largest influence, while the lowest influence had the administrative costs. Authors proposed the concept of international economic activity efficiency management formalization that includes strategic and tactical component of the management process at different stages of the enterprise development environmental cycle.

**Keywords:** reengineering, business-process, strategic targets, strategic management, organizational culture.

### RESUMEN

Hoy en día, el desarrollo de la empresa, en el mercado internacional, depende de su capacidad para adaptar el desarrollo de tecnologías. Se encontró que la reingeniería cambia la estructura de una empresa para que combine funciones de varias divisiones en una. Como resultado, se investigó que, en 2015, el volumen de la producción de exportación y el precio de venta de los bienes de exportación tuvieron la mayor influencia, mientras que la menor influencia tuvo los costos administrativos. Los autores propusieron el concepto de formalización de la gestión de la eficiencia de la actividad económica internacional que incluye el componente estratégico y táctico del proceso de gestión en diferentes etapas del ciclo ambiental de desarrollo empresarial.

**Palabras Clave:** Reingeniería; procesos de negocio; objetivos estratégicos; gestión estratégica; cultura organizacional.

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## **INTRODUCTION**

Efficiency of the enterprise international economic activity is quite multilateral economic category that was thoroughly investigated by scientists over a considerable period of time. Ukrainian scientific school mainly considered the efficiency of international economic activity from the position of the productive forces system, basing on which the personnel of International Economic Affairs Department assigned the main role on the process of interaction and transformation of labour objects through means of labour, therefore basic indicators of the international economic activity efficiency in native economic school before the 1990s XX century was the productivity and capital intensity of labour, the capital intensity and capital productivity ratio of export-oriented products (Mochernyi, 2000). In nineties years of the twentieth century, the conceptual development of Western scientific thought began to be introduced into the activity of native enterprises, where the profit margin was considered as the main indicator of the international economic activity efficiency, or maximization of the net profit per one employee in the sphere of international economic activity (Mochernyi, 2000).

Further implementation of the given conceptual approach led to the separation of strategic and tactical levels of international economic activity efficiency management, which contributed to the combination of strategic vision and targets with specific indicators of enterprise activity. Determined historical peculiarities of the native development of performance management system of international economic activity significantly influenced on semantic and logical basis of the methodological support for the assessment of the efficiency of international economic activity, which requires the development of new concept of formalized management of the international economic activity efficiency, taking into account current trends in the development of this type of activity.

At the current stage of the development, company's success at the international market depends on its ability to adapt rapid development of technologies, innovations, and conditions for conducting international business. In general, native and foreign scientists concluded the course of recent years research on the success and effectiveness of an enterprise determined by how quickly and with help of what resources the enterprise achieves its strategic orientations (Niven, 2006; Smyrnitskiy, 2002; Sutiagin and Turlacheva, 2012). In fig. 1 presents the concept of formalized management of the international economic activity efficiency for enterprises with branching strategic and tactical component of this process. At the same time, the presented elements of this concept do not have an essential argument, they are a logical continuation of each other, and promote effective management of the efficiency of international economic activity of the enterprise at different stages of making managerial decisions.

## **METHODS OF EVALUATING THE INTERNATIONAL ECONOMIC ACTIVITY (IEA) EFFICIENCY**

### **Evaluating the efficiency of IEA on the basis of the Key Performance Indicators**

Key Performance Indicators (KPIs) are the basic approach of evaluating the IEA efficiency at the tactical level. Structural component of this direction of concept implementation has two further directional vectors: use of the key success factors in order to achieve planned results and to get the most effective correlation between the results of international economic activity and spent resources. The basis for KPI implementation is a variety of the enterprise internal indicators that are classified according to the relevant criteria for groups.

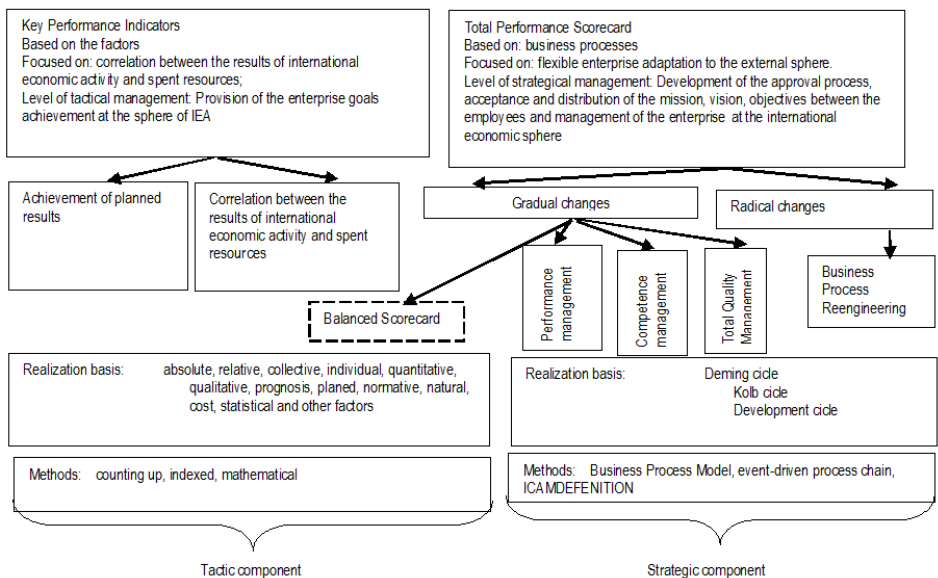
However, formalized management of the international economic activity effectiveness on the basis of analysis only quantitative and qualitative indicators is not complete. It does not allow us to make a reasonable management decision and effectively optimize internal activities of the enterprise to achieve long-term development benchmarks at the international market.

**Peculiarities of Total Performance Scorecard**

Therefore, the next approach to be included into the concept of formalized management of the international economic activity efficiency is Total Performance Scorecard, based on the business processes of the enterprise coordination basis, acceptance and distribution of the mission, vision, objectives between the employees and management of the enterprise at the international economic sphere. Strategic level of its implementation is aimed to optimize enterprise’s business processes, taking into account strategic vision, trends influence and external factors development regularities at the international economic sphere. For the current period of time, the implementation of this formalized management direction is appropriate to organize five main vectors of activity, depending on the intensity of changes that occurred at the enterprise.

One of such areas is efficiency management (Performance Management) – it is management of the international economic activity transforming strategy into plans and corresponding specific results of international economic activity.

**Figure 1: Structural components of the concept of formalized management of the enterprise international economic activity efficiency**



Efficiency management combines well-known methodologies of business improvement and technology (Kokin, 2011). It is management of individual employees and teams, aimed at the achievement of maximum efficiency of the enterprise’s international economic activity, which includes general understanding of the goals, approaches of work organization and employees training, designed to ensure its continued development for long time period. High priority task of the Performance Management is to provide an enterprise with advantage human capital at the international market. Efficiency parameters can be attributed to the main following groups: financial results of international economic activity, feedback (opinion of foreign clients, colleagues, leaders of the multinational collective), time (terms observation of work execution). It

means that the efficiency of international economic activity is measured not only by productivity and profit margins, but also by focusing on the development of human capital, taking into account the trends of the international labour market. Process of the efficiency management system development and implementation consists of the following stages: diagnosis; planning (definition of goals, resources, cost estimation and benefits); program preparation (plan of the defined goals achievement at the previous stage); testing; informing employees; teaching; maintenance; evaluation of the international economic activity system effectiveness (Kokin, 2011).

### **Competence management analysis**

The next vector for formalized concept of international economic activity implementation is Competence Management, which is aimed to increase the efficiency of international economic activity based on the development of personnel competencies. In order to get more effective developed business processes, the enterprise combines competence into three main categories: professional competencies (necessary for the performance of official duties of the personnel involved into the sphere of international economic activity), corporate competence (personnel skills in the international business environment), and managerial competencies (aimed to solve strategic tasks of the enterprise international economic activity). Main stages of Competence management implementation are: implementation strategy definition; needs analysis; information collection and current state analysis; preparation of personnel training programs; training conducting; analysis of results (Competence Management...).

An important stage of formalized management of the efficiency of international economic activity in the field of competence is to analyze the needs in the presence of those or other competences for employees belonging to different categories of positions (senior managers and middle managers, specialists, interns-consultants). Different competences, such as communicative skills, IT skills, focusing on the needs of foreign clients, conflict management, transformational leadership, autonomy and accountability, can be of importance for each post (Competence Management...).

Also, implementation of gradual changes in the field of international economic activity must be carried out in accordance with the principles of general quality management Total Quality Management (TQM), namely: orientation at the foreign consumer; leadership development of the enterprise management; employees involvement, which enables the enterprise to benefit according its abilities; approach to the international quality system as a process; system approach to the management of IEA enterprises; continuous improvement; making decisions based on facts; mutual beneficial relations with the suppliers from different geographic regions.

Most of the TQM benefits are long-term, and its effect is felt only after its implementation. It represents higher productivity, increase the level of cross-cultural corporate culture, reduce costs and increase the trust of foreign customers. These benefits can lead to the promotion and enhancement of the company status at the international market, which again once emphasizes the strategic aspect of this management approach. Quality management system of the enterprise gives confidence to the top management of the enterprise and to the foreign consumers in accordance with the products of international quality standards.

However, over the time, appears a thought that TQM could not give a tangible result, and, moreover, achieve the leadership enterprise, because market conditions and customer needs are constantly changes and often quite radical. Considering these conditions, it is not possible to gradually change the course of enterprise development.

## **RESULTS AND DISCUSSION**

### **Features of business process reengineering**

Aforementioned thesis justifies the necessity to include the concept of international economic activity effectiveness formalized management vector of business process reengineering. Business Process Reengineering, (BPR) – rethinking, redesigning and reorganization of business processes. The main idea of reengineering is that the achievement of effective management of international economic activity and it is possible only in the event of a reorientation of the organization management processes from the base platform to the process on the basis of functional approach. Business processes of international economic activity should be under the supervision, control and continuously improved on the basis of an innovative approach, bold ideas and non-standard thinking (Progressive management...).

Reengineering of business processes is characterized as a rather radical approach to make changes. It provides the rejection of all existing structures and procedures and introduction of new implementation ways for international economic activity. The main objective of business process reengineering is a significant acceleration of the company's response to changes the requirements of foreign consumers (or the forecast of such changes) with multiple reductions in the costs of all types. The essence of reengineering business processes is to focus on the processes, large project ambitions, waivers of old rules, creative use of information technology.

Reengineering changes the structure of enterprises in such a way of maximization the transparency of the boundaries between different divisions, and the best way to combine functions of several units in one (or even one person).

In general, the stages of reengineering business processes of international economic activity include the following steps: project development and business process allocation of international economic activity (goals and objectives of the project are defined, the team is formed and the approach is determined); documentation of international economic activity business processes (graphic models construction of business processes, chronometric components of business processes operation); comparative analysis of business processes with business processes of foreign competitors (benchmarking); development of the future international economic activity image of the enterprise; problems analysis and redevelopment of business processes of international economic activity and technologies; introduction of international economic activity new business processes, technologies and evaluation of results (comparison of the operation results effectiveness of the business processes with pre-set criteria, taking into account the costs of the functional activities types) (Grandars – Encyclopedia of the Economist...).

### **Analysis of perspective indicators**

An integrated combination of formalized management strategic and tactical levels by the efficiency of international economic activity is based on the Balanced Score Card. The Balanced Score card (BSC) is a mechanism for the personnel key factors consistently communicating, strategic goals of the enterprise, and monitoring its achievements through the performance indicators that are the measure of goals achievement, as well as characteristics of the business processes and the results of each individual worker effectiveness. Therefore, BSC is an instrument of not only strategic but also tactical control (Adamenko, 2012). Objectives and indicators of this system are formed depending on the competitive position and strategy of each particular enterprise and consider its activities from the standpoint of four perspectives: finance, customer relations, internal business processes, knowledge and training (Kaplan and Norton, 2005).

Financial perspective is needed to ensure time and accurate financial data, its processing and analysis in the field of international economic activity. For more accurate understanding of financial indicators, it is also necessary to take into account indicators such as risk assessment and comparative data costs and

outcomes (Kaplan and Norton, 2005). It includes the following indicators: profitability of export-import activities, coefficients of absolute liquidity and autonomy, rate of assets turnover, volume of export sales, etc.

Perspectives indicators of the relations with foreign customers can determine the customer orientation of the enterprise. Constant analysis of the external market needs can ensure loyalty of customers for a long time period. Evaluation of this perspective can be done using indicators such as: capacity of the external market, share of the external market, share of rebates and discounts, level of foreign customer's loyalty, etc.

Perspective of internal business processes reflects a state of the enterprise's main and auxiliary activities, its internal environment, efficiency and security that is necessary for continuous work (Boyko, 2007). This perspective is characterized by the following indicators: production cycle effectiveness, output rhythmicity coefficient, management apparatus saving factor, rationality coefficient of management documentation, etc.

Perspective knowledge and training evaluation, qualifications and personnel skills, as well as the state of corporate culture. Development and improvement of the personnel knowledge and skills is especially important considering the conditions of rapid technological changes (e-xecutive. Balanced Score card). To evaluate this perspective, we can use indicators such as costs of improving employee knowledge, number of employees management per unit, rate of employee use by qualification, etc. In the context of IEA, each perspective should include information about key success factors, strategic goals, efficiency indicators and its target values, as well as the activities that will improve its performance.

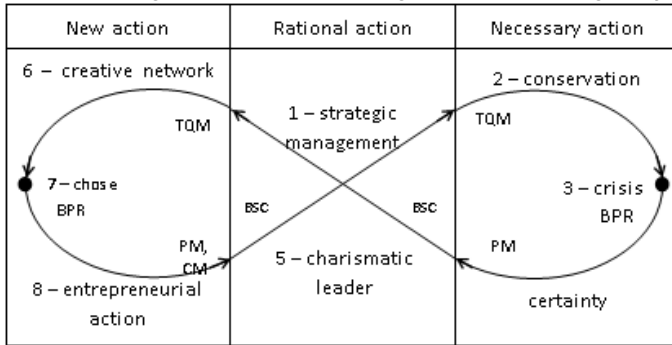
### **Description of the enterprise concept of international economic activity efficiency formalized management**

Lately, scientists and practitioners concluded that both gradual and radical changes are important because from time to time almost every enterprise at the international market faces the need of radical rearrangement of the fundamentals or even the nature of business. In our opinion, the most rational combination of all the above-mentioned areas of implementation of the international economic activity formalized management effectiveness concept may be carried out on the basis of D. Gerst ecological cycle model (Fig. 2).

According to this model, entrepreneurial action, that is, the emergence of the enterprise development new vision at the foreign market and introduction of new foreign economic strategy leads to the conservation or the establishment of a certain procedure, which ultimately causes a crisis situation and general uncertainty, which in its turn stimulates appropriate creative reactions – and thus a new ecological cycle of enterprise development is launched (Bielov, 2012). The main objective of the international economic activity efficiency formalized management concept is to maximize the stages of rational actions that are rethinking the mission and vision of the enterprise, formulating its international strategy and goals.

Therefore, at the stage of "strategic management" or "charismatic leader", when the mission and goals of the enterprise are formed, it is expedient to use a balanced system of indicators; At the stage of conservation and creative network, quality control is required at all phases of IEA, which ensures the TQM concept; in case of crisis or the necessity to choose the decisive action needed, typical for business process reengineering; in conditions of uncertainty or entrepreneurial action it is time to invest all efforts into the development of human capital through the concept of PM and CM.

**Figure 2: Implementation of the concept of enterprises international economic activity efficiency formalized management at the different stages of D. Gerst ecological cycle**



Note: BSC – Balanced Score card, TQM -Total Quality Management, BPR – Business Process Reengineering, PM – Performance Management, CM – Competence Management

Thus, the creation of an innovative system of the enterprise international economic activity formalized management effectiveness involves the use of comprehensive concept that is characterized by various intensity of the transformation, applied at the appropriate stages of the ecological cycle of enterprise development at the international market, and has a strategic and tactical direction in the international economic activity of the enterprise. Practical implementation of the concept of international economic activity efficiency formalized management is recommended to start with a logical and semantic substantiation of international economic activity effectiveness with further definition of strategic benchmarks, indicators and its interoperability.

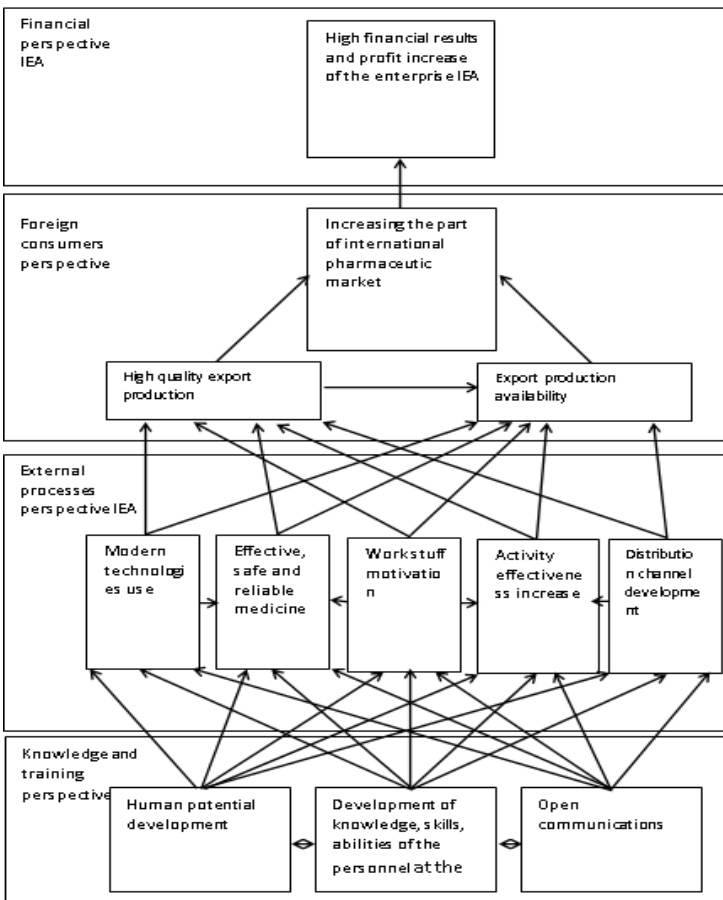
Strategic orientation of the enterprise is closely connected with the forms and types of international economic activities that are used for the position and development at the international market. In general, strategic development of the enterprise at the international market is mainly provided in four main directions: international trade activity, foreign exchange and international financial and credit operations, international investment cooperation, industrial and scientific and technical cooperation. However, the most widespread international economic strategy for many native enterprises is a direct export strategy based on the increasing production and formation of export-oriented products at international markets, using its own and other distribution networks.

Further detalization of the strategic aspects of international economic activity efficiency formalized management provides the identification of key factors in the success of an enterprise in four perspectives, based on the compilation of strategic map of its cause-and-effect relationships, using the methods of the BMP and the Event-Driven process chain. Consolidated results of the semantic-logical structure of indicators of business processes of the investigated enterprises (Scientific-technological complex "Institute of Single Crystals" of the National Academy of Sciences of Ukraine, "Institute of Scintillation Materials" of the National Academy of Sciences of Ukraine, State Enterprise " Chemical Reagents Plant ", NTC "IMK" of NASU, Research Institute NTC "IMK" NASU, joint venture "Amkris") as a result of international economic activity formalized management effectiveness strategic aspects practical detalization that is presented in Fig. 3

**Description of Key Factors for the IEA Success**

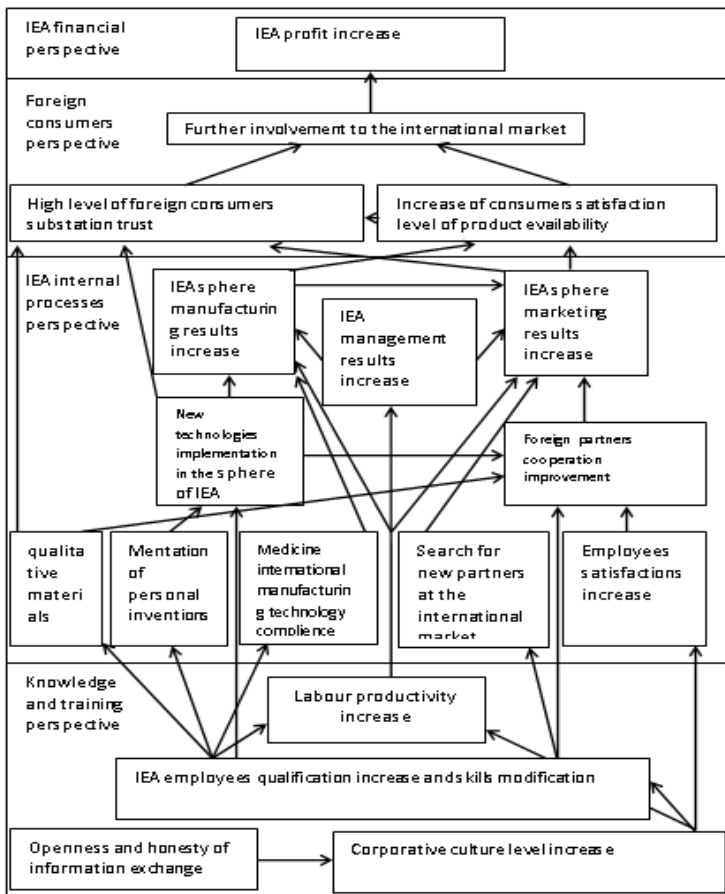
Key factors of the international economic activity success as a basic foreign economic strategy of the investigated enterprises that are based on the perspective of knowledge and training, as most of the aspects of the investigated enterprises related to the human factor, personnel skills involved into the field of foreign trade and relations with foreign partners. Formed semantic-logical structure of business processes in the sphere of international economic activity allows us to note that the activity of the enterprise depends on the personnel, and the results of business processes functioning – relations with foreign consumers and share of the external market, which in its turn influences financial results that the enterprise will receive from international economic activity. At the next stage of practical implementation, the concept of international economic activity efficiency formalized management development depends on each key factor of the concrete strategic goals success and establishment of causal relationships reflected on a semantic map (Fig. 4).

**Figure 3: Interconnection of the investigated enterprises success key factors in the sphere of international economic activity**



As the development of the Key success factors, the cause-and-effect chain begins with the perspective of knowledge and training of the employees of the investigated enterprises in the sphere of international economic activity. Fig. 4 shows that the openness and honesty in the exchange of information improves the level of organizational culture of the studied enterprises, which, in its turn, are supported by the professional development of workers in the sphere of international economic activity, leads to increase of labour productivity and improvement of business processes functioning. As a result, we obtain a high level of trust and satisfaction of foreign consumers, which will inevitably have a positive effect on the financial perspective of international economic activity.

**Figure 4: Causal and effect relationship between strategic objectives of international economic activity of the studied enterprises**





### Analysis of IEA efficiency indicators

At the tactical level of formalization of IEA efficiency management are determined efficiency indicators which will help to estimate successfulness of examined enterprises in achieving the strategic targets in international economic sphere. In order to optimize the process of IEA efficiency management and determine enterprise's internal business-processes concentration area, it is necessary to choose the most important indicators that fully characterize the estimated aspect.

It was suggested to use the following indicators as an efficiency for international economic activity of examined enterprises, based on the mechanism of business processes implementation, organizational subordination and features of the business documentation formation:

net profit from IEA:

$$NP = NI - C_S - A - M - T + O = S_p \cdot O_{EI} - C_S - A - M - T + O, (1)$$

where NI – net income from IEA;  $C_S$  – cost of export goods sold; A – administrative cost; M – marketing cost at international markets; T – tax on profits; O – other incomes and costs;  $C_P$  – sell price for export goods;  $V_{EG}$  – volume of export goods;

part of new international market in overall export volume of enterprise:

$$P_{NM} = \frac{O\Pi_H}{NI} = \frac{SV_N}{S_P \cdot V_{EG}}, (2)$$

where  $SV_N$  – sum of sales volume at new international markets;  
 level of foreign customer retention (New marketing. Loyalty...):

$$L_{CR} = \frac{Q_{RP}}{Q_T}, (3)$$

where  $Q_{RP}$  – foreign clients who made a certain quantity of repeat purchasing during a year;  $Q_T$  – total quantity of partners at international market;

needs satisfaction differential in export goods of enterprise (Nozdrieva, 1999):

$$D_{NS} = \frac{V_{EG}}{E_G} = \frac{V_{EG}}{Q_P \cdot O_Q}, (4)$$

where  $E_G$  – potential capacity of enterprise's export goods market;  $K_1$  – potential quantity of export goods foreign customers;  $O_Q$  – potential quantity of export goods for one foreign client for a year;  
 differential of value concordance:

$$K_{I3} = \frac{\Pi_C}{\Pi_P}, (5)$$

where  $P_C$  – price according to foreign customer;  
 outgoing complaints level:

$$C_O = \frac{V_{RM}}{V_{ERM}}, (6)$$

where  $V_{RM}$  – complaint raw materials volume;  $V_{ERM}$  – overall volume of purchased raw materials for export goods production;  
part of the export goods production with quality certificate:

$$P_C = \frac{V_C}{V_{EG}}, \quad (7)$$

where  $V_C$  – volume of export goods with certificates;  
output profitability (Smirnitsky, 2002):

$$P_O = \frac{NP}{C_P} = \frac{NI - C_S - A - M - T + O}{C_P} = \frac{S_p \cdot V_{EG} - C_S - A - M - T + O}{C_P}, \quad (8)$$

where  $C_P$  – goods cost price;  
differential of largest possible labour time reserve using (Grandars. Analysis of the use...):

$$DLR = \frac{H_A}{LPR} = \frac{H_A}{CR - D_W \cdot APC} = \frac{H_A}{H_{CD} \cdot APC - D_W \cdot APC}, \quad (9)$$

where  $H_A$  – actual hours worked by employees at IEA sphere;  $LPR$  – largest possible labour time reserve;  $CR$  – calendar labour time reserve at IEA sphere;  $D_W$  – amount of weekends and holidays, duration of annual vocation;  $APC$  – average payroll count at IEA sphere;  $H_{CD}$  – amount of calendar days in this period;

profitability of advertizing and methods of sales promotion:

$$P_{AM} = \frac{NP}{C_{AM}} = \frac{NI - C_S - A - M - T + O}{C_{AM}} = \frac{S_p \cdot V_{EG} - C_S - A - M - T + O}{C_{AM}}, \quad (10)$$

where  $C_{AM}$  – costs for advertizing and methods of sales promotion at international markets;  
differential of management performance quality (Smirnitsky, 2002):

$$D_M = \frac{TE_M}{LPR} = \frac{TE_M}{CR - D_W \cdot APC} = \frac{TE_M}{H_{CD} \cdot APC - D_W \cdot APC}, \quad (11)$$

where  $TE_M$  – sum of labour time expenditure because of delayed and low-rank management performance at IEA sphere;

differential of capital maintenance:

$$C_M = \frac{C_N}{C_E}, \quad (12)$$

where  $C_N$  – value of new capital;  $C_E$  – value of capital at the year end;  
innovative projects self-sufficiency level:

$$L_{IP} = \frac{N_{SP}}{N_T}, \quad (13)$$

where  $N_{SP}$  – number of stuff supplied projects at IEA sphere;  $N_T$  – total number of projects at the enterprise;

differential of work productiveness growth rate and average wages ratio (Savitskaia, 2002):

$$D_{GR} = \frac{R_{WP}}{R_W}, \quad (14)$$

where  $R_{WP}$  – employees' work productiveness growth rate at the IEA sphere of the enterprise;  $R_W$  – employees' average wages growth rate at IEA sphere; incoming complaints level:

$$C_I = \frac{V_{GC}}{NI} = \frac{V_{GC}}{S_P \cdot V_{EG}}, \quad (15)$$

where  $V_{GC}$  – volume of export goods with complaints; part of new partners at international markets:

$$P_{NP} = \frac{N_{NP}}{Q_T}, \quad (16)$$

where  $N_{NP}$  – number of new partners at international markets; work productiveness at IEA sphere:

$$WP = \frac{V_{EG}}{APC}, \quad (17)$$

differential of employees' qualification at IEA sphere (Khmeleva and Khmeleva, 2009):

$$D_Q = \frac{N_Q}{APC}, \quad (18)$$

where  $N_{KB}$  – number of employees who completed extension courses, probation, participated at seminars, training by occupation during a year; differential of innovation activity:

$$D_{IA} = \frac{N_I}{APC}, \quad (19)$$

where  $N_I$  – number of new and improved working methods implementation, implementation of technologies, developments, labour-saving innovations, new selections; differential of morality:

$$D_{MO} = \frac{TE_C}{LPR} = \frac{TE_C}{CR - D_W \cdot APC} = \frac{TE_C}{H_{CD} \cdot APC - D_W \cdot APC}, \quad (20)$$

where  $TE_C$  – labour time expenditure because of conflicts; benefit from organizational culture (Tikhomirova, 2008):

$$B_{OC} = \frac{NP}{OC_V} = \frac{NI - C_S - A - M - T + O}{G + HC} = \frac{S_P \cdot V_{EG} - C_S - A - M - T + O}{CVE - NW + HC}, \quad (21)$$

where  $OC_V$  – organizational culture in value term;  $G$  – goodwill;  $HC$  – human capital value;  $CVE$  – commercial value of the enterprise;  $NW$  – net worth.

Thus, the formulation of the mission, vision and basic values of the examined enterprises in the IEA sphere allow to determine the key factors of success and strategic targets of international economic activity by tracking their causal relationships, as well as perform a selection of efficiency indicators, which creates the basis for transforming abstract strategic representations into real tactical management decisions of the enterprise at the international market.

The use of the principle of a integrated indicators limited number of the examined enterprises IEA efficiency on the one hand is a positive factor in the proposed concept, because it allows you to focus on important processes, but on the other hand, it can be a serious drawback, because when tracking a limited number of indicators one can miss significant deviations of the components that neutralize the each other influence. Therefore, in the practical testing of the concept of formalization of the IEA efficiency management, the author of this research carried out a verification of the proposed indicators values sensitivity to change the structural components and the environment, which made it possible to further distribute the basic indicators of the examined enterprises IEA to the main ones of strategic importance to the enterprise and should have continuous informational support and auxiliaries that may be subject to an interval research because they do not have a significant impact on the enterprise IEA efficiency, but their monitoring allows for in-depth study of the emerging problem. The dynamics of the change in the examined enterprises IEA efficiency indicators for 2014-2016 is presented in Table. 1

**Table 1: Dynamics in the examined enterprises international economic activity efficiency indicators**

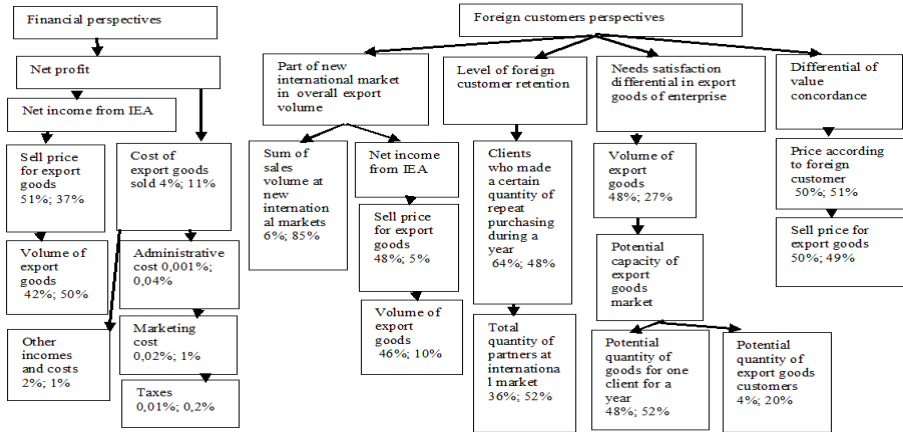
Efficiency indicator	2014	2015	2016	Absolute variation		Growth rate, %	
				2015	2016	2015	2016
Net profit from IEA, ths. hm.	488	842	1023	354	180	73	21
Part of new international market in overall export volume of enterprise	0,09	0,05	0,01	-0,04	-0,05	-44	-88
Level of foreign customer retention	0,91	0,78	0,80	-0,14	0,02	-15	3
Needs satisfaction differential in export goods of enterprise	0,85	0,90	0,71	0,05	-0,19	6	-21
Differential of value concordance	0,97	0,90	0,88	-0,08	-0,01	-8	-2
Outgoing complaints level	0,09	0,05	0,11	-0,04	0,06	-41	120
Part of the export goods production with quality certificate	0,75	0,85	0,91	0,11	0,06	14	7
Output profitability	0,19	0,29	0,26	0,10	-0,03	49	-9
Differential of largest possible labour time reserve using	0,05	0,04	0,05	-0,01	0,01	-27	26
Profitability of advertizing and methods of sales promotion	5,81	9,99	9,38	4,18	-0,61	72	-6
Efficiency indicator	2014	2015	2016	Absolute variation		Growth rate, %	
Differential of management performance quality at IEA sphere	0,004	0,002	0,002	-0,002	0,002	-51	11
Differential of capital maintenance	0,10	0,05	0,07	-0,05	0,02	-48	29

Innovative projects self-sufficiency level	0,14	0,33	0,40	0,19	0,07	133	20
Differential of work productiveness growth rate and average wages ratio	0,74	0,14	1,83	-0,60	1,69	-81	1206
Incoming complaints level	0,04	0,01	0,005	-0,03	-0,003	-78	-42
Part of new partners at international markets	0,30	0,28	0,20	-0,03	-0,08	-9	-28
Work productiveness at IEA sphere, kg/hum.	183	39	89	-143	50	-78	128
Differential of employees' qualification at IEA sphere	0,09	0,21	0,13	0,12	-0,07	128	-36
Differential of innovation activity, un./hum.	0,45	0,41	0,53	-0,04	0,12	-9	29
Differential of morality	0,0041	0,0037	0,0044	0,0003	0,001	-9	19
Benefit from organizational culture	0,06	0,11	0,02	0,05	-0,09	86	-78

### Evaluation of values and dynamics in IEA efficiency indicators

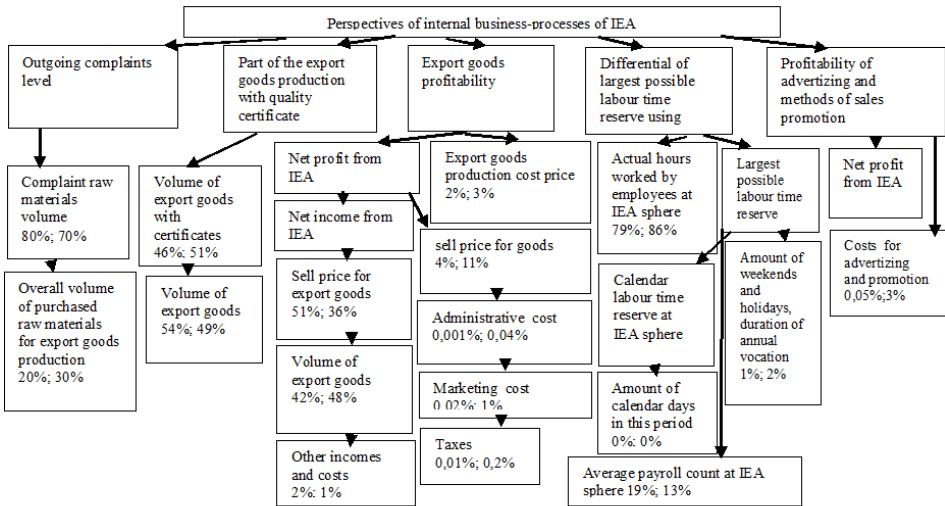
As a result of the evaluation and analysis of the values and dynamics of the examined enterprises IEA efficiency indicators, certain trends and regularities of the basic indicators change were revealed. In 2015, compared with 2014, the biggest change in a positive way of innovation projects self-sufficiency level indicator. This was mainly due to the number of stuff supplied projects at IEA sphere, as a result of a significant restriction of exports in connection with the tension of political relations between Ukraine and the Russian Federation, which contributed to the need to find new international markets for the enterprises export goods. However, in 2016, compared with 2015, the growth of this indicator significantly decreased, and the structure of its components influence almost did not change. Also, in 2015 there were observed high growth rates in efficiency indicators such as: differential of employees' qualification at IEA sphere, benefit from organizational culture, net profit from IEA, profitability of advertizing and methods of sales promotion, output profitability. However, in 2016, most indicators tended to decline, and only net profit from IEA grew by 20% due to the discovery of new international market niches for production distribution and the formation of a new pricing policy for enterprises. The price of export goods and its volumes had the greatest influence on this indicator in 2014-2016 (Fig. 5). Their influence summary part on the efficiency indicator for the examined period varies from 80%. The significant increase in the value of the enterprises net worth, caused by the compensation-free transfer of enterprises non-current assets, that due to the organizational features of the examined enterprises within a single scientific and technological concern, influenced on reducing the benefit from organizational culture by 78% in 2016 after growth by 86% in 2015 (Fig. 8).

**Figure 5: The share of the basic indicators influence on the change of efficiency indicators of financial and client perspectives of formalized of examined enterprises international economic activity efficiency management for 2014/15 and 2015/16**

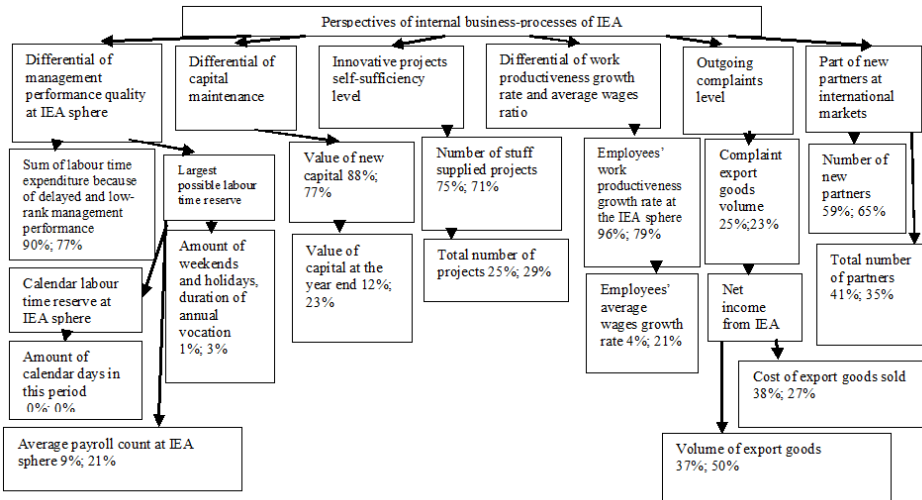


Instead, the largest decline in 2015 compared to 2014 has experienced such indicators as: differential of largest possible labour time reserve using, outgoing complaints level, part of new international market in overall export volume of enterprise, differential of capital maintenance, differential of management performance quality at IEA sphere, incoming complaints level, work productiveness at IEA sphere, differential of work productiveness growth rate and average wages ratio.

**Figure 6: The share of the basic indicators influence on the change of efficiency indicators of internal processes perspectives of formalized of examined enterprises IEA efficiency management for 2014/15 and 2015/16**



**Figure 7: The share of the basic indicators influence on the change of efficiency indicators of internal processes perspectives of formalized of examined enterprises IEA efficiency management for 2014/15 and 2015/16**

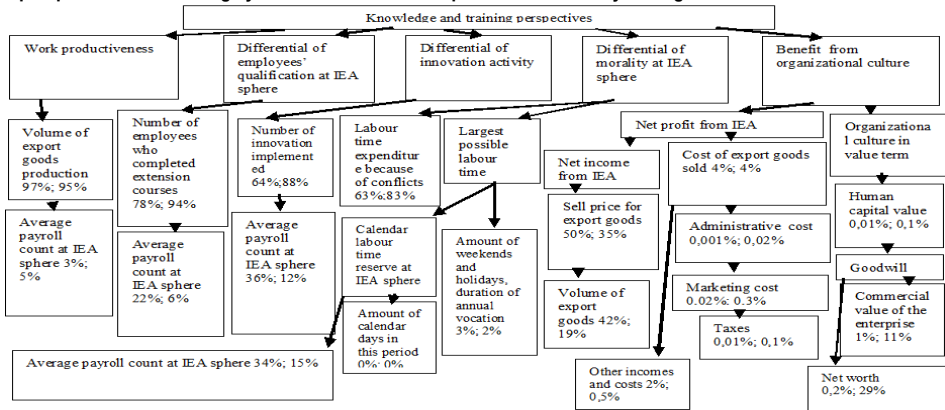


The most of these indicators decrease was temporary, it can be explained by the political tension and instability of the economic system functioning. For example, differential of largest possible labour time reserve using increased by 26% in 2016.

The largest impact on this indicator has such a basic indicator as actual hours worked by employees at IEA sphere (Fig. 6). Also, in 2016, there is a significant increase in the employees' work productiveness at IEA sphere and a decrease in outgoing complaints level, as well as slowing down of the negative growth rate of incoming complaints level. However, there is a further decrease in the part of new international market in overall export volume indicator, due to slowing development of new markets, as evidenced by a significant increase of impact on efficiency indicator of the sum of sales volume at new international markets

(Fig. 5).

**Figure 8: The share of the basic indicators influence on the change of efficiency indicators of knowledge perspectives and training system of examined enterprises IEA efficiency management for 2014/15 and 2015/16**



However, it is aroused interest in differential of work productiveness growth rate at IEA sphere and average wages ratio, the growth of which was -81% in 2015, and already in 2016 it has grown 12 times (Fig. 7). First of all, such results in 2015 were influenced by a significant decline in the work productiveness growth rate, which was 96% of the total impact on the efficiency indicator components, and in its turn, it was the most influenced by decrease in volume of export goods. In 2016, there was a significant increase in work productiveness due to increase in volume of export goods by 136% and wages fund by 29% while the impact of the differential components begins to equalize.

## CONCLUSION

Thus, considering the general influence of the basic indicators on the examined enterprises international economic activity efficiency management, it can be noted that in 2015, the largest impact had volume of export goods (19,5%) and sell price for export goods (13,8%), and the smallest – administrative cost (0,0002%). Such results can be explained by the fact that these indicators are among the most efficiency indicators.

However, accounting of the indicators absolute influence is inaccurate and less informative, further branching of the basic indicators should be based on the calculation of the average impact on the IEA efficiency.

The study of the basic indicators ranking based on the criterion of the average impact on the examined enterprises IEA efficiency gives completely different results – employees' work productiveness growth rate at the IEA sphere has the greatest influence (4,5%) and commercial value of the enterprise (4,4%). In 2016, the largest impact again had volume of export goods (17,9%) and sell price (9,04%), and the smallest – human capital value (0,001%). According to the criterion of the average effect on the IEA efficiency, the most influential basic indicators were the volume of export goods (4,48%) and number of employees who completed extension courses, probation, participated at seminars, training by occupation during a year (4,46%).

Therefore, when choosing target values and actions for improvement in the examined enterprises international economic activity, it was taken into account the impact of all examined basic indicators.



According to the results of the ranking of the basic indicators on the criterion of the average impact on the enterprise IEA efficiency it was found that the following 10 indicators are the main basic indicators that are subject to continuous monitoring and of strategic importance for the examined enterprises, as their overall impact on the IEA efficiency is 60% – are: volume of export goods, sell price for export goods, number of employees who completed extension courses, probation, participated at seminars, training by occupation during a year, commercial value of the enterprise, number of new and improved working methods implementation, implementation of technologies, total number of partners at international markets, actual hours worked by employees at IEA sphere, labour time expenditure because of conflicts, sum of sales volume at new international markets, employees' work productiveness growth rate at the IEA sphere. Other basic indicators discussed in this study are of secondary importance, may have a certain interval of monitoring and are taken into account when making managerial decisions at the tactical level.

Thus, in this study it is proposed the concept of formalized enterprise international activity efficiency management, which combines the strategic and tactical component of the management process at different stages of the enterprise development at the international market in ecological cycle. The definition of the efficiency indicators as a structural component of this concept on the basis of the logical-semantic maps formation and the causal relationships establishment allows conducting a ranking of the basic indicators during the formalization stage. Using of the criterion of the average base indicator impact on the enterprise IEA efficiency allows conducting a ranking of the basic indicators and to determine the main and auxiliary IEA indicators, which promotes efficient organization of internal business-processes, optimal allocation of enterprise information systems available resources and contributes to increasing the IEA efficiency.

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ESTUDIOS

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## Historical and Legal Analysis of Interstate Military Agreements and their Influence on the processes of the Establishment of the State of Ukraine

*Análisis histórico y jurídico de los acuerdos militares interestatales y su influencia en los procesos de establecimiento del Estado de Ucrania*

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### ABSTRACT

The purpose of the article is to conduct a historical and legal analysis of Ukraine's interstate military agreements, as well as to determine their direct influence on the process of state formation. As a consequence of historical and legal analysis, the authors developed the stages of forming the institution of interstate military agreements in the context of their influence on the paradigm of the state of Ukraine formation. The conducted research allowed to fragmentally reveal the concept and essence of international cooperation in the military sphere, including the definition of the concept of "international legal military cooperation of Ukraine".

**Keywords:** Cross-border partnership; international military cooperation; international obligations; military agreements.

### RESUMEN

El propósito del artículo es realizar un análisis histórico y legal de los acuerdos militares interestatales de Ucrania, así como determinar su influencia directa en el proceso de formación del Estado. Como consecuencia del análisis histórico y jurídico, los autores desarrollaron las etapas de formación de la Institución de acuerdos militares interestatales en el contexto de su influencia en el paradigma de la formación del Estado de Ucrania. La investigación realizada permitió revelar de manera fragmentaria el concepto y la esencia de la cooperación internacional en la esfera militar, incluida la definición del concepto de "cooperación militar jurídica internacional de Ucrania".

**Palabras clave:** Asociación transfronteriza; cooperación militar internacional; obligaciones internacionales; acuerdos militares.

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## INTRODUCTION

The contradictory consequences of the intensification of the processes of integration and globalization are manifested in the escalation of international competition, the rapid spread of the consequences of economic and financial crises, the increase in political risks in an unstable international environment, which leads to such negative trends as instability and uneven development in the countries of the world. Under such conditions, the problem of finding new ones and shaping existing forms of international relations is actualized; cross-border cooperation becomes one of the most effective (Beddoes, 2016).

According to experts, an important component of the system of international relations in the modern world is the provision of human security through economic, political and diplomatic measures in the process of settling international relations (Kertzer and Tingley, 2018). Ensuring peace on the planet is not unreasonably proclaimed the main goal of all mankind; therefore, the newly elected vectors in the sphere of global military security are characterized by a tendency to limit the use of war in its classical understanding. Gradually, there is an awareness of the danger of further continuation of the arms race, the production of technologies and weapons of mass destruction. Together with the economic and political transformations taking place in the modern world, these processes in the military sphere significantly influence the formation of a new system of international relations and contribute to the provision of both internal and cross-border security.

Unfortunately, the innovative component of modern development also has a negative feature that manifests itself in new forms of military force application, which entails the growth of social tension, aggravation of civil conflicts, and the prolongation of the proliferation of weapons of mass destruction. One of the consequences of the integration processes of the globalization era is that the emergence of a conflict situation in a certain country can create a danger for a broad coalition of states and the world.

Today, for the successful implementation of the tasks of preserving peace, the main thing is not only to ensure the defense capability of our country, but also to participate actively in the international military partnership (Reiter, 2017). The definition of the conceptual framework of the international military partnership, its principles and functions are mainly based on the standards of international law and is regulated by various bilateral or multilateral agreements. Thus, in the current geopolitical, socio-economic, international legal and military-political conditions, military partnership and international treaties for all countries of the world, including Ukraine, get special significance.

It is worth noting that since the proclamation of independence this kind of cooperation has accompanied Ukraine at all stages of its development and directly influenced the formation of our state. Scholars argue that the conclusion of interstate treaties in the field under investigation directly and comprehensively affects the formation of the state as a whole, and its individual processes (Zellner, 2015). Various international treaties and programs, such as the Partnership for Peace, have been instrumental in creating a qualitatively functioning system of civil-military relations. Moreover, Ukraine has proclaimed its desire to become a full member of NATO and the EU, which is why the world community expects from our country to be worthy of meeting their standards (Moroney *et al.*, 2002).

The topic of international military partnership acquired special significance after the aggression launched by the Russian Federation against our country. Ukraine faced new types of threats in all spheres of the life's activity of the state, and in the military in particular, which required active assistance from partner countries. The realities of the hybrid war, the object of which has become our country, require new approaches in ensuring state sovereignty and territorial integrity, including by strengthening military partnership with the countries of the European Union and the United States of America (Alexandrova-Arbatova, 2017; O'Hanlon and Petraeus, 2016). Also, scholars put forward the theory that the conflict

situation on the territory of our state occurred with the tacit consent of the partner countries in the military sphere (Edward, 2014; Mearsheimer, 2014).

Proceeding from the foregoing, the purpose of the article is to conduct a historical and legal analysis of Ukraine's interstate military agreements, as well as to determine their direct influence on the process of state formation. According to the goal settled, the main objectives of the article are defined: 1) to reveal the concept and essence of international cooperation in the military sphere; 2) to highlight and characterize the specific features of the formation of contractual bases in the context of the intensification of international relations; 3) to determine the stages of the impact of international military agreements on the formation of the state; 4) on the basis of the analysis to formulate theoretical conclusions, and outline the prospects for further development of interstate cooperation in the military sphere and its impact on Ukraine.

### **MATERIALS AND METHODS**

In the process of research, a set of general scientific, philosophical and special methods of science were used, which correspond to the aims and objectives of the article. Thus, the dialectical method allowed us to show the interconnection and interdependence of subjects, objects and other basic elements of the system of international military partnership. The comparative method provided an opportunity to compare the theoretical and methodological concepts of understanding the essence of the international military partnership, as well as to reveal the specifics of the implementation of the military policy of Ukraine and other democratic states at the present stage. The system method was used to deepen the understanding of the role and place of Ukraine in global and regional security structures. The prognostic method was applied in substantiating the prospects and directions of Ukraine's international military partnership with the leading countries of the world and exercising its influence on the state as a whole. Institutional approach was the basis for considering the role of international treaties in the formation of the state of Ukraine. A logical addition to the previous approach was the functional method, which made it possible to characterize the activities, tasks and main perspectives of interstate military partnership in the context of the transformations of our state.

Conducting historical and legal analysis is not possible without taking into account the transformations that took place not only with the object of research, but also with all the processes and phenomena associated with it. The aforementioned, above all, allows us to identify and take into account all the factors and conditions that determined the political evolution of independent Ukraine, so the historical and legal method was used to determine the stages, analogues and determinants of international cooperation in the military sphere; problem-chronological method allowed to structure the text of the study; empirical analysis helped to compare historical facts.

### **RESULTS**

The role of international military partnership in recent years naturally increases due to changes in the hierarchy of the world order. Globalization processes change the outlines of the modern world, manifesting contradictory tendencies of its further development, as well as influencing the dynamics of the development of the military sphere as components of the system of international relations. However, the problem of the correlation between international law and the development of national states is gradually becoming increasingly important. The signing of military agreements with many countries of the world is reflected in the process of the formation of an independent state.

At the present stage of development, Ukraine and other Post-Soviet countries need to establish interconnections with the world by using the principles of democratic governance. The latter are a successful way to achieve this goal, since they contribute to the sustainable development of the state and the implementation of modernized, innovative projects designed to serve as a system of democratization of all spheres of public life. All this, and the presence of supranational influences in the context of globalization, as well as the fine line between democratic and anti-democratic governance, has generated considerable scientific interest, which is aimed at studying the treaty foundations between Ukraine and other countries of the world in the military sphere, defining its characteristics, principles, functions, methods, models, concepts that will ensure the effectiveness and sustainable development of the state.

It is worth starting with the disclosure of the concept and essence of international cooperation in the military sphere. Scholars argue that neo-realism, neo-liberalism and constructivism belong to the main scientific approaches that make it possible to define the essence of international military partnership as a political phenomenon, to identify its subjects and ways of interaction between them (Abbott, 1989). The scope and purpose of the article does not provide an opportunity to fully detail their content, but it should be noted that these approaches are uniform with regard to a positive influence on the formation of the state and the projection of positive internal transformations.

As for the subjects of the international military partnership, they include states and international intergovernmental and non-governmental organizations whose constituent treaties provide for participation in international military legal relations and whose status is determined by the standards of the international law. In different ways assessing the role of the subjects of the international military partnership and the means of their symbiosis, representatives of these concepts come to a consensus on the importance of such a component of the sphere of international relations (Collins, 2013).

Thus, the notion of an "international military partnership" (or another it's used analogue – international military cooperation) refers to the voluntary cooperation of countries and provides for the pooling of resources, efforts to achieve certain successes in various fields of military activity (development of the armed forces of the own country, practical training of troops, achievement of the ability to perform common tasks with the armed forces of other states, the implementation of relevant international treaties and programs) (Jus, 2018).

The essence of such cooperation as an important component of the state's defense policy and the component of the system of international relations is determined by the fact that it covers the relations between states in the military sphere and is aimed at addressing issues of national security and defense tasks. Also, we emphasize that the basis for cooperation is its voluntariness and the pooling of resources to achieve the deduced vectors in various areas of military activity. Understanding of the international military partnership is conditioned by the fact that it is a multidimensional phenomenon, occurs in several spheres and performs a number of functions. Its nature is determined by the compatibility of the state interests of the contract parties, the coherence of the policy, mutual interest in ensuring international and national security. Also, the interstate partnership assumes the presence of three elements: 1) the overall objectives of partner countries; 2) their expectation to benefit from the situation; 3) the reciprocal nature of these benefits. One can talk about the so-called "symbiosis", mutually beneficial cooperation. By assisting another partner, each party to a particular contract expects to improve its own situation, which leads to the mutual coordination of state policies.

In modern political studies of international relations, scholars also widely use the notion of strategic partnership. It can be interpreted as a special kind of interstate cooperation, implying long-term interaction between the two states at the international level to solve a large number of issues in order to maximize the benefits for themselves and the partner (Parachonsky and Yavorskaya, n.d.). Strategic partnership is a

relatively new type of foreign policy relations, combines flexibility and deep rapprochement between the political courses of the two states, being an important addition to multilateral international negotiations on global topical issues.

Proceeding from the foregoing, it is worth supporting the proposed definition of the concept of "international legal military cooperation of Ukraine", which means a set of organizational and legal measures of the state aimed at participating in international legal relations with the goal of reinforcement national defense capability, as well as strengthening and protecting international peace and security, which is implemented by attracting the Armed Forces of Ukraine and is carried out on the basis of universally recognized principles and standards of international law, taking into account international obligations of the state (Ziniak, 2015). Yu. Trembetskaya points out: "Such cooperation contributes to the solution of global programs of the state, the organization of joint regional and international programs and projects on the basis of common trust, mutual interest and equality of relations" (Trambeetska, 2013).

It should be noted that the formation of an independent state is not possible without such a strategic partnership and the influence of neighboring countries. Contractual norms directly affect the components of the process of organizing the internal structure of the country. Historically, such development is usually seen as the activity of a politico-territorial sovereign organization of public authority, which has a special apparatus whose purpose is the management of the society (Ol'khovets, 2014). In the case of independent Ukraine, most often it is a question of the state process as a movement from the institutionalization of state structures to the full exercise of their functions (Dursun-Ozkanca, 2016). So, as a national and historical phenomenon, the process of state formation in independent Ukraine reflects not as much the dynamics of changes in the country as it is aimed at transforming the entire political system and society as a whole. At the same time, the concept of "the process of state formation" is hierarchically subordinated to the concept of "political cooperation", which is intended for a neutral description of events, without emphasis on progress or regress. The latter two concepts absorb the assessments of the results achieved in the course of political development, in which, in turn, political-legal and international-treaty factors play an important role.

The establishment of Ukraine as a sovereign, independent, democratic, social, legal state presupposes the need to intensify the development of contractual interstate cooperation. The interaction of states is based on the principles of harmonious development of national legal institutions and means of providing, protecting human rights and interests, including in the military sphere. The political history of independent Ukraine is actively explored in connection with the military-economic specifics, the development of the rule of law and civil society, and international relations.

The peculiarities of international legal cooperation of the Ukrainian SSR in the Soviet era of 1922-1991, taking into account the constitutional legislation of the USSR, were fragmentary, and it can be stated that the partnership was under the complete control of the Soviet Union. At the turn of the 80-90s of the 20th century in Ukraine, there were epoch-making historical events. In the conditions of deep socio-economic and political crisis, the process of destruction of the totalitarian Bolshevik system, as well as democratization of the socio-economic and state-legal system, began and was further developed in the republic. These trends are characterized, first of all, through the approval of publicity, political pluralism and the foundation of international partnership.

The proclamation of independence in 1991 became the basis for the formation of the fundamental foundations of a sovereign, independent, democratic, social, legal state of Ukraine. Ukraine's historical choice has set extremely challenging tasks for domestic legal scholars on the development and scientific substantiation of the own strategy of state building, reforming the system of national legislation and practice of its application that would be oriented towards European political and legal standards, first of all, the ensuring and protection of rights, freedoms and legitimate interests of citizens. This stage is directly connected with the creation of a new state – Ukraine and its formation, taking into account the gradual



transition from the vacuum state of the "closure" of the former USSR to the creation of an independent contractual base in the military sphere. However, the main drawback of this stage is the inhibition and encumbrance of the implementation of the contractual plans and concepts of Ukraine by interstate agreements that have been inherited from the USSR (for example, the Agreement between the Government of the Union of Soviet Socialist Republics and the Government of the People's Republic of China on guidelines for the mutual reduction of the armed forces and trust building in the military area in the region of the Soviet-Chinese border (1990)).

It should be noted that for the first time international cooperation in independent Ukraine in the military sphere was envisaged in the Declaration on State Sovereignty of Ukraine of July 16, 1990, adopted by the Verkhovna Rada of the Ukrainian SSR, which consolidated the position that the Ukrainian SSR, as a subject of international law, carries out direct relations with other states in the scope necessary to effectively ensure the national interests of the Republic in the military and other spheres. The singling out of Ukraine as an independent subject of international law also served to formulate the priority direction of military cooperation, which was implemented in attracting to peacekeeping activities, participation in arms control and disarmament, and cooperation with international organizations whose subject matter affected the military sphere.

One of the first agreements on the subject was the Agreement on the Principles of Providing Armaments, Military Equipment and Other Materials, Organization of Research and Development Work to the Armed Forces of the Member States of the Commonwealth of Independent States (1992), signed by Ukraine on March 20, 1992, which enshrined the cooperation of the signatory countries in the development and production of armament and military equipment. On May 26, 1993, an Agreement was signed between the Government of Ukraine and the Government of the Russian Federation on military-technical cooperation (1993), which was terminated on May 20, 2015 (Termination of the Agreement between Portuguese Republic..., 2015).

This stage has become very active in terms of signing interstate military agreements. Thus, it is worth noting the most significant ones: Agreement between the Ministry of Defense of Ukraine and the Ministry of Defense of the Republic of Belarus on Military Cooperation (1992); Agreement between the Ministry of Defense of Ukraine and the Ministry of National Defense of the Republic of Poland on Military Cooperation (1993); Agreement between the Ministry of Defense of Ukraine and the Federal Ministry of Defense of the Federal Republic of Germany on Cooperation in the Military Sphere (1993); Agreement between the Ministry of Defense of Ukraine and the Ministry of Defense of the Republic of Uzbekistan on Military Cooperation (1994); Agreement between the Government of Ukraine and the Government of the Republic of Kazakhstan on Military-Technical Cooperation (1994); Agreement between the Ministry of Defense of Ukraine and the Ministry of Defense of the Republic of Estonia on Military Cooperation (1994) and others.

The Agreement between the States Members to the North Atlantic Treaty and other states participating in the Partnership for Peace program on the status of their armed forces (1995) signed in Brussels on June 19, 1995 was of great importance both for the formation of the state and for the further development of the military international partnership. All the above-mentioned treaty norms contributed to the formation of the internal and foreign policy of the state, its national identity and the basis of the national legal system. The logical consequence of this influence was the adoption of the Constitution of Ukraine, which marked the beginning of a new, most extensive stage of international cooperation in the military sphere, which entailed various changes in the entire state system.

Article 18 of the Basic Law enshrined the provision that the foreign policy activity of our state is aimed at ensuring its national interests and security by maintaining peaceful and mutually beneficial cooperation with members of the international community on the basis of universally recognized principles and standards of

international law (Constitution of Ukraine..., 1996). The proclamation of interstate cooperation has become a dynamic vector of the formation of the state for the next decades, which does not lose its relevance to this day. It is advisable to cover this time period from 1996 to 2014.

Revealing the essence of military contracts in the above-mentioned temporal frameworks, we note the following: Agreement between the Government of Ukraine and the Government of Georgia on Military-Technical Cooperation (1996); Agreement between the Ministry of Defense of Ukraine and the Ministry of Defense of the Republic of Croatia on Bilateral Military Cooperation (1996); Agreement between the Ministry of Defense of Ukraine and the Ministry of Defense of the Republic of Azerbaijan on Cooperation in the Military Sphere (1997); Agreement between the Cabinet of Ministers of Ukraine and the Government of the Hellenic Republic on Military-Technical Cooperation (1999); Agreement between the Ministry of Defense of Ukraine and the Ministry of Defense of the Kingdom of Belgium on Military Cooperation (2002); Agreement between the Cabinet of Ministers of Ukraine and the Council of Ministers of Serbia and Montenegro on Military-Technical Cooperation (2003); Agreement between Ukraine and the Ukraine's Broken Road on Military Cooperation (2008); Agreement between the Ministry of Defense of Ukraine and the Ministry of Defense of the Slovak Republic on Cooperation in the Military Sphere (2011) and others.

In 2005, scholars formulated conclusions on the specifics of Ukraine's military cooperation, which, despite a large number of interstate agreements, stressed that the then military doctrine did not meet the requirements of the time and its ability to reliably secure the process of state formation by armed means was not considered to be effective (Matytshevsky, 2016). In particular, it was alleged that at that time Ukraine did not have reliable military allies, despite declaring strategic partnership in the military sphere with many countries. It is impossible to agree with this statement, since many agreements are still in effect, moreover, they show their effectiveness in the conditions of a military conflict in the territory of the country.

The analysis of the given agreements in the field under study gives grounds to assert that their influence on the processes of state formation basically boils down to the following:

- Ensuring the creation of the necessary organizational, legal and other conditions for the conclusion of agreements/contracts in the field of military-technical cooperation between authorized entities of economic activity;
- Adjusting the country's defense and security policies;
- Reforming legislation in the military and defense sectors;
- Introduction of an innovative component in the field of environmental protection from pollution associated with the activities of military formations;
- Improvement of legal support for the activities of the armed forces, adaptation of international law.

The Military Doctrine of Ukraine states that the current military-political situation is characterized by contradictions in military-political relations caused by disagreements in national interests, goals, and positions of states regarding ways and means of solving global, regional and internal problematic issues (Pogibko, 2015). Ukraine's entry into the world's circle of independent states, connected with the liquidation of its Soviet heritage, one of the largest military arsenals in Europe, led to an intensification of military-political contacts with the UNO and NATO, which in turn facilitated the modernization of the shortened army and the emergence of its own defense doctrine. We can also talk about deepening and expanding cooperation with countries in which Ukraine was directly involved in peacekeeping operations. These include Georgia, Macedonia, Tajikistan, and Croatia.

During this stage, in fact, an independent Ukraine was entrenched in the international arena not so much by diplomatic institutions as by its peacekeeping battalions in hot spots. Scholars note that its military

policy, which was formed mainly during the first half of the 1990s, inherent continuity in the international-legal and military-industrial planes (Podberezkin and Kharkevich, 2015).

The last step is expedient to start with a very significant document for Ukraine – the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand (2014). It should be emphasized that after a long process of ratification on September 1, 2017, the Agreement entered into force in full, which was a historic event and a confirmation of the development of bilateral relations between Ukraine and the European Union. Moreover, this document legalized the choice of our state in favor of modern European values and cited a list of new international legal obligations of Ukraine in the military field.

This normative legal act, in particular in Article 7 "Foreign and Security Policy", stipulates that the parties should deepen their dialogue and cooperation, promote a gradual convergence in the field of foreign and security policy, including the Common Security and Defense Policy (CSDP), as well as to consider issues of conflict prevention and crisis management, ensuring regional stability, disarmament, arms control and arms exports, including improving mutual dialogue in the space sector. Cooperation will be based on common values and interests with a focus on enhancing political convergence and effectiveness, promoting joint political planning. For this purpose, the Parties will use bilateral, international and regional forums (Association agreement between the European Union and its Member States..., 2014). The Association Agreement significantly expands and deepens the relations of the parties in the military field, strengthening their interaction and bringing Ukraine closer to full membership in the European Union. Moreover, scholars emphasize that at this stage a logical turn in the evolution of relations between Ukraine and the Community is aimed at the implementation of legally defined foreign policy aspirations in the military field (Graham, 2014).

Since 2014, Ukraine has strengthened its cooperation in the military sphere with many countries, the impetus to such an active introduction of partnership was the deployment of military operations on the territory of the state and the impossibility of a peaceful settlement of the parties' confrontation. Among the most significant bilateral military agreements, the following can be noted: Agreement between the Cabinet of Ministers of Ukraine and the Government of the United Arab Emirates on Military-Technical Cooperation (2015); Agreement between the Cabinet of Ministers of Ukraine and the Government of the Republic of Turkey on Military-Financial Cooperation (2016) and others. The year 2018 has become very productive in the sphere of signing new interstate military agreements; as of August, we can talk about concluding agreements with countries such as Kuwait and Canada.

Analyzing the nature of today's international military partnership of Ukraine in the Black Sea-Caspian region, one can single out the prospects for military cooperation of Ukraine within the framework of GUAM (Georgia, Ukraine, Azerbaijan and Moldova). Intensification of such cooperation in the future will lead to a significant increase in the military security of all members of this association, and of our country in particular. The prospectivity of such a partnership, according to Yu. Budzovich, is due to the fact that the GUAM member countries have a number of characteristic features that will become an intensifier for active cooperation between the above-mentioned states, namely: 1) the common historical past within the framework of the USSR; 2) identical problems of post-communist transformation: the transitional state of the economy, inefficient democracy, low living standards; 3) actual problems of violation of territorial integrity and sovereignty in all states; 4) common European integration aspirations, participation in the Eastern Partnership project, cooperation with NATO (Budzovich, 2015). The goal of Ukraine today is the gradual integration into the European political, economic and legal space with the further acquisition of full membership in the EU, as well as the deepening of cooperation with NATO; the priority task for the last

alliance is the achievement by 2020 of full compatibility of the Armed Forces of Ukraine with the corresponding forces of the member states of NATO (Ukraine's Broken Road to Europe, 2018).

This stage is characterized by an intensified Europeanization of the defense sphere of the state, which affects its components and forms new vectors for the country's further development. Thus, the signing of the above fateful document determined the further order of transformations in Ukraine, which will take place under the auspices of the need to fulfill the international legal obligations assumed by the country, including in the military sphere (Trush and Nikipelova, 2016). It is worth emphasizing that cooperation with the European Union today is one of the most important directions in the international military cooperation of Ukraine, since it is focused on strengthening security in the region.

Proceeding from the foregoing, it is considered expedient to single out the author's stages of the process of historical and legal formation of the institution of interstate military agreements in the context of their influence on the paradigm of the formation of the state of Ukraine and to propose the following their division: the first stage of post-Soviet transformations (from 1990 to 1996); the second stage is constitutional-integration (from 1996 to 2014); the third stage is European-modern (from 2014 to today). These stages are primarily connected with the processes of the formation of national statehood and the strengthening of international cooperation in the military sphere.

The historical and legal analysis of international cooperation showed that in the structural and semantic context the investigated problems of the formation of the state have an internal-national character, that is, it reflects the different but interrelated components of the historical process: internal and external military policy, economic and socio-cultural tendencies. Today we can talk about the achievement of some positive developments in this industry through a broad scientific base and the latest achievements of historical science, whose goal is to reveal the leading trends and patterns of interstate military cooperation in order to create an integrated, comprehensive, systematic and scientifically sound picture of the process of the gradual formation of an independent state of Ukraine.

Thorough study of the content of interstate agreements in the military sphere made it possible to derive the main concepts of military cooperation, which boil down to the following:

- use of the mechanism of international consultations with the world community to ensure peace, sovereignty, independence and territorial integrity of Ukraine;
- maintaining a dialogue with key partners of Ukraine, neighboring states, other leading states of the world and international organizations in order to strengthening internal and external security;
- implementing measures to fulfil Ukraine's European integration and adapting national legislation in the defense sphere to European standards;
- deepen cooperation with NATO in order to achieve the criteria necessary for membership in this organization;
- equipping the Armed Forces of Ukraine with modernized and new models of weapons and military equipment;
- continuing to participate in international peacekeeping and security operations, in accordance with international obligations assumed by Ukraine.

It is also worth noting that in the context of the escalation of the conflict in the East of Ukraine, international cooperation is focused on the use of diplomatic levers in the military and political sphere through numerous international consultations and meetings to attract the attention of the world community to the aggressive foreign policy of the Russian Federation towards Ukraine and to obtain material-technical and consultative-advisory assistance from partner countries.

The study of the phenomenon of international partnership underlined the influence of the latter on a number of components of the process of ensuring world stability and security in the military sphere, namely: a) the relationship of bilateral and multilateral diplomacy; b) conclusion of various kinds of unions and agreements providing for the mutual coordination of political lines with a view to joint conflict resolution; c) ensuring general security or resolving other issues of common interest to all parties involved; d) mutual coordination of state policies, etc.

Negative in the context of historical and legal analysis is the absence at the national level of a single normative legal act capable of regulating the procedure for the implementation of international military cooperation. In connection with this, for the further effective development of our state, the adoption of the Law of Ukraine "On International Cooperation in the Military Sphere" is recommended, which will regulate the formation of contractual relations, their goals, principles, subjects and, most importantly, the expected impact on the process of forming an independent state of Ukraine.

## **DISCUSSION**

The scientific study of the historical and legal analysis of interstate military agreements and their influence on the formation of the state of Ukraine is undoubtedly interdisciplinary in character and, therefore, this problem should be considered in complex and context with other substantiated points of view. In turn, the disclosure of the essential characteristics of Ukraine's military cooperation can be based on historical, institutional (normative-legal), structural-functional and systemic approaches.

Thus, L.V. Ziniak considered the emergence of interstate military cooperation of Ukraine long before the proclamation of its independence. The scholar claims that in the territory of states that were within the borders of modern Ukraine, the formation of international legal military cooperation began in the times of Kievan Rus; at the end of the 9th century it became a powerful military alliance of the Eastern Slavs, and continued until the conquest of Southern Rus by the Mongol Tatars in 13th century. Restoration of military cooperation occurred only in the era of the Cossacks (17th century.). In the future, until the beginning of the 20th century, Ukrainian state entities remained primarily an object of international relations in the military sphere. Under the influence of the democratic revolutionary processes of 1917, international cooperation in the military sphere through the Central Rada, the Hetmanat of P. Skoropadsky, the Directory intensified, which in their activity was based on organizational and legal forms of military diplomacy. With the formation of the USSR under the constitutions of 1924 and 1936, the Ukrainian Republic was deprived of the right to enter into international legal relations in the military sphere on its own behalf. Such competence belonged exclusively to the Soviet Union as a subject of international law. After the World War II, in order to strengthen the political influence of the USSR, separate rights were granted to the international arena of the Ukrainian SSR to enter international military relations, which was reflected in the process of the UNO founding and involvement in the work of the Security Council, conclusion of post-war peace agreements, participation in the peace protection process and disarmament and the like. At the same time, the international military cooperation of the Ukrainian SSR was of fragmentary character and was completely controlled by the Soviet Union. Proceeding from the foregoing, we can state that, despite Ukraine's low activity in interstate military cooperation on the basis of agreements, such a partnership took place, albeit in a very limited form (Ziniak, 2015).

The above author's concept of dividing the foundations of contractual cooperation in the military sphere into stages is controversial, but it is unique and has the full right to exist. Singling out of the first stage from

the moment of independence proclamation makes it possible to put emphasis on the full and effective start of international military cooperation of Ukraine as an independent subject of international law.

### **CONCLUSION**

The intensification of international-legal relations and new challenges on the international arena have led to significant transformations in views both on the role of international law and the nature of the international-legal obligation and the essence of contractual cooperation as a whole. Rethinking the need to strengthen cross-border cooperation has led to the emergence of the international community as an element of a new international-legal reality, the core of which is global interests, in particular, peace ensuring based on well-designed military cooperation.

Consequently, the international obligations of states in the military sphere are the result of rather complex processes taking place in international law and national legislation of states related to changing priorities of world and national importance, where peace and security are becoming necessary conditions for world and national development, as well as an evaluation category activities of the entire international community and each state. Based on the foregoing, the international military partnership should be viewed as a strategically important branch of international relations, since it has a wider meaning than purely military issues, and at the same time is more specific than the study of common security problems.

At the present stage of the development of international cooperation of states in the military sphere, active bilateral and multilateral cooperation is taking place on a contractual basis. The signing of interstate agreements reveals the correlation between the world processes of globalization and Ukraine's search for modern new forms of identity (national, linguistic, regional, confessional), transforming and correcting the process of forming an independent state. The development of military cooperation is already becoming one of the foundations of the Ukrainian foreign policy strategy. In turn, military policy as a phenomenon of modern, crisis and unpredictable development of society today attracts the attention of many scholars in the field of economics, political science, sociology, social philosophy, criminology, international law and others. In the context of strengthening the European integration aspirations of our state, the need for detailed analysis and disclosure of the problem of the influence of interstate cooperation on the country's military policy and on the process of its formation as a state with the purpose of introducing means of modernizing public life at the European level acquires particular urgency. The presence on the territory of Ukraine of a militarized conflict leads to the need for a gradual solution of the problem at the domestic and global levels.

The conducted research allowed to fragmentary reveal the concept and essence of international cooperation in the military sphere, including the definition of the concept of "international legal military cooperation of Ukraine". As a result of the historical and legal analysis became author's set of stages in the formation of the institution of interstate military agreements in the context of their influence on the paradigm of the formation of the state of Ukraine, and the following division was proposed: the first stage of post-Soviet transformations (from 1990 to 1996); the second stage is constitutional-integration (from 1996 to 2014); the third stage is European-modern (from 2014 till present). The proposed division is due to a gradual, legally conditioned process of intensification of international cooperation, which entailed qualitative changes in the state structure.

On the basis of the analysis, the specifics of the formation of contractual bases in the military sphere have been singled out and characterized; the main tendencies of influence on the formation of the independent Ukraine have been outlined; the prospects for the further development of the country and the transformation of its status in the international arena have been outlined. In addition, amendments to the current legislation have been proposed, namely, the development and adoption of the Law of Ukraine "On International Cooperation in the Military Sphere", which will regulate the formation of contractual relations, their goals, principles, subjects and, most importantly, predicted the expected impact on the process

formation of an independent state of Ukraine. Thus, the priority direction of further studies of the problems of military cooperation should be clarification of the current and future development of regulatory and legal frameworks in the field of such cooperation with a view to improving them.

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## ARTÍCULOS

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# The Ancient Turkic Book of Reasoning and Revelations "İrq bitig" of X Century

*El antiguo libro turco de razonamiento y revelación "İrqbitig" del siglo X*

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### ABSTRACT

The article analyzes the texts of legends in the ancient Turkic "The book of reasoning and revelations" ("İrq bitig"). In order to reveal the implicit text layer of legends there are used methods and techniques of comparative approach, hermeneutics, component analysis, as well as some of the techniques of modern linguistics. Identified different ideological incorporation borrowed from other mythological systems to Turkic environment, which were entered by Silk Road: proto-Sumerian borrowing, ideas of Nestorian Christian, Manichean beliefs, ideas of various kinds of Buddhism, some images from the Mahabharata.

**Keywords:** Acculturation; Buddhism; Nestorian's; Tengrism.

### RESUMEN

El artículo analiza los textos de las leyendas en el antiguo libro turco *El libro del razonamiento y la revelación* ("İrqbitig"). Con el fin de revelar la capa de texto implícito de las leyendas se utilizan métodos y técnicas del enfoque comparativo, hermenéutico, análisis de componentes, así como algunas de las técnicas de la lingüística moderna. Se identificaron diferentes incorporaciones ideológicas tomadas de otros sistemas mitológicos al ambiente túrquico, que fueron incorporadas por la Ruta de la Seda: préstamos proto-sumerios, ideas del cristiano nestoriano, creencias maniqueas, ideas de varios tipos de budismo, algunas imágenes del Mahabharata.

**Palabras clave:** Aculturación; Budismo; Nestoriano; Tengrismo.

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## INTRODUCTION

There is a need in modern Turcology to study some texts of Eastern Turkestan, subjected to a "façon de parler", it is the ancient book "İrğ bitig", in which the meanings of parables is difficult to define an explicit value. Information about cultural contacts of the peoples of Central Asia and the ethnic groups that lived in the Celestial Empire, are known mainly from the Chinese annals, besides some information is far from the truth. This is not only an aberration of the range of events, but deliberate distortions in the Chinese narrative sources. Therefore, a particularly large role is in filling gaps in these relations, the analysis of ancient texts, in which we discover vestiges of different cultures of ethno masses of the Great Steppe and its opponents in the face of the Chinese rulers who belittled and maligned culture of the ancient Turks. Despite the negative complementarity between nomadic and settled peoples of China, we observe the phenomenon of acculturation, when the members of the ruling minority sent their offspring to learn in medieval Chinese school. The people from Steppe, who acquired Chinese knowledge, were able to contrast that knowledge against the aggressive intentions of the Chinese emperors. In addition, we observed consequences and effects of the Hellenistic culture in the ancient Turkic texts, which are concepts in the language of the nomads, reflecting the most ancient contacts between representatives of the West and the Great Steppe.

Ongoing research is related to important scientific tasks for the disclosure of the mental world of the ancient Turks of the X century. In addition, we use the comparative-historical method along with cognitive techniques for the analysis of the concepts of this work.

The *purpose* of this article is to analyze and uncover the binary meanings of ancient parables, to determine which specific texts of the middle Ages affected on their appearance.

"İrğ bitig" is written by the anonymous author in the first third of the 10th century AD in the Manichean monastery of "The Great Cloud"; it is found by the second expedition of A. Steyn (1906-1908).

At the request of A. Steyn it has been explored, decoded and published by Wilhelm Thomsen in 1912 (Thomsen, 1912). The text contains 65 small parables, and at the end of the manuscript – a colophon, written in red ink over the Chinese Buddhist text. The book had no title, but all interpreters translated the text before a colophon by this way: "[...] this book of fortune-telling is good!" Therefore this monument of ancient Turkic rune written language became known under the name "The book of Fortune-telling". However meaning of the term "irğ" can mean "guessing and a sign", the "reasoning and a revelation" sent by a deity and "statement" of the deity. That is why we suggest translating the name of this book like this – "The book of reasonings and revelations" (Akishev, 1978).

J. Hamilton by analyzing colophon terminology hypothesize that this work has been written in the Manichean environment (Hamilton, 1974). There are many words attest to it: manystan ("convent, the monastery") formed from Middle Persian m'nyst'n; dintar ("the Manichean priest") formed from the Sugd lexeme dynd'r, durna ("good sign") which is arising from the Middle Persian word mwrw. These terms are usual for Turkic Manichean compositions. However the word from Sanskrit – yuru ("the spiritual mentor, the teacher") which belongs to Buddhist religion appears here. So, only in one colophon we observe symbiosis of at least two various religious systems, to be exact, one of them is anti-system of Manichaeism. Thus, there has been "swaying" of minds in monastery of "The Great Cloud". Actually, many researchers of this book are right that many places are rightly considered as one of the most difficult for understanding of the ancient Turkic texts.

**CROSSROADS OF CULTURES**

However the main thing apparently isn't about environment where was written this most difficult for understanding book, the most important is what has affected for the emergence of similar texts. We believe that there were number of such conjectural texts. Several literary Buddhist texts were found in Niye and Krorayna: four Sanskrit shloks, which similar to "Mahabharata" and some other texts by the contents. Our attention was drawn by the manuscript at number of 565 – the conjectural text dated for the Central Asian lunisolar calendar. The text indicated what are favored by each year of a 12-year animal cycle. Apparently, it is one of the most ancient mentions of a 12-year cycle in texts from Central Asia. The Indian term "nakshatr" which literally means "star", "constellation", and in a context it gets indirect meaning "year". Such meaning doesn't meet in one other place. The most probable is that similar texts have formed the basis for creation of the analyzed philosophical book of reasonings and revelations. However some places of this book have appeared as a result of more ancient world outlook systems' influence which have resulted by acculturation's processes between East and West cultures which have laid the foundation of texts "Book of reasonings and revelations". Acculturation is the process, which is representing by consequence of direct and long contact of one ethnic group with another, that changes culture paradigms of both groups' individuals (Saiyn *et al.*, 2017).

In some parables of "The book of reasonings and revelations" we find vestige from the Ancient Chinese "Book of changes" (Blyumkhem and Komissarov, 1991; Kirabaev, 1991; Kobzev, 1989; Shutsky, 1999). The main idea of this book which comprises in its basis, is a variability concept. In prehistoric times before the onset of scripts perhaps during an era of protosumer culture's influence of first sign through the Old Indian means of Indus valley of the Pre-Aryan Civilization, this idea was received by various ethnizes of Central Asia. Ancient people, by placing the person in a space continuum tried to track – whether human activity is contrary to the course of a space fulfillment or it is harmoniously incorporated in the universe course. In short, whether it connotes unhappiness or happiness to a person, and the life of the individual a priori depended on it, that was reflected in equipollency contents of "The book of changes" and in "The book of reasonings and revelations".

The current system of "The book of changes" has been created under the Zhou dynasty and in contrast to the most ancient mantic (oracle) systems of earlier eras, she has received the name "The book of Zhou Changes" (Mozho, 1959). As to the composition this book consists of 64 symbols (ancient Turkic – 65 parables), each of which define a life situation in the evolution over time. "The books of changes" symbols' consist of six features each. These features represent consistent steps, algorithms of the development of this situation. Features consist of two types: integral or interrupted in the middle. Integral lines designate light, active condition, interrupted – darkness, passive condition. So, it is possible to present "The book of changes" as interaction of Light and Darkness (Zinin, 1983). This fundamental feature of "The book of changes" was met by Manicheans and used in creation of the specific Manichean book of reasonings and revelations. For the best understanding and reflection of parables of "The book of reasonings and revelations" it is necessary to stop on definitions of the manichean terms of "The books of changes".

1. The term *yuan* designates – "beginning", "initial", "great".
2. The term *heng* designates – "to make a sacrifice" and "to taste sacrifices". According to T. Takata, a hexagram Heng – the mirror and symmetric representation reflecting the victim of the priest (oracle) and accepting the victim of a deity, that is the victim penetrated to a deity. Therefore the sign has received meaning "get", "reach", and in further evolution of semantics (semantic shift of a lexeme) has received meaning "fulfillment", "development" (Tadasuke, 1925). The similar phenomena were known in Central Asia even before "The book of changes". This is evidenced by the find of K. Akishev's archaeological expedition – a small tiny stone ritual yellowish vessel from a burial ground of Karatom (the 4-3rd centuries BC) (Akishev, 1978). We offer experience of decoding of the inscription on this ritual subject. In our opinion, the sign G [!] is Aramaic (5th century BC) which goes back to a Phoenician sign of the 10-9th

centuries BC<sup>x</sup>, that is a solar symbol of Tengri (Sky). Other signs (𐰚, 𐰚) belong to signs of the Libyan letter – a branch of Afrasian languages, native speakers of them splited up near the Libyan Desert in III millennia BC, and a certain part of migrants has appeared on the Iranian plateau, and then has moved to territory of a Turkic and Aryan ecumenes. So, Phoenician and other alphabetic systems' elements, for example, of the Libyan, have penetrated into Central Asia. It is necessary to arrange signs on the ritual vessel vertically and to read from top to bottom: [ytya] "to stream", "disappear", "pass" (the translation of the author). It must be noted that this round ritual ball was put in a mouth to the dying Sons of the Sky, apparently, to ease transition of soul after death on the Sky. Probably during the Zhou dynasty era this burial ritual had been borrowed from Central Asian ethnizes. Further, as a result of semantic shift the word "ytya" has gained the following meanings: "he has sent" ("A small inscription of Kul Tigin"), "to send" ("Tonyukuk's Monument") (Kairzhanov, 2004; Zholdasbekov and Sartkozha, 2006).

3. The term li came into being as a result of sign hae and dao ("knife", "to divide") reduction. Yulian Shchutsky indicates that " (...) any line, which is creating a subject as much separates it from one subject as connects it with other, puts objects in contact, it is clear why in a philosophical context this word means 'registration', 'definition' (...)" (Shchutsky, 1999). However in a context this word (sign) can have meaning "favorable".
4. The term Zhen is understood as ~ ("verkny", "strong") by commentators of "The book of changes". The paleographic analysis shows that in form Zhen we have similarity of signs Zhen and dynes ("tripod", "firmness"). Today is known that "The book of changes" is written between the 8-7th centuries BC and, as indicated by Endo Tahakis, the place of creation of this book Central Asia (Endo, 1925). The origin of the term dynes indirectly testifies to it, because Chinese have signaled indigenous of Altai as dinlinam, they were the related tribes of kipchak, they were Caucasians of a special trunk, shamanism, which disseminated on the southeast too, was developed in their limits and in cults. In the context of "The book of changes" this sign has received meaning "firmness".

So, the phrases constructed of signs yuan, Heng, li, Zheng are Manichean formulas, primary meaning of them has been subject of annihilation. Note that these formulas are much more ancient than other text. Apparently, they are rudiments of earlier guessing system, which sources can be found in clay tablets of ancient shumer (Labat, 1948).

### **IMPORTANCE OF MANICHEN TERMS**

The peculiarity of the ancient Turkic "Book of reasonings and revelations" is that Manichean terms aren't used in it (Zinin, 1988), but their relevance is used, that is, we see only semantics of these terms which sometimes is expressed covertly, implicitly in parables.

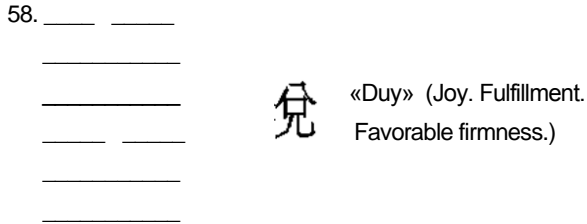
This is evidenced by quantitative characteristic of Manichean terms' semantics in the text of "The book of reasonings and revelations". From 65 parables only 48 have Manichean meaning, other 17 are reflected by passive existence that met the sacral requirements of the Manichean doctrine of "The great cloud" monastery (Kairzhanov, 2013).

I will give one textual comparison – the 29th parable of "The book of reasonings and revelations" with the 58th hexagram and the aphorism of "The book of the changes", which have amazing equipoise proximity with each other.

They say: a certain man was a hazardous player, he started a risk game after leaving his son with his wife as collateral. He not only didn't lose the son and his spouse, but also returned ninety sheep which

were lost by him before. His son and his wife were rejoiced and happy. So know – it is good luck! (Kairzhanov, 2012).

Figure 1: "Duy" (Joy. Fulfillment. Favorable firmness.)

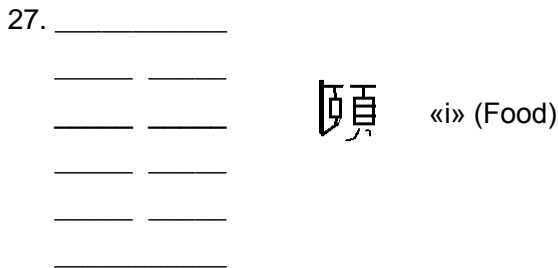


The third six. Joy – from arrival. – Misfortune!

By the content of this text joy has to extend to other people. Any closing in itself of one who feel joy alienates him from the real world and leads to unsuccessful acts. Manicheans could adapt the idea of the hexagram's movement, which responds to their doctrine, that is the movement begins from the lower line to top. In other words, the person should release his spirit from Darkness' particles and to rise to the Sun, that is, through an intermediate lunar step by fasting.

X. "I am the leopard gritting my (sharp) teeth; my head is hidden in canes. I am brave and courageous. So know!"

Figure 2: "i" (Food)



Firmness – to fortunately. Behold cheekbones: (they) get (something that fills a mouth). IV. The fourth six. To eat to insides got blown up. – Happiness. The tiger looks, being fixed, in an emphasis, his desire – to pursue. The abuse won't be.

As indicated in the interpretation of "The Zhou book of changes" "danger from the fifth line is expressed in tiger's image. This "tiger" only threatens and doesn't attract because an exit down to the first line is possible". We believe that thing that brings together "İrq bitig" and the Chinese classical "The book of changes" is a feeling of the general equipoise of Manichean semantics, although by the content they don't coincide with each other.

XXIII. "They say: the young man has found a tail of a cuckoo. Let there will be a happy bride in a headdress with the brush (executed from feathers of this bird). So know – it is the benefit!"



**Figure 3: "Bi" (Furniture. Fulfillment. Small it is favorable to have a place to act)**

22. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

賁 «Bi» (Furniture. Fulfillment.  
 Small it is favorable to have a place to act)

III. The third nine. Decoration! Furniture! – Eternal firmness – fortunately.

In "The Zhou book of changes" this place is interpreted as the crisis of the negative process, which operating not so intensively and even splendor of furniture isn't dangerous. This decoration just weakens the negative influence of this situation, but doesn't remove it. Therefore the aspiration to save the resistant attitude to curvy beauty of a dress allows reaching the happy result of all process. There is equipoise of semantics in a parable of "I'rq bitig" and in the hexagram of Chinese "Book of changes".

VIII. *"They say: I am a snake with the gold head. My gold belly was cut by a saber: the body and the head, opposite each other, rolled outside of the house, at the road. So know – it is nasty!"*

**Figure 4: "Huan" (Smashing. Fulfillment)**

59. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

換 «Huan'» (Smashing. Fulfillment)

III. The third six. You will shatter your body. – You won't repent.

We find interpretation of this place in "The Zhou book of changes", which has probably interested the author of "I'rq bitig": permanence of this process presents a greatest danger in the process of fragmentation. If identity, that is somewhat indivisible, will be subjected to the process of fragmentation or division, the favorable outcome is impossible. In this case the person is forced to bitterly lament that he hasn't stopped the process of fragmentation in time. However the following part of the comment meets the requirements of the Manichean doctrine: because the third position by own semantics is looked outside and disintegrated inside, because in this case the person shouldn't regret, for he operated in keeping with position which was taken within this current situation. So, ambivalent semantics is felt both in "I'rq bitig", and in the Chinese "Book of changes".

Joy has to extend to other people by the content of this text. Any closing in itself of one who feel joy alienates him from the real world and leads to unsuccessful acts. Manicheans could adapt the idea of the hexagram's movement, which responds to their doctrine, that is the movement begins from the lower line to top. In other words, the person should release his spirit from Darkness' particles and to rise to the Sun, that is, through an intermediate lunar step by fasting.

Thus, our comparisons and matchings lead to a conclusion: the Manichean ideas have had significant effect on many parables' content of this ancient Turkic Written Language mysterious monument, that shown by contrasting Light (Goodness) also Darkness (Evil).

### INVESTIGATIONS AND CONSEQUENCES OF ACCULTURATION

Acculturation's ways show us communications of examined monument of literacy with Orkhon Turkic culture tradition, which represented not only in shaman content, but also in language and in composite and stylistic features of the book from monastery of "The Great Cloud".

So, the evidence of deep connection with the Mongolian shamanism and the Tibetan Bon was reflected in a Turkic written language certificates were reflected. We find these rudiments also in the analyzed book. Cf. e.g. following parable: *"The reservoir ran low, and the drain froze. How the reservoir can run low when it is princely? How the channel can freeze when it is exposed to the sun? So know! there are some difficulties at the beginning of this deity, then again it will be good!"*.

Let's note that the role of the Thunderer, which generally acts as special categories of spirits act, is carried out by Mongolian shaman callings for the Supreme inhabitant of heaven Tengri, precisely, Hisaga-tengri (Neklyudov and Tengri, 1990) who is considered "the beginning in clouds". In mythology of bonds the goddess Lumo gets the leading place (Ogneva, 1990), who acts as a first man: a blue sky appears from her head, the moon – from the right eye, the sun – from left, planets – from upper teeth. When the goddess closes the wonderful ox-eyed eyes, night goes on, when she opens the day begins. The thunder is born from the goddess Lumo's voice. The last function of Lumo gets it close to Hisaga-tengri: clouds appear from her breath, a rain – from tears, wind – from nostrils, the rivers – from beautiful eyelids, the earth – from a body. Thus, Lumo brings a rain, contributing fertility. Then it becomes clear that the content of one parable from "The book of reasonings and revelations" in which colors of clouds differ: "Tell: there was a gray cloud. It was over the people. There was a black cloud. It was over all things. Cereals have ripened, herbs have grown. The cattle and people felt good. Well – it's good!" Soothsayer-priests determined what ceremonies should be made in honor of Lumo by color of clouds, their form and the movement. Only after the performance of the ceremonies in honor of Lumo and the Supreme Tengri together will be made, reservoirs will be filled with water, the frozen drain from blue heaven will melt, that is, the fertile rain will shower giving life to existence in all its form on the earth. How to resolve the difficulties on the Lu's way? Only by a sacrifice which eliminates obstacles in their way. Ethnographic material of the Yakut ceremonies' description of sacrifices was collected in G. V. Ksenofontov's work (Ksenofontov, 1992). This relict of shaman and Bon region can be found in some customs of the modern Turkic people, for example, when Kazakhs come together at any reservoir and sacrifice sheep to appease, apparently, Lu, that is, to stop withering heat. I will note that they any more don't remember and know neither about shamanism, nor about Lu, but this rethought and turned sacrifice ceremony relict – Tasattyq transmitted from mother's milk from generation to generation. We find other traces of acculturation in the content of some parables of the studied ancient Turkic book. For example, some parables have appeared under the influence of the Indian manuals about the signs and beliefs containing assessment – opposition (bad or good) of the same type, as in "The book of reasonings and revelations". Cf., *"I am a predatory eagle with gold wings. Prey for me will never be exhausted: I grasp what I like and eat my favourite, being in the sea. Since the most ancient times after cremation of the dead Indians throw out remains in Gang water, and birds of prey (buzzards) collect "tribute", the semi-burned corpses, eating "loved". Perhaps, these sacral customs was described by the anonymous author from Miran?*

Christian traces of acculturation show some parables of "The book of reasonings and revelations". Christian literature was carried by Christian merchants to the east by the Great Silk way. It was studied in

the Christian communities and monasteries which were built along a trade path where colonists Nestorians were located with representatives of other faiths.

Therefore isn't surprising that the ancient Turkic people (Keraites and Naimans) and other ethnizes of Central Asia so well knew Antiquated and New treasured texts. Besides, Christian Turkic peoples differed from their brethren by belief in one feature – the free attitude to sacral literature. Cf. e.g., one parable from "The book of reasonings and revelations" which is a peculiar continuation of the evangelical parable of the prodigal son (Arutyunova, 1976; Bazin, 1974).

*"They say: (certain) son, get angry with his parents, left (the house). But then after many years of wanderings came back home. He told: "Yes I will be taught by my mother and I will hear words of my father".*

In an evangelical parable is narrated about a certain person, who divided the property between sons; younger went away with the share to the distant party and there has chiseled the part of father's inheritance (Gumilev, 1993; Krongauz, 2001; Meletynsky, 1990; Stepanov, 1975). Having felt need and deprivations, he returned to his father; father took pity on him and forgave him all sins – before the Heavens and before the relatives, having told:

*"We will begin to eat and have fun! Because this son was dead and has recovered, disappeared and was found". The eldest son got angry with father. The text of a parable ends by father's words: "My son! You are always with me, and everything that's mine is yours; and it was necessary to be happy and have fun, because your brother was dead and has recovered, disappeared and was found".*

## CONCLUSION

So, "Book of Reasoning and Revelation" (İrğ bitig) reflects, first of all, the mythological essence of the ancient Turks (Tengrism, shamanism). In the texts of parables we find not only traces of Manichaeism, Christianity, Buddhism, but also rudiments of various philosophical systems of the Hellenistic and early Christianity. First of all, these are some of the postulates of the Gnostic philosophers, who seem to have borrowed the ideas of the struggle between light (good) and darkness (evil), while his followers from the monastery of the "Great Cloud" in the analyzed monument reflected these ideas in some parables.

Например, в XV притче автор сталкивает свет и тьму, в результате которого свет одерживает вверх: «Üzä tuman turdī, asra toz turdī. Quş oylī uça aztī. Kijik oylī jügürü aztī. Kişi oylī joriju aztī. Jana Täñri qutınta üčünč jılta qop äsän tükäl körüşmiş qop ögirär säbinür, — tir. Anča bilinlär: ädgü ol! It is said: it was haze in the sky, it was dust on the ground. Birds (generation of birds) flew and lost their way. Animals (offspring, calves) ran and lost their way. People's children walked and went astray. In the third year again by the grace of Tengri everything was prosperous and perfect (literally "saw each other"). They were all happy and had fun. So, you know – this is enlightenment!

Here the gnostic pleroma sends aeons to the person, and at that moment people are excluded from time, that is, the redeemer descends from the world of light to darkness, in order to sacrifice himself, to include all in timelessness, then to literally push everyone to the eternal Light-God.

These conclusions are based on the study of the language of this literary monument and on the data that were obtained with the help of hermeneutics, text linguistics and comparative studies, which enabled us to reveal and illuminate the general cultural and historical background of the study. This background of a bygone era was in constant variability and depended on changing different worldview paradigms of cultures, for example, the positions of Manichaeism and Buddhism were strengthened only in monasteries near some medieval towns, and the rural population continued to worship its ancient gods, but here too there was a transition among nomads into the fold of a new confession. This applies to some Turkic-speaking tribes – kereites and naimans, who adopted Nestorian Christianity in 1007. In the urban environment, among the merchants, the process of adaptation to a new Manichean or Buddhist religion was observed, which took

place under the influence of incorporated ethno-cultural massifs. Although here there were sacral zigzags – by this time (the second half of VIII century) – by the decree of the Uigur Khan Idigan Manichaeism turned into a state religion, which led to dramatic consequences – loss of independence.

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## ARTÍCULOS

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# Kazakh Emigration and Historical Significance of Memories of Mustafa Shokay

*La emigración kazaja y el significado histórico de los recuerdos de Mustafa Shokay*

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### ABSTRACT

The aim of the work is to analyze the Kazakh emigration and the historical significance of the first Kazakh emigrant M. Shokay memories. In work analyzed the positions of the Kazakh intelligentsia of the early 20th century in the national liberation struggle are analyzed. The authors show their own point of view on the genre of memoirs. The ways of forming the Kazakh emigration in the article are considered in relation to the social and political events of the beginning of the 20th century. The article traces how Shokay's positions in the political struggle are reflected in his memoirs.

**Keywords:** Diaspora; emigrant; ideology; literary criticism.

### RESUMEN

El objetivo del trabajo es analizar la emigración kazaja y la importancia histórica de los primeros recuerdos del emigrante kazajo, M. Shokay. En el trabajo se analizan las posiciones de la *intelligentsia* kazaja de principios del siglo XX en la lucha por la liberación nacional. Los autores muestran su propio punto de vista sobre el género de las memorias. Las formas de formar la emigración kazaja en el artículo se consideran en relación con los acontecimientos sociales y políticos de principios del siglo XX. El artículo describe cómo las posiciones de Shokay en la lucha política se reflejan en sus memorias.

**Palabras Clave:** Diáspora; emigrante; ideología; crítica literaria.

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## **INTRODUCTION**

Literature is an art chronicle of the epoch. Memories of historical personalities, state and public figures, historians and representatives of other spheres of science, which traditionally belong to the genre of memoirs, are considered as documentary sources and used in science. For example, E. Bekmakhanov, referring to the sources used by him when working on the study "Қазақстан ХІХ ғасырдың 20-40 жылдарында" (Kazakhstan in the 20-40s of the 19th century) notes: "In addition to the above documentary materials, we used 'stories' of various people. These 'stories' can be divided into three groups by their nature: 1. stories of Central Asian and Russian merchants who have visited the horde of Kenesary; 2. stories of direct participants of the insurrection; 3. stories of people attached to participants of the insurrection to collect the necessary information (Bekmakhanov, 1994).

These words of the scientist tell that when writing a monographic work about an event in the national history, along with the works of foreign and domestic scientists, archival materials, folklore heritage, he used the memories of people who witnessed those events as historical materials. Man is an active member of society, participating in its creation. Consequently, his memories of the time when he lived, his thoughts and opinions are valuable; the subject's view of history is important for science, and especially for the humanities.

"Man is not abstract, some otherworldly creature. A man is a person's world, a state, a society" (Marx and Engels, 1957). This statement by K. Marx clearly characterizes the relationship between man and society. Thus, it can be said that people's memories of that time, the era when they lived, are of great importance for the knowledge of society. And this, in turn, indicates the value of the memoirs genre from the point of view of history.

## **ANALYSIS OF MEMOIR ART WORKS**

Subjective cognition lets through the events of history, evaluates, weighs, suggests and evaluates social life, development of history, historical events and personalities. Let us quote the words of the Russian scientist S.V. Pavlovskaya. She notes: "In modern historical science, more attention is paid to human problems in history, to its inner world, to the perception of historical events. This approach to history significantly expands the complex of historical sources, gives an opportunity to re-examine questions of history that have long been present in science, a huge layer of sources of personal origin (diaries, memoirs, letters) is introduced into research, in which thoughts, feelings, moods, public consciousness, the level of spiritual life, the psychology of people of a certain historical epoch are reflected" (Pavlovskaya, 2006). S.V. Pavlovskaya believes that the genre of memoirs, including memories, has a historical and literary character. Memoirs are a mirror in which the truth of the society is reflected.

"From the point of view of the nature of the genre, memoirs and memories, which are very close to them, require special study: it is necessary to distinguish them from the point of view of ideological and artistic content. Memoirs, essays, diaries, reflections, letters, works of epistolary and information and documentary nature are a significant layer now. All these works are united by one common ideological and artistic thread: they are created on the basis of vital facts, specific documentary materials" (Akysh, 2010). This opinion of the scientist confirms the need for a more detailed study of the genre of memoirs. Indeed, in literary science memoirs are considered within the framework of memoir art works.

For example, the Russian literary critic M. Kuznetsov, analyzing the works of K. Paustovsky "Distant years" and I. Ehrenburg "People, Years, Life", puts purely documentary and artistic and documentary works in a single line. In the work of K. Paustovsky documentation has a conditional character, artistic fiction comes on the foreground. In the work of Ehrenburg, in accordance with the requirements of the chosen genre, great importance is attached to documentation, specific facts.



Similar studies, critical works are also in Kazakh literary criticism. Speaking about the genre of memoirs, in most cases they rely on the memoirs of S. Seifullin, S. Mukanov, G. Musrepov, B. Momyshuly, A. Nurshaikhov and some other writers. And the memories in which the concrete facts are preserved and in which the truth of the life of society is reflected in a certain historical time have not yet been properly evaluated and are not investigated from the point of view of their genre peculiarity. Undoubtedly, it is only natural that in the literature artistic images of this or that historical epoch, historical and eminent personalities are created. In this respect, memoirs occupy a special place, therefore memoir prose is widely represented in the literary process, from the Middle Ages to the present day.

### **MEMORIES, AS A WRITTEN HISTORICAL DOCUMENT**

Memories – this is the author's story about own life, written (narrated) from the first-person perspective; they are dominated by the author's narrative, based on specific events and facts. In modern literature they perform the function of historical and literary and biographical documents, acquainting with one or another historical personality, with the stages of their life path, with their surroundings, with their character and behavior.

In the dictionary of literary terms "Эдбейттану" (Literary criticism) the following definition is given: "Memoirs, memories (Fr. *Memoires* – memoirs) – have the form of biographical narratives, diary entries, travel notes, in which the author narrates about events, which they witnessed or participated in. In whatever form they were written, they are not just memories, but represent a literary work. The form of memoirs, biographical narrative or diary entries is used as an artistic device, showing that the work describes real events and it is based on specific documentary materials.

Along with this, it should be noted that the artistic memoirs select and describe the events of a particular historical period, which have important social and political significance. The writer, talking about these events, depicts the characters of different people, describes their actions, while he tries to preserve those impressions, the mood that these events and people had on him. The feature and advantage of this genre is that the author of the memoirs, describing behavior and actions of different people, narrates about the events, which they witnessed by themselves (Kunaqova, 1998).

We can say that memoirs – are a written historical document in which the author assesses the events that really took place in society, shows the self-awareness of the active participants in these events. In most cases, memories of events, preserved in the author's memory and witnessed by oneself, are based on one's personal impressions. A distinctive feature of memoirs is that they can contain facts that are not observed in other documentary sources. Also, memoirs are valuable because social scientists and researchers can find details in them that help to analyze and characterize certain events of the past in more detail. Memoirs focus on concreteness, documentality, signs of journalistic style; artistic reflections and expressive means of language recede into the background. Given these signs, some researchers attribute memoirs to the genre of essays. Basically, this view is held with respect to the memoirs of Russian emigrants.

For example, G.N. Pospelov writes about the genre of essays and memoirs: "One of the most popular genres of memoirs of Russian emigration is an essay. It can be referred to both fiction and journalism. Referring to small epic forms, memoirs are closest to the sketch: they do not have an intricate plot and artistic images". The scientist gives a classification of essays, but does not separately identify the memoir essay. He considers the form of a documentary essay where "facts and phenomena are accurately described" or where "the author gives own explanations and assessment". Despite the fact that the author's subjectivity is present in the memoir essay and the documentary task is put forward, G.N. Pospelov refers it to the genre of journalism (Koznova, 2011).

### **CHARACTERISTICS OF THE MEMOIRS OF THE KAZAKH EMIGRATION**

In the history of world literature, the memoirs of Russian emigration occupy a special place. In the 1920s-1960s, the genre of memoirs was particularly distinguished in the literature of Russian emigration. G.P. Struve writes about the phenomenon of emigrant prose: "The forms of non-fiction are probably the most valuable contribution of foreign writers to the common treasury of Russian literature" (Struve *et al.*, 1996). These words prove the significance of the genre of memories.

After 1917, as a result of the prevailing revolutionary and political situation, many representatives of the Russian intelligentsia were forced to leave Russia and build a "second Russia" beyond its borders. As a result of the great country's fall, over two million Russian people were outside their homeland and were scattered all over the world. The memoir genre, which does not require long literary preparation from the authors, turned out to be the most attractive for professional writers, as well as for participants and witnesses of certain historical events.

Initially, it was peculiar for this genre to combine two lines – objectively-cognitive and personal-confessional, which acquired a new character in the memoirs of the first wave of Russian emigration. The authors of the memoirs analyzed the historical situation, gave a personal, sometimes collective assessment of the subjective experiences of participants in historical events in their works. In addition to eyewitness accounts, the aesthetic and literary critical views of the authors and their contemporaries were included in them. Formation of the Kazakh emigration and emigrant literature we also associate with the political and historical events that took place in Kazakhstan after 1917. Until the period of independence acquisition the history of Kazakhstan was considered only in the history of the USSR, which was a consequence of the colonial policy of tsarist Russia, and then the result of the historical and political situation in the Soviet period of our history.

Yu. A. Borev notes in his research notes: "The history of mankind is full of upheavals and cataclysms (especially in the 20th century), which caused huge flows of movements of the masses, migrations and emigrations. So, there were three main waves of emigration from Russia in the 20th century: 1) post-revolutionary – people who did not accept the revolution; 2) postwar – people displaced during the war who are afraid to return to their homeland; 3) post-Soviet – which began as early as the decline of the Soviet period and continued in the perestroika and post-perestroika periods" (Borev).

### **PERIODS IN THE KAZAKH EMIGRATION**

We can apply this classification to the characteristics of the Kazakh emigration. The beginning of the 20th century was a period full of contradictory changes for the Kazakh steppe. The national liberation uprising of 1916, the February and October revolutions, the creation of the Alash party and the government of Alashord, the Provisional Government, gave impetus to the liberation struggle against tsarism and Russian colonial policy.

In February of 1917, the Provisional Government with its anti-popular policy came to power, streams of White Guardists poured into the Kazakh steppe, which caused great damage to the country's economy and made changes in the social and political situation of the region. "In 1917, the Kazakhs witnessed two revolutions-the February bourgeois-democratic one and the October Socialist. The first of them gave the possibility of overthrowing the monarchy and Russian tsarism. As a result of the February revolution, there was a dual power in the country, which could not help but affect the situation in Kazakhstan" (Kuzembayuly and Abil, 2010).

We cannot say that the representatives of the national intelligentsia, who came to the political arena at the beginning of the 20th century, had a common opinion on the issues of the state structure. This is natural, because for that period there was no consistent political system for the formation of a free state.

Consequently, there was no common opinion on the issue of "autonomy", its type, nature and content among national figures. Some thought that the "autonomous republic" was a form of self-government state, other representatives of the intelligentsia understood it as a limited power when the right to govern a state is received by a certain group. For example, the leader of the Alash movement A. Bokeykhanov thought: "The Federation is a union of equal states. As part of the federation, each republic has its own state basis, but all the republics are in solidarity. Each of them is independent in matters of governing the country".

Some of the Kazakh intelligentsia believed that the overthrow of the tsarist power and the revolutionary democrats coming to power (primarily the Cadets) would destroy the evil and violence that the Russian state is committing against other nations.

### **THE BEGINNING OF THE NATIONAL LIBERATION MOVEMENT OF THE PEOPLES OF TURKESTAN**

M. Shokay chose a completely different path. During his stay in St. Petersburg, he began to create a self-government plan for the region. The plan was based on the views expressed by members of the Muslim faction. It was planned to create a single Turkestan confederation, which will include national autonomies (Abdullaev *et al.*, 2000). On the basis of the idea of M. Shokay, 150 delegates – Kazakhs, Uzbeks, Tatars, Turkmen, Kirghiz, took part in the first kurultai of Turkestan Muslims on April 16-22, 1917 in Tashkent.

A. Khalid estimated this meeting as "the peak" of the national liberation movement of the peoples of Turkestan (Khalid, 1999). The Central Council of Muslims of the Turkestan Territory (National Center) was elected at the congress as follows: M. Shokay (chairman), A.-Z.Validi (secretary), Mahmudkoja Behbudi, U.Kozhaev, Munauar Kari Abdurashidkhanov, Asadollah Kozhaev, Nasirkhan Tore, S.Lapin, Tashpulat Narbutabekov, Sh.Shagiakhmedov, S.Akaev, A.Orazaev, Abidjan Mahmud, M. Tynyshbaev, Oraz Serdar and others (Shokay, 2012). After the resignation and departure of M. Tynyshbaev to Zhetysu, M. Shokay took the post of prime minister. He briefly headed the government, whose authority at that time extended to Kokand and a small county. The Soviet government presented an ultimatum to the provisional government of the Turkestan (Kokand) autonomy, and then in February 1918 the Red Guard detachments dealt with a small number of autonomy forces. Some leaders of the autonomy were shot, some imprisoned. M. Shokay managed to escape (Kuzembayuly, and Abil, 2010). The departure of M. Tynyshbaev to Zhetysu, the collapse of the Turkestan (Kokand) autonomy, and the forced emigration of M. Shokay led to the dissolution of the right wing of the Alash party. As a result of the fall of the Turkestan government, the Bolsheviks came to power in the province, whose goal was to change the social order and customs of Muslim peoples. As a result, mass emigration began.

"In 1920-1921 about 200 thousand people emigrated from the south of Tajikistan to Afghanistan. Kazakhs were among them. By the end of 1921, 250 thousand people had left Bukhara. Famous, influential people moved to Afghanistan, Iran, India and Turkey. The active members of the Alash movement in Zhetysu – Ybrayaym Zhainakov, Otyynshy Alzhanov, Tolebay Dusebaev and others emigrated to China and there they conducted work to organize an armed uprising against the Bolsheviks".

M. Shokay did not plan to emigrate with other leaders of Turkestan to Afghanistan or another eastern country. In his notes, he writes about his February 1919 visit to Baku, where he arrived to establish ties with the government of Azerbaijan: "Baku is located on the coast of the Caspian Sea, on the opposite shore of Krasnovodsk; so I thought that this place is suitable for the implementation of my life goals and national tasks entrusted to me by my fellow countrymen". But it turned out that, in comparison with Azerbaijan, the social foundations and the political situation in Georgia were more stable. Then he decided to continue his political activities in Georgia. In November 1919, M. Shokay began cooperation with a prominent representative of the North Caucasus, Ahmet Bey Tselikati (Tsalikov). In Tiflis, they published a monthly

magazine "At the Turn", established creative links with the newspaper "Struggle". In 1920, the weekly *Yeni Dunya* was published (Shokay, 2012).

On February 16, 1921 Soviet troops conquered Georgia. Realizing that Georgia's independence is important not only for the Caucasus, but also for other states, M. Shokay publishes the article "Georgia's grief – grief of all the peoples of Central Asia" in the newspaper "Batumi Life" (Chokaev, 1921). He believes that Freedom and Independence have become symbols of all peoples fighting for Georgia's national independence.

After the invasion of the Soviet troops in the Caucasus M. Shokay finally determined his political views. He realized that the establishment of Soviet power would lead to a totalitarian, police regime and would not provide any opportunity for a democratic movement. This was one of the reasons why M. Shokay left the country. This conclusion was made on the basis of his conversations, an interview with his brother Nurtaza, his friend V.A. Chaikin and other friends, as well as with the figures of the national liberation movement with whom he met in Baku and Tbilisi. Later in the magazine "Прометей шолуы" (Prometheus sholuy) M. Shokay wrote that there was no possibility for political struggle in Turkestan and Kazakhstan (Tchokay, 1939).

### **M. SHOKAY AND HIS POLITICAL STRUGGLES**

M. Shokay – publicist, editor. The production of a number of newspapers and magazines began on his initiative and with his direct management. Even before the period of emigration, he realized that newspapers and magazines play an important role in the political struggle, so he made every effort to publish and determine the direction of the "Бірлік тыы" (Banner of Unity) newspaper. M. Shokay began his work as a journalist-publicist in such publications as "Бірлік тыы", "Улуғ Түркістан" (Ulug Türkistan). He is the founder of the journals "Иени Түркістан" (Ieni Türkistan), "Яш Түркістан" (Yash Türkistan), "Түркістан" (Türkistan) and made a lot of efforts for their formation and development. The mentioned magazines were distributed in the Turkic-speaking and Muslim states.

In the above-mentioned editions and other emigrant newspapers and magazines, he published articles in which he advocated the idea of "United Turkestan", national freedom and struggle for independence. Along with these journalistic articles and speeches at various meetings, the valuable legacy left by M. Shokay is his memories. His work "1917 жыл туралы естеліктерден үзінділер" (Excerpts from memories of 1917) was published in the journal "Yash Türkistan" (from No. 76 for 1936 to No. 90 for 1937). Later (1937), these memories were published in a separate book in Turkish (Shokay, 1917). In 1938, the book was translated into French and printed in the magazine "Prometheus sholuy" (La Revue de Promethee) (Tchokay, 1938).

In 1988, Professor Saadet Iskhakiyzy Shagatay in Ankara reissued the book along with a preface on the basis of the first version of the book, published in Turkish (Esmagametov, 2008). M. Shokay speaks of the main goal of writing memoirs: "The main task of memoirs was to show what difficulties Turkestani had to endure at that time. We can achieve the independence of Turkestan, if we remember these difficulties, take into account the experience of those years in our struggle" (Takenov *et al.*, 1997). For that time, M. Shokay's memories were important because the author shared his experience in them, told about the difficulties that they had to endure. And today they have important historical significance as documentary sources: reading the records of M. Shokay, one can understand and explain many events of the beginning of the 20th century.

For example, "A complex situation, especially dangerous for the national interests of Turkestan, has developed in Tashkent. There, two groups of "Shura-i Islamiya" and "Ulema Zhamiyati" waged an irreconcilable struggle between themselves. Although they were not regional organizations, they still

influenced the population of Turkestan. "Shura-i Islamiya", led by Munauar Kari, considering the existing conditions, called for reforms.

"Ulema Zhamiyati", whose leader was Serali Lapin, approached the problem in a different way" (Takenov, 1997). This excerpt from M. Shokay's memories can be compared with a fragment that illuminates the same events in the five-volume collective work "Қазақстан тарихы. Көне заманнан бүгінге дейін" (History of Kazakhstan. From ancient times to the present). "At the Tashkent Council, consisting entirely of Europeans, as well as workers and soldiers who do not consider the way of life of the local (Muslim) population, two political parties were formed to protect the interests of the local population. One of them was created by the Jadids, the forces of the national democratic movement, and was named "Shura Islami" (Islamic Council).

"...The second party, which called itself "Shura-ulema" (Council of religious association), consisted of Muslims who left the Shura Islami party. It was headed by Serali Lapin. It was a small party that failed to exert a proper influence on the life of the population of southern Kazakhstan" (Kuzembayuly and Abil, 2010). This example describes the situation that has developed in Turkestan after the February revolution of 1917.

It can be noted that the information contained in M. Shokay's memoirs and in the "History of Kazakhstan" (4th volume) about the events of the beginning of the 20th century in Kazakhstan, as a whole, do not contradict each other, although there are minor differences. M. Shokay writes that these organizations "did not receive the name of regional organizations", and in the second work he says: "two political parties were formed", i.e. their activity is assessed as the activity of political parties. In the memoirs of M. Shokay, the organization, which was headed by S. Lapin, is called "Ulema zhamiyati". Modern historians call it "Shura-ulema".

Returning from Petrograd to Turkestan in April 1917, M. Shokay took an active part in the work of Shura-Islami, because this organization supported the policy of the provisional government on the development of Turkestan by democratic means; it also fought for the rights of the local population. The goals and objectives of the organization corresponded to the ideas of M. Shokay. A feature of the genre of memories is their autobiographical nature. The author of the memoirs writes about the events he witnessed himself, connects these events with his life and comes to definite conclusions. Leading the narrative from the first-person perspective, he assesses the events or the political situation, expresses his attitude towards the society in which he lives. And this, in turn, is connected with life experience and understanding of the world.

### **MEMOIRS OF M. SHOKAY**

In memoirs, as we have already noted, biographical character prevails. Hence, in comparison with other genres in them, the connection between personality and time is more clearly traced, which, in turn, emphasizes their documentary nature. Getting acquainted with the memories of M. Shokay, it can be noted that the information contained in them, corresponds to the life truth as much as possible. As we have already noted above, memories are of a biographical nature. But they are not limited only to information about the personal life of the author. In the case when the author of the memoirs is an active participant in significant political and social events, memories acquire special historical significance. The main value of M. Shokay's memories is precisely this. Not only he talks about the events in which he took an active part, but also explains the causes and consequences of these events. For example: "We believed and hoped that the 1917 revolution would give us an opportunity to build a national state. But we realized that our hopes will not be justified. Of course, we must not forget about our participation in the 1917 uprising. We must keep these events in mind, since we will remember our mistakes, which will help to avoid them in the future" (Takenov

*et al.*, 1997). These words sound like advice to future generations. This is also one of the characteristic features of the genre of memories.

In the memories thoughts, reflections, the views of the older generation about the time, the society in which they lived, about people who made a significant contribution to the history of the people, are passed on to succeeding generations. Hence, the main task of the genre of memories is to convey the life truth to the readers; documentation, authenticity are the more important features here, not artistic merit. Secondly, analysis and evaluation, which the person formed, tempered in the political struggle, gives to those or other events, facts is important for history. Here is what Shokay writes in his memoirs about the situation in Kazakhstan during the February 1917 revolution and the way the representatives of the Kazakh intelligentsia reacted to it: "The situation in Petrograd had an impact on the situation in different regions, including in Kazakhstan, where the unrest began. On one hand, these were the actions of bourgeois elements, on the other hand, revolutionary-democratic forces began their activity. Correspondingly, local executive (civil) committees of the Provisional Government and organs of revolutionary power-Soviets began to be organized.

Just like in the center, there were facts when the executive committees included members of the Soviets and vice versa, the Soviets included members of the executive committee. According to Lenin, "reconciliation of the two dictatorships had its own reasons, but they led to an aggravation of the situation, because the views of politicians and the people on the question of the future development of Kazakhstan turned out to be far from each other" (Kuzembayuly and Abil, 2010). "Akmechet is the city in which I grew up and first went to school. I was familiar with the Uzbeks, Kazakhs, Tatars, Russians and Jews. And all the inhabitants of the city knew me well. According to the customs of our people, the respected people's children were also treated with respect, they were considered their defenders and legal representatives. People treated me with respect and reverence.

I studied in Petersburg. As a student, I visited Akmechet several times, collected materials related to the migration activities of the government ... established a connection between Tashkent and St. Petersburg together with other representatives of the Kazakh people. I managed to protect the lands and water of the local population, who fell victim to the cunning policy of the Russian government, from seizing by aliens several times. Knowing this, the residents of Akmechet chose me as their representative for the first kurultai of the executive committees of Turkestan (Takenov *et al.*, 1997). Let us compare this excerpt from M. Shokay's memoirs with the materials of historical documents. Spouse of M. Shokay, Maria Yakovlevna, states: "Mustafa went to school in Perovsk since he was seven years of age" (Shokay, 1999). And the document, stored in the archives of Uzbekistan, says: "In 1899-1902 he studied at the school of the city of Perovsk". K. Esmaganbetov writes: "During the years of his studies in Tashkent, Mustafa repeatedly addressed the complaints of his fellow countrymen to Governor-General A. Samsonov. In them, the local population spoke of the oppression that Russian settlers exerted, especially on land and water issues" (Esmaganbetov, 2008).

## CONCLUSION

The authors came to the conclusion that the information described in M. Shokay's memoirs corresponds to the facts set forth in the biographical documents. We see that the political views of M. Shokay began to form already from a young age and were directed to serve his homeland, his people. As the author himself recalls, the residents of Akmechet chose him as a delegate for the first kurultai of the executive committees of Turkestan. This information is of great importance for scientists who study the life, work, heritage of the prominent public and political figure M. Shokay. In the memoirs of M. Shokay, the events of 1917 are described. This information is a valuable documentary source for scientists involved in the study of national

history. As evidence of this statement, we can note the fact that when creating a five-volume work on the history of Kazakhstan, published in 2010, a lot of information about the history of Kazakhstan at the beginning of the 20th century is taken from the memoirs of M. Shokay.

So, let us note that the popularity of the genre of memories in the literary process is explained by its documentary nature. They are of interest not only for scientists: works written in the genre of memories are read by everyone who is interested in the history of their homeland, their people; they describe the life and work of many individuals who have left their mark on history. In the memoirs, not only historical information is given, but also the author's opinion about the time, the society in which they lived and worked, their attitude to the political and social situation of that epoch are expressed. Consequently, the genre of memoirs is an object of study not only of literary criticism, but also of history, political science, sociology, psychology and other branches of science.

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## ARTÍCULOS

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### Spiritual Challenges of the Sacred

*Los desafíos espirituales de lo sagrado*

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#### ABSTRACT

The article defines conceptual boundaries of the holy, the typology of the holy, created on the basis of notorious and obscure aspects of the holy that are considered well-known aesthetic categories. It is established that an urge for the sacred is the revolt against chaos. Authors analyzed methods of destruction of the sacred that intended an exclusion of fraud (deceit) and cult of images. Having analyzed the works M. Zhumabayev it was established that he creates his own mythological worldview, an original mystical reality that has its own mythopoetic coordinates and evolves according to unique "magical" laws.

**Keywords:** Mythological worldview; postmodernity; Renaissance; symbolism.

#### RESUMEN

El artículo define los límites conceptuales de lo sagrado, la tipología de lo sagrado, creada sobre la base de aspectos notorios y oscuros de lo sagrado que se consideran categorías estéticas bien conocidas. Se establece que un impulso por lo sagrado es la revuelta contra el caos. Los autores analizaron los métodos de destrucción de lo sagrado que pretendían una exclusión del fraude (engaño) y el culto a las imágenes. Habiendo analizado las obras M. Zhumabayev se estableció que él crea su propia visión mitológica del mundo, una realidad mística original que tiene sus propias coordenadas mitopoéticas y evoluciona de acuerdo con las únicas leyes "mágicas".

**Palabras clave:** cosmovisión mitológica; postmodernidad; renacimiento; simbolismo.

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## **INTRODUCTION**

The concept of "sacred" in science first appeared in the 80th of the last century. At the same time conceptual explanatory descriptions of this concept also existed in science. This definition of the concept still provokes debates. The article considers conceptual basis of sanctity, and also its typology, widely recognized by their notorious processes, boundaries and aesthetic categories. In modern society the notion of spiritual perspective is widely accepted and new characteristics are being investigated. The concept of sacred in Kazakh poetry is perfectly refined in the poetry of Magzhan Zhumabayev.

From the times of ancient Rome the concept of sacred went beyond the standard ceremonial actions. Sacred began to define a certain sacred area of time, space and spiritual life. A special emotional attitude. A special attitude towards reality. A special way of mind-work.

Sacred to daily routine in such impressive manner is so intrinsic to humans (and only them), that since the old days we define the most egregious falling using the phrase: "he has nothing sacred in him!" That is true. You can be cruel, mischievous, renounced by all, but if there is a sacred soul-domain inside you, lit by at least a slight flicker of a candle – you are still human, there is still hope for you.

It is hard to give an exhaustive definition of sacred. But it has some consistent elements. They can aid us in distinguishing this area of our lives from everything routine and familiar.

First, sacred is useless with regard to benefits for the physical life. No money, no glory, no power, no pleasures, Second, it is intangible. It does not exist in the physical realm. By which elements you can distinguish between a stone taken from the shrine and a simple rock. People themselves endow objects, regions and text fragments with sacred meaning and name them. Statue. Banner. Prayer. All of them consist from the same molecules, atoms, sound vibrations as any other ordinary thing. Only our imagination makes it all high and holy. Sacred is not formed by nature, but by a human will and imagination. And also (essentially!) by some mysterious content of our spirit, which is not accessible to mind. German protestant theologian Rudolf Otto talks of a sacred as an independent hidden source of beliefs and emotions that dwell in a soul regardless of sensible experience. Third, it does not tell anything about "the only possible Truth" or "the only right faith". Sacred on a scale of the whole humanity, cannot be universal. From the Muslim point of view a Christian icon is not only pointless, it is blasphemous. The same is, for example, a lingam for a Christian believer. Or – a heathen shrine showered with sacrificial blood for a Buddhist.

## **THE CHARACTERISTICS OF THE FALL**

Reluctantly we come to a conclusion that searches of a special, exact and definitive "object" are pointless in the sacred domain. It elude our sight. Then why everyone needs "it", why we consider sacred a fundamental human quality in humans? Was it always like that?

Imagine life of the first people in the Garden of Eden, there were likely no need for a special place and a special time for the high and sacred to people who witnessed God with their own eyes. In the first two chapters of the book of Genesis we find no indications of such holy places, altars or prayer words. Sanctifying of the seventh day of creation is an exception that forestalls the role and place of sacred throughout human history. In any case, the entire Garden of Eden up to its boundaries was a complete sacred space, the same as every moment spent lived in there. This situation, without a doubt, assumes a special state of consciousness that prevailed among the first men: a continual fascination with existence!

The Fall – which is an attempt by a human to uncover the reason of their rapture, to peek behind a curtain of genesis, to see its underside, to enter the Divine through the back door – led to the cataclysm. Anyway, there was a price – loss of a sacred meaning of existence, because sacred always presupposes a secret. The metaphor for this sad fact was the exile of the first people from Eden.

With exile came anti-sacred underside of life: hard labor for life's necessities, tyranny of passions and desires, reign of habits, fear and death – in other words, what we call everyday routine. A direct link to God was lost. For the generations that followed Cain – in everything observable and perceivable – God did not seem to exist. Only the chosen, like Noah and Abraham, could hear His voice. So what was left for others, non-chosen, "as numerous as sand"? There must have been some thread left that connects people with the Divine, invisible bonds connecting with the archetype of Good, allowing people to gradually nourish their undying soul. For this it was necessary to dedicate at least limited space and some time at weekdays, when people could reinvigorate in themselves some sober attention and capability – even if only by imagination – to receive Heaven's light... These spaces were: shrine, sacred grove, temple, altar, tomb, hermit's Skete. Actions – solemn rites Time – any, that was dedicated to the ritual, prayer, meditation.

Notably, there was no compelling motive. It was originally determined that people could not live without devoting some of their effort and time to a fruitless (from a utilitarian standpoint) and pointless (from a rational standpoint) occupation. Moreover, that occupation was not easy. Humans had to win a livelihood not only for the body, but for the soul too. The difference was that the spiritual livelihood he could do without – only if they were indifferent to the state of their souls.

So the time of men became divided in two parts: sacred, where they tried to remember about their celestial origin, to restore once broken bond with the Source of life – and routine, which is weaved from vanity and trouble of living. Hunger and thirst insisted on the necessity of the first, and on the second – some special spiritual instinct given to humans.

### **THE ROLE AND PLACE OF PEOPLE IN MORTAL LIFE**

In time it was clear that the role and place of people in their mortal life is determined, in essence, by the size of the sacred time on Earth.

Here it should be established: do only religious zeal, religious service and cult trance mark the limit of sacred? Of course not. In spiritual practice sacred stories and motives that do not have any direct relation to the religious cult. This is the case, for example, with thoughts and actions driven by the love for nature, children and art. Upwards intention is a direction, which can be caused by a blooming cherry, a ski trip, a tea ceremony... It is, therefore, not surprising that the sacred has so many dimensions – from the Light of Tabor to a lightbulb on a New Year tree garland. The feeling of sacred is not reserved only to believers. Even atheists are able to sense forces that arise to the Divine (of which they are< of course, not aware). War banner, mother's photos, child's first smile can have a sacred meaning even to them. Master's labor and philosopher's reflections are sacred in their own manner. Different kinds of sanctities to different degrees are connected to the Divine. Religious belongs to the strongest of them, which is the reason for the place religion occupies.

The sacred is a bridge connecting an invisible coast of an abyss with the other, visible place of our exile.

Notably, our great spiritual teachers gave major attention to the sacred rituals. Buddha taught meditation. Christ delivered the canonical prayer text. Muhammad established an order of all sacred rituals, including their time and nature. If we look closely at the Ten Commandments delivered by Moses, we will find that two out of ten commandments are dedicated to the idea of the sacred. "Remember the Sabbath day" – it is none other than a command to keep sacred at least the seventh part of your mortal life. And what is "Thou shalt not take the name of the Lord thy God in vain"? A command for the sanctity of the name, which should be uttered with attention and vigilance, meaning in a sacred state of consciousness!

Spiritual teachers cared about the sacred time on other occasions, made every effort to solidify it in ceremonial practices and, if possible, to broaden it. Additionally, the amount of sacred texts, sacred names, sacred items (amulets, rings, potions, bracelets, images of gods and spirits...). Living water of the sacred

leaked through everyday routine, sacred items turned into houseware and clothes, sacred words filled speech, while losing the meaning of definitive "information transfer". Every person tormented by a spiritual thirst tried to expand their sacred space in their existence... It led to ascetic hermitage of dervish, monk's cell, anchorite's skete, Himalayan hermit's cave. But these people were few and far between! For the general populace religion was "the machine" generating sacred time and sacred space.

Any religion is essentially nothing but a systematic package of the sacred. The history of religions shows that along with their evolution the quality of the sacred they provide improved.

But today's reality is, unfortunately, rather different. We cannot find a single county or nation whose member, being an ordinary person, would devote every step of his life with sacred effort. It is beyond the ability of a "modern" Earth's inhabitant, which is enabled by a primal woe of humankind: the pursuit of complacency and comfort. From stressful routine of overcrowded cities, from stress and frequent involuntary interactions – there is no other escape for people. To move away, to escape, to fall asleep, to lie down in anabiosis... Or to simply distract himself with anything; as a way to push away spiritual labor.

### **THE ANALYSIS OF SACRED MEANING**

Sacred meaning always prefers a vigil effort. An effort of self-improvement. It has nothing in common with false comfort of civil life. Within the sacred a person is "elevated" above themselves! He is mobilized not for a greater "purpose", but for the Invisible, intuitively knowing that the Invisible – is the central meaning of living. He also intuitively knows that throughout every moment of his life there will be his main adversary beside him, hostile to any life in a world of God's will: chaos.

A thirst for the sacred – is a revolt against chaos. The highest manifestation of an instinct to live. Without an urge for sacred it is impossible to plant a tree, to build a house. Maintaining the house a person erects for themselves and their family some sacred residence; without this instinctive feeling he would only be capable of building a shed. That is why we cannot be surprised that many people occupied with routine tasks are capable of sustaining a distinct tone deep inside themselves – a certain thread of sacred awe, which is especially noticeable in the behavior of "otherworldly people", anchorites, artists, bards, lovers... However, there are people who are entirely deprived of sacred origin in them. Such person is hollow, no matter how complex was "the information" their memory gained. Interaction with them is always colorless and joyless.

If there is a sacred scent, it is a scent of miracle! A miracle is always festive. However, it is not contained in anything external. It is internal. A time for prayer – is only a sign to start anew a revolt against the fortress that was constructed by routine life inside our souls. This fortress is called mundane life; it will not concede to those who do not constantly assault it.

There are three powers that are hostile to the sacred: habit, mockery, command. Prescribed piety cannot be sacred by itself: its meaning is confined to obedience. It is safe to say that a slavish action cannot be sacred. Freedom is required to allow a blooming from within. No one demands spiritual work from a slave. They themselves will not demand it: they only require what sustains their physical life.

A sacred rite performed without attention quickly develops into a habit. After that it becomes part of a routine, meaning it falls entirely outside sacred space.

Mockery is a weapon that certainly destroys the meaning of a sacred action to its core. Believers understand it well. War of priest against "jesters" (in Russia and in the West) is not someone's fanatical whim, but an unavoidable fact, ontologically justified. Beelzebub's humor is a unique one. It holds the joy of destruction. Cynical, ironic, mocking laughter is always connected with inversion, distortion and substitution – meaning a mind game where you put a jester's crown on the head of an idol which places all

values upside down. In the hands of someone who intends to behead the holy thing irony is an appropriate executioner's axe.

Having decided that pursuit, which is rooted at the bottom of a soul, is "the perpetrator" of inner turmoil we should not accept that the sacred is an area under imagination's total power. Humans can, of course, "declare" sacred any object and any place on an inhabited Earth... But after that a miracle of epiphany happens: the sacred answers back with a genuine depth, breath and sense. God speaks anywhere where people make any serious attempt to heed Him. Such Answer tend to sound akin to an appeal, though it is always more powerful and profound than an appeal. You cannot call it a simple echo, nor an illusion of the desired... Many telltale omens and significant events, even personal visits by higher entities – all of it happened multiple times in the sacred "places of power", of which we have multiple records.

The sacred territory is always a space brimmed with signs. Servitude leaves a mark. Sacred effort gives exit to spiritual energy of a special nature that soaks the walls of mausoleums, mosques, temples, altar stones, icons, pictures, books. Psychic energy is able to create "places of power" that connect people with the Higher Invisible. A stone where Seraphim of Sarov prayed for 6 years was pulled apart by believers because of its healing power. Enigmatic psychic power resides within the pyramids of Egypt to this day. The philosopher's stone was able to transmute chemical elements because spiritual energy of its creator was concentrated inside it for years.

Thus, there is this attribute of existence that is not given to a person from birth, but is able to be uncovered, reached and grasped... In general, it is understood as a closeness to the Absolute. As a result, the sacred is palpable by a person as some spiritual altitude, something more joyous and inspiring than the world of visibility.

### **PECULIARITIES OF ATTAINING THE SACRED**

Everywhere in the world, in the past as well as present, a step to the sacred is a step beyond the routine. The routine consciousness only records, registers and observes. The modified consciousness is always a motion from within, an attempt to grasp and penetrate... A creative act. "To register" – is not a matter of the creative Spirit. It needs to seek, rise and admire. Just as an effort to move supports muscles in proper shape and prevents them from atrophy, – an attempt to reach the sacred prevents a soul from corruption. A great importance – for society as well as for a single person – is placed on the sacred time and space.

Sacred traditions require special care which was at all times culture's job. The meaning of the sacred is restoration of a connection with the Archetype of original integrity, realization of the higher instinct given to men. This instrument, having been damaged by the times of urban paganism, was "sharpened" anew by world religions. The experience of the last two millenia indicates that culture, which pays maximum attention to the sacred – is the most resilient, and woe unto those civilizations where the sacred deteriorates on all levels of society! The family who does not venerate traditions of their ancestors stops existing. Government that is not able to make homeland a sacred concept will not be able to defend itself. Blasphemy is followed by moral (and often physical) collapse of society that allowed it.

Reaching of the sacred assumes, at the very minimum, three conditions: mobilization, attention and perseverance. The sacred is not "relished in", – it is accumulated, ascended to, on the way of total reconstruction of perception. The sacred – is exactly what, under no circumstances, does not happen "on its own"... Sacred space must be actively expanded – that is the spiritual labor! It is the place where people do not leave the boundaries of life, but live, constantly including into work higher layers of unconsciousness. Everyday stripped of routine give them minutes of new discoveries.

In other words, keeping and multiplying of the sacred requires from people active internal exertion and unending efforts of external nature (concerning ritual practices). So how does a person that strives more for conservation of energy and relaxation than for an "needless" labor, happen to be able to regularly support itself during activities, which do not bring any material benefit? Two reasons govern this mysterious phenomenon: spiritual instinct (a call from the Archetype of original integrity) and the imperative of culture. Spiritual instinct is indispensable, this is God's matter. But cultural prescriptions are formed by human history, they can encourage this instinct, as well as hamper and prevent it.

There is an inverse process to the expansion of sacred. Today, in the west, we are quite familiar with it. This process got a name secularization.

It is a well-known phenomenon. Regarding the its starting point researchers are virtually unanimous: that was two coincidental spiritual overturns in history: Renaissance on the south and Reformation on the north of the Western Europe. They came to the same result from different sides. Renaissance – through the restoration of antique paganism (anthropocentrism, rationalism, cult of naked body, aestheticization of sacred symbols, the return of classical mythology). Reformation – through dethronement of priesthood and church constitutions, abolishment of sacraments, "justification by faith", detraction of humans as sinful creatures, whose salvation is only in the hands of God.

So in what ways do these two movements collide and why did they happened to be so remarkably complementary to each other?

In our opinion, the common essence of these two movements was an attack on the sacred, which was foreseen by Christian and Muslim teachings (therefore, it was an attack on Christianity and Islam). In Italy church fresco becomes an object of aesthetic delight, icon becomes a secular portrait, where "the model" for Holy Mother could have been a maid or a prostitute. Aestheticization of the sacred reduces it to the art of a particular master, consequently breaking the link with The Higher Invisible. It is not accidental that during the Renaissance painters started to sign their works. The colossal personality of a "titan", Earth's creator, with his impressive mastery, his magnificent view of the world, its undying ambitions steps forward – how a voice of the Invisible can be heard through all that! Sacred images become more psychological and less symbolic; more effective and less holy. Their place is not in temples, but in museums and private collection (after all – that was their fate). The same was happening with church music. Even in the church it started to turn into a self-purposed game... Having obtained freedom in the XVI century, outside church walls, it turned into the means of secular entertainment.

An attack on the sacred was undertaken by the leaders of Reformation, and it was more ferocious, but from another angle. What brought the so called "cheapening" of the church undertaken by protestants? First, it is the figure of a priest that lost a sacred status: priests of protestant churches looked as servants and not as servitors; they were only functionaries in the matters of divine service, and not a holy figure endowed with a gift of grace. By the way, the sacraments – a quintessence of sacred in Christian religion – were abolished in general, only baptism and communion were left because they were mentioned in the Gospels. Protestants could not imagine that sacred labor is a culture of occult; they applied rational logic to an irrational sense. As was expected, it resulted in them viewing sacraments as nonsense. The truth of visibility – "common sense" – devoured the Truth of sacraments.

### ***METHODS OF DESTRUCTION OF THE SACRED***

Dismantlement of monkhood, image worship, the sign of the cross and the cult of Saints – all of this is also the destruction of the sacred, rationalistic principle of substitution of symbolic to obvious. The prevailing significance given to sermons in protestant, calvinistic divine service means that a person doesn't need to listen to the voice of God through sensing a silent light and a speechless image of the sacred – instead they

should listen to a sensibly structured sermon that explains in words and details all pros and cons of a discussed topic.

Next, protestants' advance on Church is not limited to a direct cavalry charge on the sacred relics. Sacred is not just being destroyed, it is being perverted, and the latter, by the virtue of its consequences, is more ruinous than all other cardinal reforms. This is the matter of labor, first and foremost.

To declare labor as a sacred human duty – is, at the first glance, a great boon and an undeniable achievement of Protestantism. Beforehand, it seems as a higher spiritual position than the one that declares all human labors and troubles a curse brought upon the descendants of Adam for his original sin. Ultimately, God Himself commanded men to cultivate the Garden of Eden even before the Fall, didn't he? He labored for six days creating the Universe, didn't he?

Yes, he did. But God created light, heavens and earth for glory and life, and cultivating of the Garden of Eden was, for Adam, a direct service to Him. The fact that this labor is not connected to the idea of entrepreneurship and pragmatism is trivial and does not require any proof. Adam labored not for the bank account.

And what labor is favored and honored by protestant ideology? Exactly – labor for accumulation. Labor in the name of profit. The more profit you get, the more it becomes evident that God favors hard work, and the entrepreneur's wealth becomes a direct evidence of God's benevolence.

This is where the substitution happens... But it does not become evident immediately. Ages of industrial development and improvement of commercial machine needed for it to become clear: the worship of Mammon in Protestantism is the fact that overthrows "justification by faith alone", Gospel's proclamations and the fabled protestant asceticism, inevitably substituted by the love for pleasures (otherwise what money are useful for?)

The perversion of the sacred was practiced even in the Middle Ages: as such during rampant Brocken orgies, according to mythes, there was a custom to kiss a black goat's anus as some kind of anti-sacred symbol (anti-image!). And what are profits revered as God's benevolence? They are no more better than a goat's anus.

Southern Renaissance also emerged through commerce: Venetian and Genoese merchantry, alongside Florentine bankers, paid for, along with personal pleasures, all the luxury of architectural, sculptural and pictorial prosperity of neo-heathen culture of Renaissance Italy. At the start of thirteenth century rich popolo were strong enough to provoke and defray the plunder of Constantinople, but with the rise of sea trade the significance of merchant funds in Italian port cities has greatly increased.

Thus, commercial recreational (entertainment) principle, which had no place in medieval Christianity and even more so in Islam – was the genie released from the Renaissance bottle! It is about time to point it out. Because commerce is the thing, the part of human life, where there is no place left for the sacred, no matter the finessing of protestant ideologues. "Justification by faith alone"? A direct communion of a faithful with Allah, God, bypassing all mediators? But how can such hopelessly fallen (according to Calvin) creatures as humans conduct such a communion? Only through sacraments – but that is what Protestantism outright destroys. So what is instead of it? Business, of course. And only that.

### **CHARACTERISTICS OF SACRED SPACE'S ENERGY**

Civilization built on the principles of commercial success clearly does not understand "labor" as cultivating the Garden of Eden... When labor becomes only as a means of sustaining themselves (and that is how it was before Renaissance times), then no matter how hard it gets it does not need all the strength, at least not spiritual. A person always has at least a minute for contemplation and prayer, for a gulp of sacred ozone, especially if that labor is blessed as necessary and righteous. But when commercial genius invents



another combination with the aim to trick their competitors, and thousands of his employees drudge in order to help this endeavor and to justify their boss' trust (otherwise they will end up on the street) – such labor, for the most people is akin to a curse, and anathema. It turns the soul inside out. And in the minute of rest a person has no strength for spiritual labor, they have a need "to chill", which is handed by the "Entertainment industry", another commercial monster that has not an inch of sacred space... A trap, whose iron jaws have tightly clenched. You need to become a homeless vagrant to willingly go against society, to escape from this godless depth.

Let us not forget about the energy of sacred space – this, usually, is the result of work of many people (excluding the giants of spirit, like Khawaja Ahmad Yasawi). Sacred places silently attest to the spiritual work of mass, council principle. But the transition to the New times – is an increase and reign of another principle – individual. Northern protestant, without mediators, "communing" with God in their own manner, as well as a Florentine master that knows all the secrets of his trade – both are individuals who do not need any "council". They create a sacred place by themselves, where nobody was before them, and where the communion with God is entirely up to their imagination... Does it need to be said that the bridge to the Invisible created only by one man, regardless of their talent, – is quite an ephemeral and unreliable construction?

The pole of spiritual energy is exactly opposite to God and collectively called "dark powers", which are capable of using everything there is, including religion and the Church itself, for its own benefit, – of course, could not resist to make an impact on the soul of a man, which is achieved through the magic of sacred symbols! In the eyes of these dark powers these means can (and therefore should) be used for their own benefit. A certain method emerged, which we would call the inversion of the sacred: sanctifying what is, by itself, cannot be sacred. It is here where the blending of top and bottom happens, depraved becomes sacred, further called otherworldly, Prince of Darkness receives godly honors.

Let us highlight: we are not talking about jesters with all their carnival games, it is not a matter of a conscious perversion of the sacred. We are talking about a deeper, more dangerous and widely accepted phenomenon: attribution of the most sacred status to anti-god, anti-human deeds, events and individuals.

### **MYTHOLOGICAL WORKS OF MAGJAN JUMABAYEV**

Our analysis of the works of M. Jumabayev revealed artistic mythology that is lies in recreating "deep mythological syncretistic structures of thinking", which uncover "archetypical constant of human and nature existence"; in saturating specific historical images with universal meanings and analogs, which was determined by an author's search for cultural historical correspondence. Bard, while seeing cultural parallels with the plot of ancient myths, uses them as prototypes. We determined that M. Jumabayev, while creating parallels with narrative structures and charming formulas of magic rituals and myths, uses them as models (in many cases subconsciously) of lyrical situations in his poetry.

M.M. Jumabayev creates his own mythological worldview, distinct from mystical reality, which has its own mythopoetic coordinates and develops according to its own magic laws. In other words, all works of M. Jumabayev is a global artistic myth, that possesses its own qualities and functions of ancient mythological complexes.

The distinctness of mythological is connected to introduction of magic elements into "myth about poets", into the concept of word and poetics. Phenomenon of a word composes a whole, cohesive thematic line through most of M. Jumabayev's poetry collections, is their continuous semantic core and presents, in our view, the necessary key to comprehending his life's philosophy. Word as a poetic image, included into different paradigms, is a necessary connection between isolated, at the first glance, elements of his poetics that forms its centerpiece.

The search of the sacred, universal philological culturological concept of the word by the poet preconditions his interest to occult doctrines. At the heart of the occult lies faith in a principal possibility by using the mind (reason) to understand the world and to reach the celestial (otherworldly). In this process one of the main roles is assigned to the word, because the word in many occult lores is accepted as a secret potent power and a holy treasure. It receives magic capabilities and a potential for transubstantiation of itself and the world around.

Antiquity for M. Jumabayev is not only a source of images and prototypes. In the poet's model of the world classical antiquity is an orderly and harmonious times that overcame chaos, an embodiment of hope for return ("All that was will come again"). In the center of this whirlwind – a point beyond time, "where time does not flow", a place of desired peace and equilibrium.

However, M. Jumabayev's interest with the topics of occult and magical did not have utilitarian purpose, but rather an aesthetic one, which was motivated by, above all else, his unique philosophy of the word. The word is simultaneously a material and spiritual medium of esoteric functions in M. Jumabayev's poetics.

This happens on the basis of a new understanding of functions and a purpose of the word, different methods of its processing. The word-symbol (in symbolical sense) was perceived by symbolist Jumabayev as some kind of case, a shell for other meanings, a sign with no referent, a tool to "peek" into the "other world". Such approach causes an appropriate opposition of M. Jumabayev, logical consequence of which is the new concept of the Word-Logos. It is not accidental that the philosophical platform of symbolism and asceticism became the new Russian religious philosophy (P. Florensky, S. Bulgakov, N.O. Lossky, V.N. Lossky, S. Frank et al.), which propagated ideas of logocentrism and onomatodoxy.

M. M. Jumabayev tries to reach the sacred Word not on the level of its sounding guise, as was attempted by traditional symbolists (A. Blok, K. Balmont, A. Bely et al.), but on the level of meanings. One of the methods to reach this goal becomes synthesis, because the original Word was an embodiment of synthesis, which initially had a sacred and magical meaning in it. Philosophical and poetical concept of the word in its final form found its reflection on poems "Kobyz Koylybaya" and "Korkut". Graphic fabric of these poems is one whole, undivided unity, a mould of consciousness, thoughts, images of one man (Abyz Korkut), as a microcosm that reflects global processes taking place in macrocosm. Memory is that focus, which can connect poem "Kobyz Koylybaya" in one cycle. Understanding of memory gradually widens from the memory of a single person to the memory of an ethnoses, nations, mythological memory. Consciousness of lyrical heroes appears as a storage of plots, ideas, mitives, historical events, which regardless of the authors will start to work.

Consequently, a word realizes its potential established by its previous cultural historical and mythological contexts. Moreover, a word is not only a repository of the past, it can presage the future, because "such is the nature of poetic word dismissing time".

M. M. Jumabayev thinks of himself as a mediator and translator that controls vibrations and correlations of existence (as "the abyss of time") and the word. He sees his main goal – a goal of the narrator – as a function of mediator. He must collect lost knowledge, find the Word (to revive it) and to preserve it for the following generations. Thus, Jumabayev comes close to forming "the myth about a poet" and his prophetic mission. "The myth about a poet" appears as a correlative of historical and culturological myth, that is being projected unto an entirely new model of space-time continuum, structured by the principle of "boomerang".

Thus, we have unveiled that the word possesses synthesizing potentials, and its sacred-effective power is traced by the poet to several sources: religious and heathen teachings, occult doctrines and Tengrism. He refers to those mythopoetic traditions that preserved disposition towards the word as a sacred treasure. But because the word is a common core, the religious-heathen traditions in M. Jumabayev's works intersect and overlap each other. Occult, Islam and Tengrian mythology merge on the level of poetics.

As a result Jumabayev defines artistic process as a creation of its own semio-sphere (coined by Y. Lotman), established according to mythological and magical laws. In semiotic space of author's myth

diachronic and semantic paradigms that allow one semiotic (mythological, cultural, historical) complexes to shine through other.

In poetics this appears on the level of contamination of plots, motives, synthesis and interference images. Due to this, the text of verses gains universal understanding, as if embodying poet's thoughts about the significance of memory (according to C. Jung) in the life of a person, ethnos, humanity. Lyrical hero from any Jumabayev's work is connected to the past, represents a specific archetype, has its own mythological, magical destiny. Aesthetic projection of lyrical heroes' destinies on their own life symbolizes creative and dialogical impact of art on their own personality.

This way all of poet's art represents global artistic myth, possessing qualities and functions of ancient mythological complexes, which determines the expansion of magistral plot of M. Jumabayev's lyrics, building principles of his image system, where the Word becomes a connecting element between different countries and epochs.

M. Jumabayev's work is deeply national in its spirit and is connatural to the folkloretype of artistic thinking. He combines "shamanistic" and "Scythian" consciousness, revolutionary Messianism and "idea of Alash-Orda", pedological and extraterrestrial concepts, coexist Christianity and paganism, occult and pastoral, utopia and myth, prayer and prophecy.

The world of the poet is an area of organic convergence of pedologic origins of national consciousness and deep structures of national culture.

Combination of these mental factors ultimately determines the phenomenon of Magjan Jumabayev as Kazakh national genius in its ethnological and ontological understanding...

### **THE SACRED AND SECULAR GOVERNMENT**

Inversion of the sacred, first and foremost, is connected to the idea of secular government. Secular ruler, who divinifies themselves – ancient tradition (that became trite long ago), prevalent in ancient times far beyond the Babylon, Egyptian Thebes and the Roman Empire. Any person, whose self-assertion found a footing in their own reign, from a Chinese bureaucrat to an Aztec priest, surrounded themselves with a whole cloud of sacred symbols and entirely hollow ritualistic rules, necessary for their subjects. Up until Contemporary history this tradition had been neighboring with the genuine sacred, the latter even suppressing and fueling the former (let us recall, for example, a ritual of anointment for rulership).

Twentieth century brought major amendments into this tradition: here secular rulership did not desire to divide Olympus with the priesthood; they on their own laid a claim to the power of God's laws, and the right to create their own religion, and, of course, to the ability to use all features of the sacred for their own interest, which has turned into the most efficient tool of manipulating people's consciousness.

Totalitarian governance has demonstrated what a colossal power can come to life by the focus of the sacred "lens" that form a united psychic vector among the great number of people anywhere in the world. In famous movies of Leni Riefenstahl, who captured the triumph of Adolf Hitler, we feel the strength of that power, able in the shortest time to create economic and military power unseen in the history of Europe. In USSR a similar effect contributed to the agricultural industrialization of the country in the shortest time span, total liquidation of illiteracy, restoration of a war-ravaged economy.

Eurasia suffered through the totalitarian epidemic for the whole century. Nearly the whole twentieth century was marked by the inversion of the sacred. It has shown its power. But it has also shown its illusiveness, instability, fragility. The sacred, directed at the earth's rulership, at the basis of which was human-god origin, turned to ashes as soon as the authority of the human-god themselves crumbled.

Disavowal of Nazi myth, after Nuremberg, led to total collapse of this doctrine throughout the whole world. After Khrushchev's report on the twentieth Congress of the Communist Party of the Soviet Union,

after a condemnation of a bunch of dissidents, "marauders of morality", the idea of Bolshevism collapsed. It is interesting to note that in USSR the process of desecration was accompanied by an increasing ridicule of revolutionary relics. It all started with anti-Khrushchev anecdotes and a series of anecdotes about Chapaev (which indicate a rising disillusionment with "heroic" epic of Civil War). The mockery continued with massive tide of anecdotes about Brezhnev (idiocy of Party authority was mocked), Stierlitz (competence of our glorious security agency was challenged) and finally, through Perestroika, the ridicule reached its peak with anecdotes about Lenin, which became more and more vicious (the holy of holies of Bolshevism myth!). False holiness of totalitarian ideas happened to be defenseless against the deadly power of laughter.

An era of the inverted sacred ended with the collapse of USSR. A relic of this social phenomenon survived to our days perhaps only in North Korea. China, which tried to combine communism with commerce, is slowly, but surely, losing its power of the inversed sacred... The era of totalitarian relics has irrevocably gone.

But what is next? Is it the return to the true sanctities? Or can it possibly be something worse, even more destructive to the spiritual core of existence for a great number of people?

It is likely. It became clear when the false sacred was succeeded by an ideology and practice of postmodernity. About this phenomenon (global by now) in the history of human culture a fair amount of qualified researches was conducted. Postmodernity, like an exotic beast that appeared out of nowhere, with no philosophical prognosis, no prototypical ideas and evolutionary transitions, – has been studied quite thoughtfully and extensively. Many clever, accurate words were spent on its description by sociologists... But in truth only a particle "" would be enough. It reflects an essence of this phenomenon more extensively and accurately.

Non-center. Non-consistency. Non-importance. Non-meaning. Non-embeddedness. Non-holiness. (In a more general term: NON-EXISTENCE).

The whole postmodernity is built on a denial of the sacred. Because the sacred suggests some Higher Origin, on which, at the end, the entire human belief system is built, and its attitude towards life and the intricate world of human relations... The sacred is impossible without a vector of motivation! But there is no vector here, because the real world, according to postmodernity, is ontologically empty.

Some postmodern ideas that were expressed in print:

"Denial of general principles and ideas in postmodern culture presents a bright display of deepening secularization that causes division, when a person that asserts his individuality, a distinction from other people, loses an ability to identify with any community, therefore people become elementary and lonely" (Bogdanova, 2001). "For people postmodern culture is characterized by a simultaneous convergence of several worldviews, and not a single one is disprovable, but also does not embody truth. Therefore, it is equally possible to state that a person in postmodern culture believes in everything and nothing" (Bogdanova, 2001). "Concerning the search of truth postmodern position states: "The only solid truth – we need to dispose of the search of truth" (Bogdanova, 2001). "Interpretive mind redirected the search of the basis of knowledge to everyday ordinary life." (Bogdanova, 2001). "Pathos of postmodern culture is composed of the idea of liberation from any traditions and authorities, be they religious dogmas or mind's dictate" (Bogdanova, 2001). "Modern world – is the world of simulacra. People do not experience God, equality of subject or substance. All equalities were simulated, emerging as an optical "effect" of a deeper game – game of difference and repetition. We want to comprehend the different in itself and the relation of the different to another different regardless of presentation forms, which convert them into uniformity..." (Deleuze, 1998). "Simulacrum is a system, where the different corresponds to the different through difference itself" (Deleuze, 1998). "There is only one principle that can be defended under any circumstances and on all stages of human development. This principle is –

everything is permitted" (Motroshilova, 1999 p.369). "The new mind sought the basis of knowledge not in metaphysics, but in communication, a conversation between here and now existing empirical individuals" (Matyash, 1978). "... erratic emergence of multiplicity, movement that does not have a prevailing direction, but expands irregularly, giving a possibility to foretell the next movement" (Orlova, 1994). Postmodernity is a history of creation and interpretation of text. Then where does reality come from? There is no reality. There are various virtual realities..." (Rudnev, 1997). "Everything we take for reality is in fact nothing more than an idea about it, which depends on the point of view chosen by an observer, and the substitution of which leads to a drastic change of the idea itself. Thus, human perception is declared doomed to "multiperspectivism"; doomed to a constantly and quickly changing number of angles on reality, which in their flashing do not allow to understand its essence" (Rudnev, 1997).

As we can see, particle "non" appeared in postmodern culture and is all-encompassing, all-powerful! It is possible to say that this culture has totally replaced real existence for its proponents. Even the parody has gone into the past, alongside the modern history. Instead of it there is some kind of a laughable bastard that obtained a dummy name "pastiche": "The difference between pastiche and parody is that there is nothing to parody, there is no serious subject that could have been ridiculed. You can parody only that, what is alive and holy. In the postmodernist age nothing is alive and holy" (Rudnev, 1997).

Even the most general collective view on the given characteristics of postmodernity spawns a sense of horror. If the modern world is really this way, then it is useless to wait for some mythical end of the world: Armageddon has already happened before our eyes... This is what Merab Mamardashvili compared to an "anthropological catastrophe", when "a metamorphosis is on its way through a number of consequent transformations of a human consciousness towards anti-world of shadows and images happens, which do not cast their own shadows, a rebirth and some kind of illusion that is composed of imitation of life" (Mamardashvili, 1992).

## **CONCLUSION**

If you think deeply about the given above characteristics of postmodernity, if you can imagine the personality that literally and completely embodies them, you can definitely notice one of the major qualities of such a person: inability for spiritual labor. An atrophy of psychic "muscles" occurred, the person agreed to play the role of a Brownian particle in its meaningless movement of its random existence... This is a total rejection of the sacred as a principle of spiritual art, a refusal of the Origin, on which all life relies upon.

The artistic instinct of such situation is that self-preservation, one of the strongest biological instincts, is beyond the spiritual sphere: a person feels the terror of physical death and resists it, but they does not understand the horror of spiritual death, does not feel how close it is.

Animal instincts do not need support from culture – except in restraining. But the Higher instinct – the inaudible voice of God – needs it. An aspiration for the sacred is nurtured, cultivated and directed... For this reason a temple is needed, and a road leading to it too. That is why all who with such certainty and pleasure is willing to proclaim the end of world religions should think about what is in return? Society, deprived of the sacred essence, becomes similar to a graveyard of the living dead.

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# Humanization as a Phenomenon of Post-bipolar International Relations System

*La humanización como fenómeno del sistema de relaciones internacionales post-bipolar*

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### ABSTRACT

This work studies theoretical problems of international relations development in conditions of globalization. Main factors of humanization of current international relations system are characterized. There is represented complex analysis of modern national diplomacy as one of the main factors of international relations humanization. The analysis of CIS countries' modern politics in the context of international relations humanization. It is concluded that there are enough opportunities for humanization process in modern international relations.

**Keywords:** humanization; international relations system; world political process; world order.

### RESUMEN

Este trabajo estudia los problemas teóricos del desarrollo de las relaciones internacionales en condiciones de globalización. Se caracterizan los principales factores de humanización del actual sistema de relaciones internacionales. Existe un análisis complejo representado de la diplomacia nacional moderna como uno de los principales factores de la humanización de las relaciones internacionales. El análisis de la política moderna de los países de la CEI en el contexto de la humanización de las relaciones internacionales. Se concluye que hay suficientes oportunidades para el proceso de humanización en las relaciones internacionales modernas.

**Palabras Clave:** humanización; sistema de relaciones internacionales; proceso político mundial; orden mundial.

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## **INTRODUCTION**

International relations are a specific type of public relations. They are related to the latter, not only because they are both the relations between social communities, but also because they include economic, social, political and spiritual and cultural aspects. In this context, international relations are considered to be the continuation and development of public relations built on national basis. In its turn, the difference between international relations and relations within public structures lies in that in the complex they form in terms of quality new system with characteristic features; they are of wider spacial and social dimension, since they characterize interactions at least between two and more countries; the main subjects in these relations are nations, states, public movements and organizations with their needs and interests; their functioning is connected not with some certain form of public (or governmental) authority, but with wide range of international norms and values, which humanity created in the course of long-term evolutionary and revolutionary development.

We have witnessed destruction of bipolar international relations system, which was followed by so-called polycentric unipolar system that is getting multipolar. In fact, there were at least three equilibrium poles (or centers) of modern international relations system: USA, European Union, and Pacific Rim, where China dominates. Some other integration associations and states (ASEAN, Brazil, Russia, India), which belong to BRICS, claim role of world political centers. Today Russia and China have similar views on world politics, therefore, these strong and self-reliant countries, which have their own political stance and take their stand, do not fit in Pax NATO scheme suggested by Americans with its unipolarity (or, as it is said, pyramidal structure of international system). Basic drawbacks of this unipolar (pyramidal) model of modern world system are evident. The thing is that many other world states will not agree with the role of weak ones.

What is more, these countries are definitely underestimated by unipolar strategists according to list of most important parameters of national strength (including nuclear potential, territory, population etc.). Having in mind special place and foreign policy and other resources, which possesses USA, we should mention that they are not enough for sole will exertion regardless other states, which either belong to circle of great countries (that is which possess big or comparable between each other potentials and total resources that in certain cases exceed resources of other countries), or belong to influential regional centers. One way or another, no world state, including the only one superpower - USA, has nowadays enough resources to function as "global policeman" in unipolar world. In addition to this, unipolar model directly contradicts many key and long-term tendencies of modern world development, which do not depend on short-term political situation. It is all about drastic changes in the modern world, especially that happening in the last decade, including growing democratization and globalization, which, in fact, presuppose global transformation of modern international relations system towards realizing age-long ideals of the world without violence, world culture, international relations humanization.

## **GLOBALIZATION IN THE MODERN WORLD IN THE CONTEXT OF MULTIPOLAR WORLD DEVELOPMENT**

Current globalization is not a linear process, it goes along with world fragmentation, recurrent religious and ethnic fundamentalism etc. True multipolarity has not been completed yet, it is still developing. Therefore, the modern world is often considered to be a fantastic hybrid – "unimultipolar" system (or even "pluralistic unipolarity"). However, as it is shown, the notion "asymmetric multipolarity" clearly reflects the character of current world system, which is perceived in this case as transient stage of the modern world development and which reflects the specificity of certain (and thus, inevitably transient) power and resource distribution in kind of general "force field" of the aforementioned world tendencies.

Transient character of current stage lies also in that "bipolarity", "unipolarity", and "multipolarity" are just certain and, to a great extent, formal fixations of distributing collective power and national strength in world, and are definitely not characteristics of modern international relations. Therefore, for instance, in the multipolar world several hostile and almost equally strong states can confront; on the other hand, in that formal scheme of national strength distribution, these states can cooperate. In other words, formal structure of new developing world order should acquire its own meaning.

It will to a great extent depend on subjective factors, including certain foreign policy strategies and tactics, concepts and doctrines, which are chosen by key players on the modern international stage, including Russia, of course. Thus, the developing conceptual aspects of the strategic way we perceive modern international relations, and world concept in XXI century in particular, are of great significance.

As for the aforementioned developing world concept of XXI century, it is to emphasize that this concept is based on the necessary building of globalization mechanism that is adequate in content and functionally cooperative. The efficiency of such governance will mostly depend on its combination of national and international efforts with UN as the only universal mechanism supporting international peace and security. Admitting the appearance of, in terms of quality, new dangers to modern multipolar world order (such as distributing weapon of mass destruction, regional conflicts of new generation, risk of new arms race, the growing gap between rich and poor countries, spreading global terrorism, pressing population and health service issues etc.), it is necessary to predicate on strategic long-standing goals, which reflect adequate understanding of not short-term, but leading world policy tendencies under conditions of globalization in the modern world.

With that in mind, strategic goals of international relations democratization and humanization should be of high priority for leading countries' foreign policy. Certainly, the way to these goals cannot be easy and fast, especially in current political situation. Whichever the obstacles are, steps to the aforementioned goals could be as following:

- to stop claiming against unilateral dominance, acknowledge and move towards multipolarity;
- to establish efficient international and national mechanisms and procedures of right enforcement for national minorities within sovereign state;
- to involve civilians in solving international problems;
- to provide minimal coercive measures approved by international law;
- to set humanitarian limits on international sanctions;
- to give national and international guarantees of human rights and freedoms observance etc.

Truly multipolar world order of XXI century is possible only if the majority of world community, and its real and potential power centers, are willing to. Moreover, development and improvement of true partnership between members of modern international relations, which are based on the general understanding of new world policy architecture of XXI century, play an important role. Taking into consideration all the aforementioned, we can say that international relations include the most powerful leverage influencing both political and non-political international processes. It includes:

- politically significant activity of UN and other legitimate international bodies, organizations and institutions;
- political actions of international, supranational institutes, and also corresponding public groups, associations and unions;
- sovereign countries' foreign policy, which shapes world policy, international relations and connections.

This leverage imposes demanding requirements for:

- subjects and members of international relations, especially for their behavior in critical situations;
- norms of international law, which they are guided by;
- security services, which are brought into action, when international security is undermined;
- political decisions, which authorized bodies make;
- administrative management apparatus responsible for current bureaucratic work.

The mentioned leverage poses for subjects and members of international relations many problems concerning their funding. International relations clearly tend to globalization, that is to spreading and interpenetration, complementation and mutual enrichment. It is, primarily, due to drastic changes in Central and East Europe, in CIS (including Central Asia and Kazakhstan). The barriers that divide international relations according ideology are being broken; the world division into two conflicting political camps with their closed political and state systems, and the confrontation as well, recede into past; the model of bipolar world, which was represented by two "superpowers" – USA and USSR, loses its meaning. Globalization of political international relations stems from growing role and meaning of universal (global) problems in the modern world, which have socio-environmental, socio-economic, personal and socio-political character:

- preventing nuclear war;
- stopping arms race, disarmament;
- peaceful settlement of regional, interstate and international armed conflicts;
- non-violent world building based on trust in international relations;
- security system reinforcement.

The global character of modern international political relations also requires new mechanism for their regulation, including considerable reestablishment of existing international organizations and building new ones (Plotnikova, 2004; Baranovsky, 1999; Tsygankov, 1998).

### **COMPREHENSIVE ANALYSIS OF INTERNATIONAL POLITICAL RELATIONS**

International political relations considerably influence international and world order. As far as international order is concerned, it means such an international relations organization, which is supposed to ensure good functioning of states and other international institutes, and to build and maintain corresponding conditions for their existence, security and development. As for world order, its sense lies in meeting human requirements, including survivability, well-being and justice in regard to certain people. International political relations influence international and world order in the way that they possess great capabilities – diplomatic, organizational and legal, material and technical, and informative-outreach – to implement in interstate and international relations such principles as:

- preservation and approval of universal political and moral values;
- commitment to fair international and national security, and also peaceful settlement of controversial international issues and conflicts;
- respect for territorial integrity and sovereignty;
- non-intervention in each other's internal affairs;
- absolute precedence of international law over political and state communities.

Finally, international political relations at current developmental stage tend to democratization, demilitarization and humanization. Democratization, though having different forms and results in different nations and states, is reflected in universal aspiration to, on the one hand, eliminate authoritarian-bureaucratic and totalitarian regimes, and on the other hand – build advanced society and legal state. Demilitarization is surely based on global disarmament, but is not reduced only to it. It also includes:

- elimination of military-political units;
- drastic transformation of arms industry ;
- quality change of scientific, state and managerial units, public institutes, lifestyle and consciousness of many people burdened with stereotypes from "Cold War" times.

International political relations humanization means that politics and state cease being self-goal and self-value. They become means of meeting the growing human requirements, defending their rights, freedoms and interests. International political relations humanization presupposes increasing meaning of non-governmental subjects and members, and representatives of national diplomacy (scientists, culture and art workers, members of public, religious and other organizations) in particular, in the relations system. In modern political literature, there is no opinion on question about who the main subject of international political relations is. One point of view remains widespread, according to which state or group of states are such a subject, because state is the only national institute authorized to carry out internal policy, take part in relations with other states and international organizations, conclude contracts, declare war etc. This so-called statist (governmental) approach to international relations forming and functioning, which appears to be the result of legal tradition in modern political thought, has been reflected in the formation of different interstate associations, unions and organizations aimed at ensuring national security in regions, and in the world in general . Over the last years this approach was complemented with broader – political – approach, according to which main subject of international political relations is national political system. Supporters of this approach think that its advantage lies in that it allows involvement in international political relations of not only state but also other equally important institutes: national political organizations and establishments, political-cultural and legal communities.

Along with statist approach, there is also antistatist approach. Its followers consider non-governmental and even non-political organizations and movements as main subjects of international political relations. Their arguments are reduced to that the authority of state as the main element of international political mechanism is going down: firstly, due to its inability to manage deep crisis phenomena in the world; secondly, due to paralysis, stagnation and absence of state's will; thirdly, due to obvious state's immorality, which "plays in great power games and fools its citizens".

Antistatists consider that the authority of non-governmental organizations in international political relations system is constantly growing and expanding, what shows the general tendency towards increasing role of civil structures in the world. To their mind, it is evident due to multinational corporations (MNC), which transform all sides of human activities, including political one, and transmit the global community to new historical epoch.

International political relations need analyzing not only in terms of the way they develop and function, but also in terms of their theoretical substantiation. Such a substantiation can be represented in different ways. The first method is to develop globalist-futurological concept. These concepts have the following characteristics: future society is supposed to be financially and politically strong and stable ; its spiritual and political basis consists of global consciousness and the corresponding type of political thinking; human norms and values, which are supposed to change human lifestyle and behavior, play the leading role; the necessary condition for its establishment and development .is structures of civil society and, primarily, human resources and knowledge.

These characteristics are completely reflected in the concept of "Sustainable Society", which is considered the first one in modern foreign, and American in particular, global studies-21. The concept of "Sustainable Society" covers almost all main aspects of world community life, including political one.

The system of basic guidelines and values, which "Sustainable Society" is based on, are of special interest. It is to emphasize that founders of "Sustainable Society" concept look far beyond the aforementioned systems development, which are necessary, they say, to ensure world strength and stability. They strive to build futurological picture of "Sustainable Society" based on these systems and introduce new ideal of public-political humanity development. The aforementioned and many other ideas of "Sustainable Society" concept are represented in different world order models. Many respectful futurologists study this society as one of the crucial goals of global human evolution.

The second method is related to creating general methodological theories, which are supposed to shape key principles and techniques of scientific analysis of international political relations. To these theories belong the following: H. Morgentau's theory of political realism, R. Aron's peace and war theory, Q. Wright's theory of factors, G. Liska's equilibrium (balance-of-power) theory and J. Galtung's world systems theory. Among these theories, H. Morgentau's theory of political realism plays an important role. Its sense consists of the following basic statements. First of all, international relations represent ancient as well as self-reliant political system. A characteristic feature of the international relations studies after the World War II lies in that they are carried out on the basis of behaviorism, system analysis, game theory, modelling and general methodology, which have one common aim – to substantiate global international relations optimization by means of modern theory, to ensure true predictions in this sphere and so get rid of unpredictable political actions. In this context, real international politics can be compared to rational theory as photo to portrait drawn with brush. Rational international politics is efficient, if it reduces risks and increases benefits that is when it relies on rationality and requirements for success.

Second of all, most important guideline allowing political realism to find meaningful and rational way in international politics is "notion of interest which is defined in categories of governance". Moreover, in general theory notion of interest can have various meanings depending on certain subject character, in international politics theory this notion is usually introduced as "national interest". According to H. Morgentau, the notion of national interest in international political relations consists of the following factors: interest character, which should be protected; political environment, where interest operates; and rational need, which restricts the choice of goals and means for all the figures on the international stage. Any foreign policy should be built on physical, political and cultural reality, which nation represents. In the world divided by rivalry and fight for power between different sovereign nations, foreign policy of any nation should meet its primary requirement – to survive. Therefore, all nations, according to their capabilities, strive to one thing – to protect its physical, political and cultural identity in the face of possible external intrusion.

Finally, pragmatists and political realists realize moral meaning of political actions and inevitable confrontations between moral laws and requirements for effective political activity. However, they emphasize that moral principles can be implemented in states and nations' actions according to particular circumstances of time and place rather than in an abstract way. H. Morgentau point out that sense of pragmatism and political realism "lies in the choice not between moral principles and national interest without moral virtue, but between one set of moral principles beyond political reality and another set of principles corresponding to reality". In this context, pragmatism and political realism deny identification of certain nations' aspirations with world moral laws. Truth does not align with public opinion. All nations try to relate their private aspirations to world moral goals, but it does not mean that they are right. Interest in categories of international political power builds chances of fair treating all nations, because it protects from moral pretension and political pressure from any nation. As H. Morgentau writes, "careless speculation about that carrier and representative of moral good is a certain nation, and another nation embraces evil, is

invalid in both moral and intellectual contexts. Such a speculation leads to values distortion and mad violent crusades".

The peculiarity of the third method of international political relations substantiation is building special concepts about analysis of particular functioning problems in these relations. The following theories can be examples of such concepts: international systems, international organizations, international roles, international conflict, national interest etc. The global security concept belongs to these concepts and is based on the following statements:

**The first statement** – the global security concept represents new principles of approach to security problems in nuclear world, rather than new complex of ideas and practical suggestions. Politicians, scholars, public communities from different countries have introduced and discussed principles and ideas of this concept for the last decades.

**The second statement** – crucial principles, which contribute to implementation of global security idea, are the following: to admit that it is impossible to survive and gain victory in global nuclear war; in the modern world full of nuclear weapon, great states cannot resort to armed means of political or ideological conflict settlement; parity, observance of equality principle and equal security under conditions of strong confrontation do not guarantee security, and the only way to achieve it is to decrease dramatically military confrontation level; the most reliable way to curb and restrict arms race may be "reasonable adequacy" model, which breaks both "communicating vessels" model and "zero balance" model; complete international security cannot be ensured in one-way fashion, by means of drastic arms reduction by one or two countries – simultaneous and collective actions of many countries are needed.

**The third statement** – the aforementioned principles will definitely need further specification and development. Correlation of foreign policy and leading countries' military doctrine according to these principles as well, will also be complicated. It is concluded from the work of Palme Commission that no country can be eligible for monopoly in building the global security concept.

### ***CURRENT STATE AND PERSPECTIVES OF INTERNATIONAL RELATIONS HUMANIZATION***

When talking about international relations humanization, we resort to the experience of previous studies. In international political theory, international relations "humanization" is considered as growing impact of moral norms on this sphere, making it more human, in order to acknowledge human self-value as a complete rights and freedoms enforcement. In UNDP (United Nations Development Program), human development is defined as a process, where every population representative throughout their lives has a wide range of alternatives. Meanwhile, in academic, and in political environment as well, the problem of international relations humanization is a point of fierce dispute. Indeed, on the one hand, the opinion on dominance of selfish national interests, geopolitical imperatives and force arguments (not only in military, but also in economic and socio-cultural contexts), which do not leave any place for morality and care of a person, in international relations is getting more influential. On the other hand, it is claimed that international relations humanization is not only wish of national diplomacy actors cherishing illusions, and that taking into consideration all the drawbacks of international organizations, they still function for person security and contribute to morality observance in this sphere.

These two stances are plausible, since they are based on substantial statements. However, regardless their externally incompatible character, it is supposed that their opposition is relative. There is an opinion that not only does international politics humanization have its place in public relations sphere, but also it is one of the important tendencies to its changes. Nevertheless, its manifestation and consequences do not leave a place for some visions of inevitable progress of positives forces and building the international humanist society. This is evident from the meaning that individual moral has in international relations; from

the role that legal norms play here – primarily, norms that are related to human rights and humanitarian law; finally, from the impact that private groups and individuals with their "human", rather than state interests, have on international relations functioning.

International relations humanization plays an important role in its system. As it has been already mentioned, humanization presupposes growing impact of moral norms on this sphere, making it more human, in order to acknowledge human self-value as a complete rights and freedoms enforcement. It is to point out that there is no unanimity on this issue, and it remains one of the controversial issues in international political theory. International relations scholars' opinions are at variance concerning this problem, and they reflect discussions between realists and liberals on international politics, subjects' behavior motives and role of law and moral in international relations.

International relations humanization is manifested within several directions:

1. increasing role of "ethics of persuasion", according to Max Weber, or, in other words, individual ethics, which comes out in growing impact of international public opinion on world politics;
2. increasing efficiency of international humanitarian law in protection of human rights and limit on means and forms of armed conflicts;
3. growing impact of private groups and individuals with their "human", rather than state interests, that is who represent national diplomacy, on international relations functioning.

International relations humanization is an objective process, and contradictions and problems in this sphere are of massive character. The analysis of international morality, law, humanitarian cooperation and human rights shows progress as well as limitation and inconsistency of this sphere (United Nations, 1993; Fourth World Conference on Women, 1995; United Nations, 1997; United Nations, 2000; United Nations, 1992; United Nations, 2007).

The aforementioned proves that humanization in modern international relations is a controversial and inconsistent phenomenon. In international political theory, humanization is defined as growing role and impact of moral and moral norms in international relations, including complete rights and freedoms observance in all human activities, considering human to be of an utmost value.

International moral norms are enshrined, primarily, through law. Therefore, firstly, the conditions of human rights and international humanitarian law should be studied. Here we can point out several positive tendencies, which are evidence for continuing humanization process: First of all, it is an adoption of the Universal Declaration of Human Rights 1948 (United Nations, 1948), the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights 1966 (United Nations, 1966; United Nations, 1966), regional declarations and conventions: European Convention on Human Rights (European Court of Human Rights, 1950), American Convention on Human Rights (Inter-American Specialized Conference on Human Rights, 1969), African Charter on Human and Peoples' Rights (African Commission on Human and Peoples' Rights, 1987), Cairo Declaration on Human Rights in Islam (Organisation of the Islamic Conference, 1990). Even though declarations are not of a binding nature, and Cairo Declaration on Human Rights in Islam is not even a document, which after its execution and ratification by the corresponding states is supposed to be manifested in the sphere of international relations (Organisation of the Islamic Conference, 1990), they still play an important role in the process of basic rights and freedoms validation. As for UN Covenants, they are enforceable by every state, which signed and ratified it. Currently, more than 140 countries have ratified Covenants. They impose obligations on these countries to introduce to UN official information about state of human rights. In 1993, at the World Conference of Human Rights one very important document was adopted Vienna Declaration and Programme of Action, which included norms from Universal Declaration 1948, Covenants and additional protocols to them (World Conference on Human Rights, 1993).

Thus, it can be stated that basic norms and principles are constantly improving, and more countries undertake a commitment to their observance, that is the tendency to human rights internationalization appears.

Surely, major problem of modern international relations is global terrorism, which constitutes huge menace. However, countries often violate human rights in light of fight against this menace. For instance, in European states the severe problem consists in limitation of migrant and refugee's rights, and in some cases - ill-treatment towards them. In 2006, a terrorist threat made several European states adopt laws loosening human rights guarantee, and some states tried to deport foreign suspects in terrorism to countries, which are well-known for their tortures. Let us not forget about recent scandal over secret prisons operated by the CIA, where tortured suspects in terrorism served their time.

International relations humanization is closely connected with environmental safety, nature protection for the sake of humanity, because every person has right to live in clean environment, breathe fresh air and eat health food. And that is, probably, the most topical and complicated task for now. According to United Nations Environment Programme (UNEP), 152 multilateral agreements concerning this sphere are registered. UNEP together with World Meteorological Organization and Intergovernmental Panel on Climate Change work on this issue.

## **CONCLUSION**

Considering all the aforementioned, we can conclude that humanization is a controversial, but quite possible process in the modern world. It is slowly coming true, sometimes followed by inconsistent processes. Of course, humanization does not cover all the international relations. There are many difficulties, problems, which cannot be solved just like that. It can also be stated that humanization is elective, regional, as not all the spheres and regions in international relations undergo humanization. Finally, humanization has not reached that level yet, where an individual is considered an utmost value in international relations. The value of group of people is likely to be acknowledged. An international community starts responding only to massive murders. There are even debates on the topic how many victims are needed to consider crime a genocide. Surely, it is inappropriate in terms of humanity, but so is a modern reality. There is such a situation in the modern world, where the world community considers one group of people more valuable than others. Perhaps, it will be so to some extent. More importantly, we move towards humanization, anyway.

To sum up, there are enough opportunities for further humanization in modern international relations, an important task is to seize them. Certainly, we will not manage to build global humanistic community in the near future, but we can approach it. Having analyzed contemporary politics in CIS countries, including Kazakhstan, in terms of international relations humanization, we can claim that it is controversial. On the one hand, the absence of democratic tradition, consequences of totalitarian state collapse, USSR's legacy in the form of complicated economic, international situation and weak civil society are evidence for many human right problems in the country and Russian incoherent foreign policy in this sphere. On the other hand, there is a progress in human rights in comparison to Soviet period and reaching out to international European standards in this sphere.



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## ARTÍCULOS

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# Colonial Nature of Public Education as a Factor of Ethnical Deformation

*La naturaleza colonial de la educación pública como factor de deformación étnica*

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### ABSTRACT

The paper deals with the historical analysis of the reforms in the public education in the last period of the Russian colonization of the Central Asian states. Authors defined that the policy implemented by Russia in this region was marked by the rigid colonial governance. The modernization policy of the empire was defined as factor of ethnical deformation. The paper contains the assessment of the cultural-educational activities of jadidism, which in its activities based on the rich cultural traditions of the local population and governed by the achievements of the European civilization, emerged as an alternative to the policy of the colonial authorities' public education.

**Keywords:** Central Asia; colonial policy; education; jadidism.

### RESUMEN

El documento trata sobre el análisis histórico de las reformas de la educación pública en el último periodo de la colonización rusa de los estados de Asia Central. Los autores definieron que la política implementada por Rusia en esta región estaba marcada por el rígido gobierno colonial. La política de modernización del imperio se definió como factor de deformación étnica. El documento contiene la evaluación de las actividades culturales y educativas del jadidismo, que en sus actividades basadas en las ricas tradiciones culturales de la población local, y regidas por los logros de la civilización Europea, surgió como una alternativa a la política de educación pública de las autoridades coloniales.

**Palabras clave:** Asia Central; política colonial; educación; jadidismo.

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## **INTRODUCTION**

The issue of the colonialism's history of the Russian Empire in Central Asia was sufficiently studied in the Soviet historiography. However, due to the fact that these studies were based on the Marxist methods, the reformative actions of the colonial authorities in the region were assessed unilaterally. For example, the Russian colonialism was declared to be a progressive factor, which had brought the advanced culture to the Kazakhs, Uzbeks, Kirghiz, and Kara-Kalpaks – the peoples of Central Asia, lagging behind the world civilization. This problem is directly connected with the fact that the system of education of the country formed over the centuries, which had been diligently ignored, was replaced by the colonial system of education. The analysis of the facts shows that the actions of the Russian Empire regarding the public education in Central Asia are of the explicitly colonial nature. The same way, based on the facts it is proved that implementing the idea of achievement of the world civilization through the Russian culture in the views of the first Kazakh educators was impossible under conditions of the colonial dependence.

It is historically proved that the powerful cultural-educational movement in the country – jadidism – emerged as an alternative to the public education implemented by the colonial authorities. However, even this historical reality in the Soviet historiography was intentionally distorted, having gained such political labels as 'Pan-Islamism', 'Pan-Turkism'. Thus, the political repression of the idea of jadidism, started by the colonial authorities, was continued in the Soviet totalitarian regime and became strictly ideological. The ideas of the Jadids on the modernization of the education originated with the consideration of the national peculiarities were absolutely not accepted and not recognized by the Soviet authorities.

The methodological paradigms documented in history in the years of the independence of Kazakhstan caused the opportunity of assessing the public education modernization policy implemented by the Russian Empire from a new perspective. The authors considered the problem of the colonial nature of the Russian Empire's public education based on a new approach – as a factor of the ethnical deformation of the Central Asian peoples.

Ethnical deformation is the negative changes undergone by the national existence under the influence of the external forces. They forcedly change the directions of the further national development. Ethnical deformation is a kind of negative type of modernization. If the modernization triggers positive changes in the society being the stimulus of the national renewal, then the ethnical deformation vice versa separates the nation from its cultural-spiritual, social-economic and political existence, transferring its evolutionary development into a catastrophically destructive channel.

So, the objective of this paper is to define the ethnical deformation's influence on the local people by the changes introduced by the Russian Empire through its activities in the sphere of public education, which is of a colonial nature.

## **PECULIARITIES OF THE RUSSIAN COLONIZERS' PUBLIC EDUCATION IN CENTRAL ASIA**

Turkestan with its huge territory created for the Russian Empire the problems connected with the governance, legal regulation, border fortification, provision of the Russian migrants, establishment of the cotton business, which was the goal of the new territories' conquest, avoidance of the rebellions among the Islamic population, the attempt of integrating it into a new ideological channel etc. The problem of education was not less important. The administration had to decide how to organize the public education network in such a specific region, the population of which was persistent in its unacceptance of the standards and rules contradicting the Shariah and the Quran, considering the interests of both sides.

From the very beginning, the colonial authorities of Turkestan were aware of the fact that the problem of education in Central Asia is "extremely huge and challenging". The difficulty concluded first of all in the fact that the national educational system had been elaborated for centuries, had deep roots and showed good

results. A group of scientists worked by the order of the Turkestan government made a conclusion on a high level of literacy of the indigenous people. The report submitted to the corresponding institutions said, "There are less illiterate people than in the Russian population, while a great number of maktabs show the interest of the population in the distribution of schools" (Central State Archives of the Republic of Uzbekistan). Similar informs became the reasons for the implementation of the non-intervention policy to the issue of the Islamic education. It was believed that ignoring would sooner cause the natural self-elimination of the Islamic educational institutions.

On the other hand, considering that it is impossible to retain the conquered territories without the modernization of the traditional society and integration of the population into the general imperial space, the authorities took on creating the Russian-indigenous schools. The Turkestan government did not expect that the young people of the new generation of intelligentsia having seen the world exactly due to the conquering of the region and got an opportunity of comparing, developed a new semi-Islamic, semi-European system of the public education based on the use of the national historical experience and the European scientific achievements, which was more dangerous for the authorities than the old system.

From the first years of its rule in Turkestan, the tsar's administration started solving the issues of establishment and development of the migrants' school education. In 1876, by the moment of establishing the Turkestan Region Administration for the Educational Institutions, the Russian population in the Sirdaryo Region amounted to 10,624 people (in Tashkent – to 4 000), in the Semirechye Region – 31,930 (in Verny – 14,400), the military contingent amounted to 40,000 people (Bendrikov, 1960). In 1891–1892, after the famine in Russia the wave of migrants rushed to the Turkestan Region. Between 1904 and 1914, Semirechye only hosted about 20,000 new migrants. The Russian population grew from 67,000 in 1897 to 107,000 in 1907, while in 1911 it amounted to 154,000, in 1914 – 255,000 people. Approximately 66,000 of the colonists settled in the Sirdaryo Region around Tashkent, Aulie-Ata, the rest of them – in the other regions (Buttini, 2007). Professor Marco Buttini provides the following data on the number of the Russian peasants chaotically immigrated to Turkestan: in 1901 – 16,000 families, in 1905 – 23,000, in 1908 – 30,000 families.

Beginning in 1907, the immigration policy of tsarism acquired a new object-oriented nature. The new course was connected with the aspiration of the tsar's government to create a firm layer of the peasants in the colonies, which would be the support at the colonial outskirts. Thus, for a great number of the migrants, it was necessary to form the educational system. From the 60s of the 19<sup>th</sup> century, in different cities of the Governorate General, new educational institutions for the Russian children started to open. So, the first Russian schools in the Sirdaryo Region were opened in Fort No.1 (Kazalinsk) and Perovsk (Bendrikov, 1960). In the Kazakh territories, they opened special schools for the Kazakh children. In the Ural Cossack Forces, they opened 47 schools, including 5 female ones with the number of students amounted to 2,250. In 1894 in Uralsk, there was a boy's high school, girl's high school and a religious school (Tazhibayev, 1952). They also created special professional educational institutions for Russians. So, in 1894, they opened the Tashkent Real School, in 1905 – commercial schools in Tashkent and Samarkand, in 1904 – the Technological Railway School at the Central Asia Railway Line, the Tashkent Primary Farm School etc. (Abdurakhimova, 2003). The Islamic schools were not mentioned.

An important element of the public education in Turkestan was the educational institutions for the preparation of teachers. In Tashkent, in 1879, they opened a teachers' training college, which for ten years remained the only one pedagogical school in Central Asia (Ostroumov, 1904). The organizer N.P.Ostroumov, Master of Theology, Associate Professor of the Kazan Anti-Islamic Department of the Religious Academy, spearheaded it with some breaks until 1917. The main task of the teachers' training

college was the preparation of the employees for the "non-Russian" schools. However, many graduates were also in demand for employment in the state authorities.

An important component in the solution of the school education issues was such an 'invention' as the Russian-indigenous schools. Certainly, in the first years of the governance, the Russian authorities had great difficulties under conditions of the deficiency of dragomen in the cities' and regional institutions, especially in the juridical system. The tsar's administration pursued more global goals: these schools were just a way of russification of the population, which is evident from the speech of a tsar's public official opening the first Russian-indigenous school in Tashkent on December 19, 1884, "... The region once was nevertheless conquered, and it becomes a significant part of our vast mother country. The assimilation with the Metropole is obviously implied here. But how can we achieve it? One and the most important condition is probably a wide distribution of the national (Russian – author's note) language. If the indigenes, the Sarts and the Kirghiz spoke Russian fluently, then the Russian cause in the region could be deemed to be established. It is a common truth that we are religious children of the state, of the nation, the language of which we speak" (Turkestan News, 1895).

In the Russian-indigenous schools, they taught the Russian language, maths, history, Russian geography, natural science, 'indigenous reading and writing' and the fundamentals of the Islamic religion. And the limitation of the syllabus made one think that the authorities need dragomen only as the link between the bureaucracy and the population.

### **PECULIARITIES OF THE RUSSIAN-KAZAKH SCHOOLS**

The creation of the Russian-Kazakh schools was initiated by N.I. Ilminsky – the organizer of the Orthodox Christian monarchic school of missionaries. Sharing the anti-Islamic positions, he guessed that in order to secure the Kazakhs against the influence of the Tatarian educators and the ideas of Islam penetrating from Central Asia one should create special Russian-Kazakh schools, which were to "prevent the distribution of Islam...to cultivate in the Kazakh people the Christian ideas and affection for Russians" (Bendrikov, 1960, pp. 88-89), which would ensure significant enhancement of the Russian influence in Kazakhstan. The students were to be trained in Kazakh but based on the Russian alphabet. The first secular educational institution was the Orenburg seven-year school opened as early as in 1850 for the preparation of dragomen and copyists. In 1857, such a school for the Kazakh children was opened in Omsk at the regional administration, which a quarter of a century later was transformed into a boarding school for the Kazakh and Russian students, studying in the parochial schools and district colleges (Alektorov, 1905). Further (1865) in Omsk, they opened a school for the Kazakh children, while in 1869 at the Orenburg upper secondary school they opened the departments for the preparation of the dragomen of the Oriental languages and the copyists of the military command regions. The new form of the education for the indigenes was Russian-indigenous school. The same school called the Russian-Kazakh school was opened in Chimkent in 1874 with about 40 boys-students (Ostroumov, 1880). In 1868–1869, in the Ural Oblast, there were 24 Russian-Kazakh schools. The boarding schools for the Kazakh boys were opened only in the regional capital (Semipalatinsk) and the district cities – Pavlodar, Ust-Kamenogorsk, and Zaysan. The educational institutions for girls were situated in Semipalatinsk and Pavlodar. In 1886, there were 152 boys and 37 girls of the local nationality studying in the schools (Tazhibayev, 1952).

In the second half of the 19th century, the opening of the Russian-Kazakh schools in the steppe is directly connected with the name of the famous Kazakh educator Ybyrai Altynsarin, who made a great contribution to the education of the Kazakh people (Kozybayev *et al.*, 2000). In 1879, after the assignment to a position of inspector Y. Altynsarin was initiating the opening of the Russian-indigenous schools, particularly, the specialized schools, in all the district cities of the Torgay Region. He managed to open and

to fill the two-form Russian-Kirghiz specialized schools in the Yrgyz, Nikolayevsk, Torgay and Ilets districts. He participated in the opening of the craft and farm schools in the region; each school was equipped with a library. He is the author of two textbooks for the students of the Russian-Kazakh schools: "Kirghiz Chrestomathy" and "Initial Guidance on Teaching the Kirghiz to Russian".

However, there were not enough Russian-indigenous and Russian-Kazakh schools in the steppe territories. In 1897, out of 83,100 children of the school age, they covered only 3% (Alektorov, 1905). Moreover, they had an explicit anti-Islamic orientation and the russification ideology. This is also described by the author of the article published in "Turkestan News" in 1902, "One should remember that the final goal of the Russian-indigenous school at its modern setting is to teach children to the opportunity of acquiring only the Russian language and even to think Russian". After the mass rebellions in 1916 taking place everywhere in Turkestan, the Russian-indigenous schools started to wind down their activities. By this time, there were 100 Russian-indigenous schools in the region with 2,800 students of the local nationalities, but with only 105 graduates. The sad result of the 25-year activities of the Russian-indigenous school was summarized by V.P. Nalivkin, who noticed that they taught to the Russian language only several hundred merchants' children (Central State Archives of the Republic of Uzbekistan).

Thus, the solution of the issue regarding the Islamic education became rather problematic for the authorities. Recognizing Islam as a basic moral standard of living, K.P. Kaufman believed that "being the religious and confessional as well as political..., the indigenous school should not rely on the sympathy of the Russian authorities. But it is the same obvious that its direct elimination would provoke the hostility towards us...", so, "the only thing left to us regarding the Islamic school was only to retain the way of actions, which was acquired... towards Islam in general. This way is to ignore it" (Kaufman, 1885, pp. 437-438).

In 1875, the tsar's government issued the Order Concerning the Subordination of all the Religious Schools of Turkestan to the Department of the Educational Institutions of the Region, while in 1879 the Ministry of Education approved the Instruction for the Inspectors of the Public Schools (Bendrikov, 1960:). By the end of the 19th century, they created the position of the inspector in the public schools of the Turkestan Region, responsible for the madrasah as well as maktabs of the settled and nomadic population, which meant the special control over the activities of these educational institutions. Nevertheless, K.P. Kaufman preferred not to interrupt, because he believed that the ignoring of the Islamic schools, as well as the lack of the financial support, would lead to their self-elimination.

### **ACTIVITIES OF THE KAZAKH EDUCATORS**

The formation of the Turkestan Governorate General was undoubtedly one of the most important events in the history of the Islamic peoples of the region and profoundly shocked the Central Asian society, causing the difficult search for the reasons of the national defeat and the loss of independence.

The development of the educational movement at its first stage was based on the ideas of the unordinary personalities – the immigrants from Turkestan, Bokhara, Khiva, and the Caucasus. Among them, a special position is taken by the Akhmad Donish (1827–1897) – a polymath not only in the sphere of natural and exact science. His ideas of the state development (based not only on the theoretical and philosophical knowledge but also on the practice) had a great effect on the public consciousness.

If to speak about the generation of the representatives of intelligentsia and educators, conceptually defined the tasks of the education for the Turkic people of Central Asia, then one should note that the like-minded fellow of A. Donish was great Abai (Ibrahim Kunanbayev; 1845–1904) – the founder of the Kazakh

literature and poetry, educator, and philosopher. In his works, he preached the moral bases of the Oriental philosophy: love and respect to a person, friendship, the concept of justice and benevolence. According to Abai, the spiritual upbringing of a person is connected with education. In such verses as "My people – the Kazakhs", "A Wrong Word has no Future", "Don't Talk Big having not found the Knowledge", "The Reach appreciate only their own Wealth" there is an address to the youth to use all the opportunities to get the education.

The main direction in the Abai's creative work was the aspiration for the progressively developed society, where people are evaluated by their "mind, science and will". He considered labor to be the main means for the achievement of the material and spiritual values of the society, "labor develops the sense of cognition. Labor fixes the heard in the consciousness. A person arranges the knowledge, separates necessary things from the redundant ones and becomes clever". The Abai's creative work contains a kernel for a reasonable resolution of the social contradictions in the future. The Abai's personality, not only as a writer but as a public man, educator, was rather reputable among the advanced intelligentsia of the entire Turkic speaking world.

At the edge of the 20th century, Abai in his "The Book of Words" speculates on the human destiny and the way of life. Considering the mind as a privilege from God, he believes that people are responsible for their future. The sayings of the great sage are full of the bitterness of the Moslem's ignorance, and the pride for his good deeds, the moral instructions and critics of the everyday life and household of the Kazakh society, the address to all the people of the region to respect each other, and to aspire for education. A perfect person, according to Abai, is the one, in whom "... the mind, will, and science (aspiration to education) peacefully coexist, and if such a person exists, then his only ashes are able to heal the blind... Initially, God differentiated a human from an animal having given him a soul. Why do we, having grown old and clever, don't seek for and find the satisfaction to the curiosity, which made us forget about meals and sleep in childhood? Why don't we choose the way of those, who seek for the knowledge?" (Abai, 1992, 12). These issues formed the basis of the educators' activities of the future reformers in the vast territory of Central Asiain the early 20th century.

An outstanding Kazakh educator and scientist Shoqan Walikhanov (1835–1865) was a public official and knew the real situation of the population. Great education and official status allowed him having unordinary philosophical views for that time. Being a military, he attended the lectures at the Historical-Philosophical Faculty of the Saint Petersburg University. He is the author of such historical-ethnographic works as "The Diary of the Journey to Issyk-Kul", "The Eastern Province of the Chinese Empire and Qulja", "Notes about the Kirghiz". In February 1857, by the recommendation of the famous Russian geographer Pyotr Semyonov-Tyan-Shansky, Sh. Walikhanov was chosen as a full member of the Russian Imperial Geographical Society. The climax of his scientific research was the confidential journey of Walikhanov to Kashgaria (1858), for the first time after Marco Polo and Jesuit Geos (1603) he visited the exotic country. For this journey, Sh. Walikhanov was honored by the tsar's audience, awarded by the medal, distinct by the promotion in his military rank and invited to Saint Petersburg.

His work "About the State of Altyshar or Six Oriental Cities of the Chinese Province Nang Lou (Small Bokhara)" (1858–1859), highly evaluated by the oriental scientists, was translated into English. Subsequently, he took an active part in the reorganization of the local administration of the steppe regions. His suggestions and recommendations regarding the social development are present in such his works as "About the Mohammedan Faith in the Steppe", "About the Nomadic Kirghiz", "A Note of the Judicial Reform" etc.

By preaching the ideas of education, he called the nomadic peoples to become settled, to learn the Russian culture and the achievement of the Russian science. He was an adherent of the development of the realistic traditions in the social-philosophical idea. However, being an educated person, he remembered that



in the current situation not only the backwardness of the population was an inhibiting factor, but also the lack of the interest in the public education of the colonial's authorities, which were afraid of the Kazakh political activation.

During the preparation of the judicial reform, Shoqan Walikhanov wrote, "The economic and social reforms are currently considered as the most important and close for the people, directly connected with their needs... From this perspective, only those reforms are useful, which contribute to the improvement of the person's everyday life, and the harmful ones are those for some reason hindering from the achievement of this goal" (Bekmakhanov, 196, p. 141). Shoqan Walikhanov was not an adherent of the radical reformation of the existing regime, however, he deemed it to be necessary to limit the political power of the reigning class, while prudent governors are the base of the Sh. Walikhanov's democratic aspirations.

In the philosophical worldview concept of Sh. Walikhanov, the same as of the other prominent educators and Democrats of the 19<sup>th</sup> century, the main part was taken by the education-related issues. He was convinced that the cognition of the laws of nature and society would be quite available for an educated person free from the prejudices. To his mind, when governing the social relations, the scientific knowledge is the same way necessary and useful, as for the development of nature (Segizbayev, 1959).

The representatives of the first Central Asian intellectual elite of the late 19<sup>th</sup> – early 20<sup>th</sup> century respected the Russian culture very much. They saw that the awareness of the necessity of education and the aspiration to study the best achievements of the human thought might help the regional peoples to faster integrate to the world society. Together with it, they saw that the Russian conquest had not principally improved the position of the indigenous peoples, but rather caused serious spiritual and moral disorientation and enhancement of the exploitation.

If to consider from this perspective, then one of the first Kazakh educators – Shoqan Walikhanov – grew under a great influence of the Russian culture. Despite all his fame and talent, his tragedy was that "he turned into an alien for his nation" (Chokay, 2007, p. 384). Walikhanov served as an officer in the troops of general Chernyayev, who conquered Turkestan, but by the end of his life Walikhanov refused from his Russian friends and settled in a small Kazakh aul, while Jadrintsev wrote that the tragic death of Shoqan became a tough warning for the Europeans (Saduakasuly, 2002). By "the Russian friends" S. Saduakasuly means the colonial authorities that brought the nomadic civilization down to marrowbones.

The destiny of Y. Altynsarin, who became a "right-hand man of the Orthodox Christian missionaries", was also tragic. His last will to invite for his funeral 99 mullahs "became a grief of an educated Kazakh as clear as mud for us" (Saduakasuly, 2002, p. 331).

The first Kazakh educators became the preachers of the Russian culture's acquisition. However, these actions do not allow calling them Russophiles supported by the Russian colonialism, because they're positively convinced they would achieve the world civilization through the Russian science.

### ***ANALYZING JADIDISM AS AN ALTERNATIVE TO THE COLONIALISTS' EDUCATION***

The representatives of the local political and intellectual elite perceived the changes in the social-political, economic and cultural life of Central Asia caused by the conquest in different ways. Some people saw in the colonial regime only humiliation of the national and religious sense of their people and immigrated to various Middle Eastern Islamic states – Afghanistan, Iran, and Turkey. The other believed that the established power of the Russian Empire was temporary. Part of them, hoping to accelerate the process of the colonialists' rule disposition and to restore the independence of the Central Asian states, took an active part in all the national liberation rebellions of that time. But there were also those who left the country without

the military confrontation with the powerful Russian Empire, chose the way of gradual reforming of the traditional society through the public education. They are the local educators and their adherents – the Jadids, who were highly aware that one of the most important reasons for the loss of the state sovereignty was political, social-economic and cultural backwardness of the Central Asian society. An active part in the social-political and cultural life of Central Asia in the second half of the 19<sup>th</sup> century was played by the prominent educators, immigrants from various social states, but first of all the representatives of the so-called first generation of the intelligentsia. This was the ground for emerging the Jadids, developing their idea into a particular concept and left the education for the politics.

And the most important thing is – the new Jadids' schools with the sound educational system compared to the traditional letter-conjunctive method allowed significantly reducing the period of education. Besides, the changes also touched upon the syllabus itself, supplemented by the new disciplines and literature. As part of the educational system, Jadids' persisted on the teaching and learning of a wide specter of natural and social sciences, united by them to a general concept of 'intellectual sciences' ('aklii ilmlar'). They paid much attention to the history.

The active education-related activities of the Jadids bore significant fruits. In the late 19<sup>th</sup> century, the maktabas based on new methods were very rare in Central Asia, then by 1911, their number increased to 63, while the total contingent – to 4106 children (Central State Archives of the Republic of Uzbekistan).

The quality of education and upbringing in the maktabas based on new methods complied with the requirements of the time. As noted by a tsar's inspector, "this school greatly differs from the indigenous Islamic maktabas of Tashkent" (Central State Archives of the Republic of Uzbekistan). In his secret report regarding the schools based on new educational methods, the Governor of the Samarkand Region wrote that he personally "was impressed by the knowledge of the students and the general educational process compared not only with the traditional maktabas but also with the Russian-indigenous schools" (Central State Archives of the Republic of Uzbekistan).

Such facts, evidencing the positive tendency in the sphere of education, troubled the imperial authorities, which always tried not to leave the schools based on new educational methods of the Turkestan Governorate General without the control, as they saw in their activities the aspiration to develop in the new generation the ability of "perceiving various tendencies". By 'various' they meant the anti-governmental mindsets. The negative attitude of the authorities towards the new schools "was caused by the fear of development of the national self-identity of the indigenous peoples of the region. That's why they by any means prevented the development and distribution of the Jadids' schools. For the mentioned reasons, the regional administration preferred the politically reliable, but lowly efficient outdated maktabas of the confessional type under the total control of the 'quodimists' (conservative clergy), having been absolutely not interested in the empowerment of the education system based on new methods" (Khudaykulov, 1995, 78). But it was also a truth that the opposition between the quodimists and Jadids suited the tsar's administration of the region.

N.Ostroumov noted, "The local administration cannot fully ignore such an important phenomenon in the spiritual life of the indigenous peoples as the fact of the opening of the maktabas based on new educational methods in different localities of our region alongside with the governmental Russian-indigenous schools". The author of the article stated that one could not conceal and ignore the new schools, but vice versa – one had to reckon with them, because they emerged "surprisingly for us (the Russian Empire) and apparently exist in direct connection with the needs of living of the population itself" (Ostroumov, 1909, p. 98). According to N.Ostroumov (1909), the positive ignoring of the Islamic schools caused the formation of the energetic movement to the school of the public education, but under another flag and at the explicitly separate tendency – to become and exist independently from the government authorities.

The speeches of the same contents made the authorities act. In 1908, for the consideration of the Turkestan Governor General and the Ministry of Public Education, they presented a new draft (the first one was adopted in 1906) of the "Rules about the Islamic Specialized Schools of the Turkestan Region", where they had the points regarding the schools based on new educational methods. And finally, after the three-year arrangements in the departments of the Ministry of Public Education, on January 25, 1912, the Turkestan Governor General A.I. Samsonov approved the main paragraphs of this document. They said that the opening of the schools based on new educational methods should be sanctioned by the Governor-General of Turkestan upon the inspection of the public specialized schools. The permission to open the schools should be issued only to the person belonging to the nationality of the students. The Tatars as the teachers were not allowed to work in the schools based on new educational methods (Karlybayev, 2003).

The last thing becomes clear if to remember that in the first new educational institutions there were many Tatarian teachers, the like-minded fellows of I. Gasprinsky, the founder of the new form of education in Crimea. As known, the tsar's administration was afraid of the penetration of the ideas of so-called "pan-Islamism" and "pan-Turkism" to the region, as well as the growth of the national self-identity of the population. Besides, they recommended the introduction of the Russian language to the syllabus.

"The Rules about the Islamic Specialized Schools of the Turkestan Region" dated 1912 served the ground for the revision of already existing schools based on new educational methods by the police and administration of the region. Any revealed drawbacks, even the slightest ones, often became the reason for the closing of the schools. In this period in Turkestan, by the order of the Governor-General, they eliminated over a hundred schools based on new educational methods (Zakharova, 1968). The home schools based on new educational methods also took place in the auls of the Kazakh nomadic elite.

The achievement of the progress required practical integration of the education ideas, which the second generation of the intelligentsia particularly tried to do. Generally, jadidism as a reformatory movement originally put the practical solution to the educational problems as its main task. However, first of all, the Jadids formed the idea into a theoretical concept based on the legitimization of the education, science, religion, and on proving the advantage of the European education.

Being the intellectually developed people, they had the knowledge of both the oriental and European culture. They were raised on the philosophical treatises of the medieval oriental sages but had an excellent knowledge of the foreign literature, both oriental and European. This was exactly what defined the peculiarities of the Jadids' philosophical worldview reflected on their reformatory activities. In the concept of education of the national progressionists, a great role was attained to the cultural-historical heritage of the Central Asian peoples. According to the Jadids, the study of the works by Ibn Sina, Farabi, Mirza Ulugh Beg and other initiators of the social and scientific reforms may influence on the formation of the national self-identity of the people and to advance the progressive development of the region.

Not less important theme defined the education paradigms of Jadidism was the theme of "West-East". Reminding of the historical connections between Central Asia and Western Europe, the Jadids promoted the education, referring to the European medieval Renaissance, which became possible due to the change in the educational system and the development of new technologies. They tried to introduce into the educational reform everything acceptable for Turkestan.

The Jadids understood that the colonial governing system of the Russian administration in Turkestan was not only inadequate to the national needs but also caused tremendous social-economic damage. So, the progressionists aimed at the intensive development of the secular education based on new methods, national authenticity and culture finally became political and turned into a struggle for the independence and democratic forms of governance. However, the educational activities of the jadidism at the

initial stage were not only cultural as it was in the Russian Narodniks movement. It also included the task of the increase in the national self-identity. The Jadids were convinced that the Turkestan region, being a part of the Islamic world, but constituting a unique phenomenon in the world history, was about to find its rightful place in the complicated and contradictable future of the 20th century.

## CONCLUSION

In summary, we should say that the Russian Empire could not solve the problems of the public education both in Central Asia, and in the other national regions. The main reasons for it were the colonial interests of the imperial policy, and the main goal of these interests was the cultural assimilation of the colonized peoples. In order to achieve the set goal, in the 20<sup>th</sup> century, they performed the activities on the elimination of the local educational system, starting totally ignoring it. The cultural-educational movement – jadidism – formed as the alternative to the colonial model of the public education, was able to substantiate the arguments against the colonial pressure and to give the stimulus to the political struggle, having the formed ideology of the national liberation movement.

The policy of public education, implemented by the Soviet authorities replacing the colonial power of the Russian Empire, was able to solve some problems in the formation of the educational system, however, despite the national policy of the Soviets was considered as "the empire of the positive activities" (Martin, 2011), the process of ethnical deformation in the spiritual culture and mentality of the Central Asian people continued.

The system of the national education in the Central Asian states in the post-Soviet territory was able to start its formation and to get an opportunity of focusing on the achievement of the world civilization only after the dissolution of the Soviet Union in 1991, and the acquisition of independence.

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## ARTÍCULOS

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### A Human Right Can Be in Conflict with one or Several Other Human Rights

*Un derecho humano puede estar en conflicto con uno o varios otros derechos humanos*

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#### ABSTRACT

The main purpose of the work is to analyze the conflicts between the rights of one person with other rights. To achieve the goal, the authors studied the prevailing norms in the legal field using the comparison method. International and regional legal documents that guarantee the right to life are characterized. It was established that the right to health care occupies a special place. It is determined that in the general complex of rights, women's rights are an integral part of it. Since almost every country does not comply with international standards related to the health of women, which leads to an increased mortality rate.

**Keywords:** constitutional right; ethical aspects; transplantation; second-generation rights.

#### RESUMEN

El propósito principal del trabajo es analizar los conflictos entre los derechos de una persona con otros derechos. Para lograr el objetivo, los autores estudiaron las normas vigentes en el campo legal utilizando el método de comparación. Se caracterizan los documentos jurídicos internacionales y regionales que garantizan el derecho a la vida. Se estableció que el derecho a la atención de la salud ocupa un lugar especial. Se determina que, en el conjunto general de derechos, los derechos de la mujer son parte integrante del mismo. Dado que casi todos los países no cumplen con las normas internacionales relativas a la salud de las mujeres, esto lleva a un aumento de la tasa de mortalidad.

**Palabras Clave:** derecho constitucional; aspectos éticos; trasplante; derechos de segunda generación.

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## INTRODUCTION

Historically, human rights arose during certain events as a response to harassment by the state. So, at first there was a so-called “the first generation of human rights”, which today represents the civil and political rights embodied in the ICCPR. These rights are qualified as negative, as the rights to protection from any interference, including the state’s, in the realization of these rights. In turn, the second generation of human rights arose in the struggle of peoples for improving their economic life, increasing cultural status. These are so-called positive rights, for the implementation of which the organizing, planning and other forms of activity of the state are necessary to ensure these rights.

Currently, there is a correlation of these rights, since without the right to health or adequate living standards it is not possible to guarantee the right to life, and so on. However, new direction for studying the human genome, using of human embryos, euthanasia and transplantation and cloning causes the formation of a new fourth generation of human rights and, thus, generates complicated legal issues.

The main problem arises in three directions: 1) how to ensure the protection of rights of all generations that are in conflict with each other, 2) which right should receive the priority over others and 3) whether there will be a responsibility for the violation of such rights.

This and more issues led to the relevance of the proposed research.

It is therefore proposed to formulate **the research question** in the following manner:

*Based on the provisions of international human rights law, how the right to life and right to health correlate with each other, to what extent these rights can enter into conflict and which obligations are imposed on States to guarantee these rights?*

The research question will be addressed through the special structure of the article. In the first chapter, international legislation concerning right to life and right to health will be analyzed. Special attention is paid to analysis of the possible limitations of these rights.

The second chapter will be dedicated to the analysis of the key features of transplantation and correlation between the right to life and right to health of two recipients on the waiting-list for obtaining the transplant by focusing on controversial and obscure points.

The third paragraph explains the right of the person to die, namely the features of euthanasia and its contradiction with the right to life will be examined.

The last paragraph is devoted to characteristic of the conflict between the right to abortion and the right to life of the fetus.

## METHODOLOGY

The methodology of research will pursue a multi-dimensional approach. In particular, it is proposed to depart from “black letter law” research tradition and draw upon a wider selection of views on the topic expressed by specialists in areas of human rights and the rule of law. The sources will therefore include primary sources:

- legislative sources (international, regional and national);
- case-law (the ECHR, national courts’ decisions);
- academic literature.

Conceptually, the research will rely on learning of prevailing norms in the legal field (normative approach) in combination with a comparative method. Combination of such methods will allow answering main research question which is put under the research.

*The sources of knowledge on the topic can be divided into several categories.*



1. Research analyzing the issues of the Bill of Rights and number of international legal instruments in the human rights sphere. From the outset it is worth mentioning that the research works on right to life are extremely old. Resources available as of today include the works starting from beginning of 20 century and totally new ones, combination of which might be a good starting point for exploring concrete problems of human rights.
2. The body of knowledge on the themes of the right to life, right to death and organ transplantation seems to be well-developed: there is, for instance, framework of universality of human rights and their equal application. Within the international organizations (both – governmental and non-governmental) in this concerned field there are numbers of recommendations, declarations, communications, that help to clarify contradictory questions.

### **GENERAL PROVISIONS OF THE RIGHT TO LIFE AND THE RIGHT TO HEALTH CARE**

Right to life is guaranteed by number of international and regional legal instruments, namely: art. 3 of the Universal Declaration on Human Rights (UDHR), art. 6 of the International Covenant on Civil and Political Rights (ICCPR), art. 4 of the American Convention on Human Rights, art. 4 of the African Charter on Human and Peoples' Rights, art. 6 of the Convention on the Rights of the Child, art. 9 of the Convention on the Protection of the Rights of Migrant Workers and Members of their Families, art. 1 of the American Declaration of the Rights and Duties of Man, art.2 of the European Convention on Human Rights (ECHR) and in number of Protocols to these instruments (for example, Second Optional Protocol to the ICCPR aiming the abolition of the death penalty or Protocol 13 to the ECHR concerning the abolition of the death penalty in all circumstances).

Under these legally binding documents everyone has the right to life that has to be protected by law. Art. 6 of the ICCPR states that *"No one shall be arbitrarily deprived of his life"* (International Covenant on Civil and Political Rights..., 1966) However, there are some exceptions, under which the right to life can be derogated. Art. 15 of the ECHR allows to derogate from international obligations in time of emergency, and in its para.2 indicates, that *"No derogation from Article 2, except in respect of deaths resulting from lawful acts of war"*. (European Convention on Human Rights..., 1950)

The right to health care in the system of fundamental social rights occupies a special place. In recent years, interest of a human as the highest social value and especially to his personal rights increased. Human health is one of the highest values, which person can own. It is the first vital requirement, condition and integral feature of life.

According with the art. 25 of the UDHR *"...everyone has the right to a standard of living adequate to for the health and well-being of himself and his family..."* (The Universal Declaration of Human Rights..., 1948)

Article 11 of the ICESCR provides *"...the right of everyone to the enjoyment of the highest attainable standard of physical and mental health... States shall take steps that will provide creation of conditions which would assure to all medical service and medical attention in the event of sickness"*. (International Covenant on Economic..., 1966)

Similar issues are included in the art. 11 and 13 of the European Social Charter. (The European Social Charter..., 1996)

European Parliament in 1999 in its working paper "Fundamental social rights in Europe" gave the definition of it: "Fundamental social rights in this context mean rights to which the individual citizen is entitled, which he can exercise only in his relationship with other human beings as a member of a group and which can be made effective only if the State acts to safeguard the individual's environment. Social rights

are a necessary complement to civil rights and liberties, since the latter cannot be enjoyed without a minimum of social security". (Brutt *et al.*, 1999)

Take into account provisions of international treaties it can be concluded that in the sphere of health care States must take all measures to guarantee access of their citizens to the highest standard of health, to available and accessible health services of adequate quality.

Right to health care as fundamental social right of citizens can include such components as: the right to eliminate the danger to life and health, the right to protection of life and health from unlawful acts, the right to medical care, the right to information about their health status, the right to privacy on the state of health, the right to donation.

Following chapters will demonstrate how the right to life and right to health of one person may be in the conflict with each other or with the same rights of other persons.

## **RIGHT TO LIFE OF RECIPIENTS WAITING FOR ORGAN TRANSPLANTATION**

### **Basic features of the transplantation**

The key process in formation of transplantation as a medical science lies in its interaction with the legal sciences, the mutual influence of medicine and law. Modern law scholars draw special interest from legal questions involving transplants. These questions are primarily concerned with problems of clear definition of the concept of death, which has a direct impact on the possibility of removing an organ or tissue, problems of the complexity of surgery; and the need to avoid the possibility of rejection of the organ. The second group is formed on problems relating to providing and obtaining consent for organ removal and transplantation from both donor and recipient, as well as the patient's consent for posthumous removal of their organs for transplant, and the consent of relatives or legal representatives. Another group consists of issues of payment or charity for transplantation, along with ethical and economic aspects of it. Clearly, the need for legal regulation of organ transplants and tissues is particularly acute at the stage of clinical transplantation, when the rise of medicine and jurisprudence was grounded idea on the necessity for legal protection of all participants of transplantation: donor, recipient, and health professionals.

However, existing legislation does not meet the objective needs of patients' rights in the context of rapid scientific and technological progress and needs improvement in terms of legislative technique.

Directive 2010/45/EU of the European Parliament and of the Council of 7 July 2010 "On standards of quality and safety of human organs intended for transplantation" defines transplantation as "...a process intended to restore certain functions of the human body by transferring an organ from a donor to a recipient." (Directive 2010/45/EU)

After conduction of a study in this sphere, transplantation should be defined as a special type of medical services, which facilitates the realization of the constitutional right to protection of life and health, lies in the conduct of operations to transplant organs and tissues performed with the consent of the recipient by healthcare facility under strict state control and entails certain legal consequences for participants. For successful development and dissemination of using the transplantation as the method of treatment it is important to follow principle of respect for observance of human patient; respect for the order according to the "waiting list"; non-commercialization of organ transplants and human tissue.

### **Problems for ensuring recipients with transplants**

One of the most crucial ethical aspects, which necessarily occur during organ transplantation is the necessity to determine the criteria of distribution of donor organs and tissues. In accordance with accepted international standards, the main criterion that affects the decisions of a doctor, is the degree of immunological compatibility of couple donor - recipient. According to this criterion organ is given not to the

person that has higher or lower social status, not because one has more or less income, but because he is more suited to immunological parameters. This approach is similar to the blood transfusion. Immunological and biological data of the person who needs an organ transplant are entered into a database, which is called "waiting list." Another criterion is the degree of severity of the recipient. This criterion applies in cases where a body suited to multiple recipients. But there is a third criterion that should be considered by the doctor in the case of allocation of an organ. It is used in cases where two organ recipients almost equally suitable, and both of them are in critical condition. In this case, the decision is made on the basis of the length of staying of the recipient in the "waiting list". Preference is given to those who previously were in the "waiting list".

It is a well-known fact that organs should be allocated due to special so called "waiting list" of the recipients. Persons that need organ for transplantation must be confident that they have equal opportunities to be tapped into the system of allocation of organs: "[i]n selecting a system of allocation, it would be wise to choose one that favored those most likely to benefit from a transplant. Rational planners [behind the veil of ignorance], ignorant as to whether or not they will ever need a transplant or retransplant, would increase their own chances of benefiting from a transplant by setting up a system that, all else equal, distributed scarce organs to those most likely to gain long-term survival from a transplant". (Williams, 2003)

However, such a distribution does not stand up to criticism, since there are cases when recipients have the same health indicators or the length of stay in the "waiting list". That is why there is a State's obligation to ensure the transparency of the formation of such lists, which often fails.

Taking into account the above mentioned, transplantation as a way to ensure the right to life and health of the patient has not developed a practical solution to the conflicting issues regarding the provision of the organs to two or more recipients, and thus leaves an open question on how to ensure their right to life and health.

## **RIGHT TO DIE V. RIGHT TO DEATH**

Main characteristics of the right to life were discussed above, so the following chapter will deal with the legal and moral issues of the euthanasia or in other words the right "to die in dignity".

The starting point for the discussion in the present chapter is the need to define the "euthanasia". The term derives from the Greek *eu* and *thanatós* and has been translated as «good death» or «easy and gentle death» or «dying well». It is clear that in modern debate euthanasia is a term employed in a medical context, with usual reference to a terminally or incurably ill patient who is in a severe and unbearable pain or in some kind of incapacitating condition and is limited to the role of physicians. (Besirevic, 2008)

Although the popular term "right to die" has been used as a label to describe the debate over end-of-life decisions, the underlying issues include a variety of legal concepts, some distinct and some overlapping. For instance, "right to die" could include issues of suicide, passive euthanasia (allowing a person to die by refusal or withdrawal of medical intervention), assisted suicide (providing a person the means of committing suicide), active euthanasia (killing another), and palliative care (providing comfort care which accelerates the death process). ("Right to Die")

Internationally, States and international organizations have produced quite strict practice with regards of legal regulation of right to euthanasia. ECtHR in its case *Pretty v. the United Kingdom* held that there had been no violation of Article 2 (right to life) of the Convention, finding that the right to life could not, without a distortion of language, be interpreted as conferring the diametrically opposite right, namely a right to die. The Court accordingly finds that no right to die, whether at the hands of a third person or with the assistance of a

public authority, can be derived from Article 2 of the Convention (EChHR, *Pretty v. the United Kingdom*, 2002).

The Council of Europe in its Recommendation 1418 (1999) in para.9 "...recommends that the Committee of Ministers encourage the member states of the Council of Europe to respect and protect the dignity of terminally ill or dying persons in all respects:...by upholding the prohibition against intentionally taking the life of terminally ill or dying persons." (Recommendation of the Parliament Assemble...1999) More detailed question of euthanasia were raised in the Recommendation 1859 (2012) in para. 5 in accordance to which "*Euthanasia, in the sense of the intentional killing by act or omission of a dependent human being for his or her alleged benefit, must always be prohibited*". (Recommendation of the Parliament Assemble..., 2012)

WMA Declaration on euthanasia adopted by the 38th World Medical Assembly in October 1987 stated that "*Euthanasia, that is the act of deliberately ending the life of a patient, even at the patient's own request or at the request of close relatives, is unethical*". (Declaration on euthanasia adopted by the 38<sup>th</sup>..., 1987) Physician-assisted suicide, like euthanasia, is unethical and must be condemned by the medical profession. (World Medical Association Statement on Physician-Assisted Suicide, 1992)

Bill of rights and other human rights treaties keep silence about the right of the person to die in dignity. The documents cited above are formed in the form of recommendations, thus, leaving the right of the State to determine its own policy on this issue. Nowadays only the Netherlands (Termination of Life on Request and Assisted Suicide, 2002), Belgium (The Belgium Act on Euthanasia, 2002), Luxemburg (National Commission for Control and Assessment..., 2009) and Canada (Legislative Summary of Bill C-14...) legalized euthanasia in their national legislations.

To sum up, international instruments do not give a single answer to the right to die in dignity, leaving the field for maneuver to States. They also do not establish the right to freely decide human's own fate and the opportunity to choose violation of the right to life by choosing death.

## **THE RIGHT TO WOMENS' HEALTH AND THE RIGHT OF FETUS TO LIFE**

A special place in the complex of human rights is dedicated to women's rights. As an integral part of human rights, they are not fully realized in any state. Nowadays this problem becomes especially urgent in connection with the non-compliance with international standards concerning the health of women, which as the result has a high level of maternal and infant mortality.

The following chapter will analyze woman's right to health care and thus, right to abortion and its ratio with the right to life of the fetus.

### **The right to abortion as a mean of providing health care**

As was mentioned in the chapter II, definition of the right to health includes both physical and mental health. The category of health is a complex concept and can include many components, one of which is reproductive health. The concept of "reproductive health" was first introduced into international legal practice by the International Convention on Population and Development dated 1994. It was proposed to understand the rights of spouses and individuals to decide freely on the number of their children, the intervals between birth, time for their birth, the right to be informed and to have access to all safe, effective and affordable family planning methods of their choice, as well as other ways of regulating births that do not contradict the law. (Program on Action, adopted at the International Conference..., 1994) Art. 12 of The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) clarifies the right to family planning and provides that "*States Parties shall take all appropriate measures to eliminate discrimination against women*

*in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.*" (Convention on the Elimination of all Forms..., 1979)

In the European context there is no absolute prohibition on abortion. ECtHR has applied the concept of the "margin of appreciation" in order to allow individual states some degree of control over the time limit within which an abortion can legally be carried out (Bantekas and Oette, 2016). The denial of information about the possibility of obtaining an abortion constituted a breach of the protection of woman's right to life. (Bantekas and Oette, 2016)

States parties should take all appropriate measures to protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy engages the mental and physical health of the mother or the life of the mother or the foetus. (Protocol to the African Charter on Human..., 2003) The UN Human Rights Committee in *K.L. v. Peru*, recognized that the failure of the Peruvian government to ensure legal abortion services for a 17-year old girl carrying an anencephalic fetus violated her rights to privacy and freedom from cruel, inhuman or degrading treatment, among others. (Committee on the Elimination of Discrimination against Women, 2011)

The main obligation of Governments and all international organization is to strengthen their commitments to women's health, to deal with the health impact of unsafe abortion. (Report o the International Conference on Population and Development)

Nonetheless, existing statistics show the inability of the state to provide the necessary level of safe abortion, the availability of appropriate clinics. For example, while Africa accounts for 27% of global births annually and for only 14% of the women aged 15–49 years in the world, its share of global unsafe abortions was 29% and, more seriously, 62% of all deaths related to unsafe abortion occurred in Africa in 2008. The risk of death due to unsafe abortion varies among developing regions. The case–fatality rate for unsafe abortion is 460 per 100 000 unsafe abortion procedures in Africa and 520 per 100 000 in sub-Saharan Africa, compared with 30 per 100 000 in Latin America and the Caribbean and 160 per 100 000 in Asia. (World Health Organization...)

Thus abortion can be justified as a method to provide proper level of health, and in some cases, to save the life of a woman.

### **Right to life of fetus**

The question of the legalization of abortions always raises ethical, moral and legal issues regarding the legal status of the embryo. Several countries have adopted various legal frameworks for protecting life before birth:

- Explicit recognition of a constitutional right to life before birth (national constitutions of Guatemala and Chile);
- Constitutional protections that confer equal protection for the life of both the pregnant woman and the "unborn," (constitutions of Ireland and the Philippines);
- Legislation establishing that the right to life is subject to protection prenatally (Poland) (Center for reproductive rights).

For example, in 2010, the Dominican Republic adopted a new constitution, which recognized a right to life from conception. In 2008 and 2010, the United States (U.S.) state of Colorado, and in 2011, the U.S. state of Mississippi rejected initiatives to amend the constitutions of these states to recognize that 'life begins at conception' and that from the moment of fertilization, zygotes, embryos, and fetuses are people with all the rights guaranteed to persons under their state constitutions (Center for reproductive rights).

Since 2008, at least 16 Mexican states have amended their constitutions to protect the right to life from either fertilization or conception. In 2007, members of the Slovak Parliament challenged the constitutionality of the country's abortion law, arguing that the constitution protects the right to life before birth. However, the Slovak Constitutional Court found that granting the right to life to a fetus would directly contradict women's constitutional rights to health and privacy and upheld the constitutionality of the abortion law. (Center for reproductive rights)

International human rights documents say nothing about the right to life of the embryo, referring to the right to a child's life. However, the preamble for the Declaration of the Rights of the Child 1959 refers, that *"the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth"*. (Declaration of the Rights of the Child 1959) At the same time the Convention on the right of the Child 1989 in art.1 defines that the *"child means every human being below the age of eighteen years..."*, and art. 6 fixes the State's obligation to *"...recognize that every child has the inherent right to life"* (Convention on the Right of the Child...,1989).

Among regional human rights instruments only art. 4 of the American Convention on Human Rights protects life before birth: *"Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception"*. (American Convention on Human Rights...)

A clearer response to these issues can be found in the jurisprudence and practice of international human rights institutions. European Commission of Human rights stated that *"...the view that [Article 2] does not include the unborn"* and *"The right to life is guaranteed to every one who 'lives'; in this context no distinction can be made between the various stages of developing life before birth or between born and unborn children"*. (Case of Paton v. United Kingdom European..., 1981) ECtHR affirmed that *"the unborn child is not regarded as a "person" directly protected by Article 2 of the Convention and that if the unborn do have a "right" to "life", it is implicitly limited by the mother's rights and interests"*. (ECtHR, VO v. France..., 2004)

The lack of a single policy on the definition of beginning of the right to life leaves States the power of choice for their own policies, which in turn creates a lot of complaints and precedents before the judicial authorities. A prohibition of abortion to protect unborn life is not therefore automatically justified under the Convention on the basis of unqualified deference to the protection of pre-natal life or on the basis that the expectant mother's right to respect for her private life is of a lesser stature. (Grand Chamber ..., 2010)

## CONCLUSIONS

It is very possible that the exercise of a fundamental right cannot be plenary, without limitation of another fundamental right. Conflicts between different generations of subjective rights and fundamental rights are explained by the fact that they come from different social interests, protected by different rights and from the rivalry between the values that are protected by various fundamental rights to protect their "existence of second-generation rights (economical, social, cultural) an involves massive state legislature, are endangering the first generation of human rights (political and civil rights). (Cornescu, 2009)

Mostly the article indirectly describes the rights of the new generation of human rights. These rights, caused by scientific and technological progress, arose in connection with the development of science and the implementation of its development. Organ transplantation, cloning, euthanasia are the components of a list of basic rights of the fourth generation.

This article as its main aim had a basic analysis of existing conflicts between civil and political rights (namely the right to life) on the one hand and social, economic and cultural rights (namely the right to health) on the other. The state has no right to interfere with the private life of a person, but it is obliged to implement its internal policy in such a way as to guarantee and ensure the realization of humans' rights.

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# The Place and Role of Right Depriving Legal Facts in the Legal Regulation Mechanism of Civil Property Relations

*El lugar y el papel de los derechos que privan los hechos legales en el mecanismo de regulación legal de las relaciones de la propiedad civil*

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### ABSTRACT

The paper shows that the basis for termination of property relations in civil circulation can be identified by the integrity of the legal system of a state. The author emphasises that right deprivation is used in the existing legislation not only as a measure of enforcement or realisation of state interests but also as a measure of deregulation of socio-economic development. In particular, it is specified that court relations can be realised only with the participation of progressively recognised legal facts.

**Keywords:** Legal facts; property relations; right limitation; right termination.

### RESUMEN

El documento muestra que la base para la terminación de las relaciones de propiedad en la circulación civil puede ser identificada por la integridad del sistema legal de un estado. El autor enfatiza que la privación de derechos se utiliza en la legislación existente no solo como medida de cumplimiento o realización de los intereses del estado, sino también como medida de desregulación del desarrollo socioeconómico. En particular, se especifica que las relaciones con los tribunales solo pueden realizarse con la participación de hechos legales progresivamente reconocidos.

**Palabras clave:** Hechos legales; relaciones de propiedad; limitación de derechos; terminación de derechos.

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## INTRODUCTION

The advancement of modern society is connected to increasing importance and role of law as means of regulating social relations and guaranteeing subjective rights. In this aspect, the study of methods of legal impact on the behaviour of subjects of law that defines the essence of legal effect is relevant. Complex, multi-faceted behaviour of citizens requires regulation primarily by legal provisions. The state uses law when resolving conflicts in society, which becomes the most important means of exercising social control. To realise control, law uses particular instruments – means of legal impact on social relations, which in turn are divided into two groups – legal incentives and legal limitations. This predetermines theoretical and practical relevance of the analysis of legal limitations.

The purpose of this article is to analyse legal limitations as a category of legal means by their characteristics; justification for the classification criteria of legal limitations; definition of their functional role and their place in the system of other means of legal influence.

Legal limitations influence the behaviour and interests of subjects not only indirectly through limiting subjective law but also directly (for example, through the threat of punishment). That is, legal limitations not so much limit subjective rights, as individual freedoms and the process of satisfying their interests. Therefore, the application of legal limitations of subjective rights is secondary, they need to be examined in regards to specific interests of particular legal subjects. A conclusion can be drawn that the term "legal limitations" includes a number of limitations, among which are limitations on rights of physical and legal entities, interests of individuals, authorities, the state, etc.

## LITERATURE REVIEW

Legal limitations were first studied at the branch level, reflecting their necessity in specific spheres of living (Maydell, 2008). In branch legal literature, limitations are understood differently depending on the need of a particular kind of social relations and the corresponding legal means of influence over them (Martin, 2015). Initially, legal limitations were applied by Roman jurists who identified servitudes aimed at limiting the owner in their rights (Durrant, 2017). The most prevalent were land servitudes. The owner of an estate that, as a result of servitude establishment, was subject to certain limitations, according to Roman law, had to endure the subject to the servitude taking certain actions, not to interfere with the use, etc. Provisions of the current law (civil, land) contain elements of the servitude. Categories of legal limitations were studied within spheres of family, labour, environmental, administrative, criminal and constitutional law (Collins, 2017).

It is necessary to pay attention to a number of aspects in the general-theoretical understanding of the category "legal limitation". First, legal limitation acts as an external factor affecting the interests of legal subjects (Schreiber, 2013). The basis for legal limitations is the close interrelation between external legal conditions and the internal structure of an individual.

Second, legal limitation is information-oriented, meaning it has the purpose of conscious change of subject's behaviour in the legal sphere. It is important to note that legal limitations are established to regulate social relations, ensure their proper functioning, while also acting as strong deterrent factors (Lee, 2016).

Third, on the informational-psychological level, legal limitations act solely as negative means (prohibitions, obligations, penalties, etc.) that do not include positive means (Staff, 1972). However, legal limitations, providing negative motivation regarding the interests of their own subject, act as the necessary means of influence on the interests of society as a whole and the interests of certain counter-subjects because they are aimed at ensuring socially useful purposes. Their importance for educational and social influence they exert should be stressed (Planzer, 2014).

Fourth, the specific (primary) legal means, such as penalties, prohibitions, obligations, termination, and not legal norms, institutions, branches, in which these legal means are secured and which acquire right

deprivation meaning owing to primary legal means, it is necessary to view legal limitations in their informational-psychological sense (Staff, 1973).

Thus, legal limitation – is legally enshrined content of the subject of legal relations against the wrongful act, the purpose of which is to satisfy interests of the counter-subject and public interests in security and protection in general (Langemeijer, 1955). Legal limitations act as established in law boundaries, within which subjects must operate, without violating legitimate rights of other subjects, that is, they perform specific acts of certain individuals to satisfy the interests of society (Kiikeri, 2001).

The main features of legal limitations as a theoretical category are such:

- they are connected with negative conditions for the exercising self-interests of the subject through directing them to the content and at the same time to satisfaction of interests of the opposing party and public interests in their security and protection;
- report about the decrease in volume of opportunities, freedoms, and, consequently, the rights of individuals, achieved through obligations, prohibitions, punishments, etc.;
- represent the negative legal motivation;
- their main purpose is to reduce the negative activity of subjects in the field of law;
- aimed to protect public interests since they perform the function of public relations in general.

Legal limitations – are statutory exceptions to the legal status of citizens, which are preventative in nature, protect subjects, to whom these limitations apply, and other individuals against possible adverse effects (Kiestra, 2014).

## **MATERIALS AND METHODS**

The work uses standard legal methods of analysis and partially realises elements of economic analysis since application of provisions of the civil legislation in this case will be determined by vectors of development and formation of a further focus area by separate forms and phenomena of the social-economic environment.

As a reason for the choice of directions of state legislation formation, it is beneficial to examine the possibility of historical modelling and deciding the basis for the further successive relation on the part of public education. We think that this should be reflected in development programmes and state forecast of a general state of the legal system. This work uses the method of historical synthesis combined with a forecast of further development and the possibility of stratification by state authority. Additionally, the work takes into account that legal regulation can be performed by authoritative action.

## **RESULTS AND DISCUSSIONS**

In the pre-revolutionary period (before 1917), domestic civil law, despite the non-democratic monarchical regime, was expanded on the basis of private law and took the European tradition.

Since the current civil law is formed on top of private law, when transitioning to the formation of civil law in a legal state, it is necessary to attempt to find and analyse traditional, common for our state limitations of property rights of individuals that are inherent to the private law tradition of the domestic civil law.

The doctrine of limitation of property rights in imperial times was based mainly on the analysis of Roman law and its sources – European countries that embraced it (Germany, France). Alongside it, domestic limitations in the imperial legislation were studied, which had certain unique features and identity and were surveyed in special studies and mentioned in theoretical works of that time.

Pre-revolutionary (before 1917) period of establishing limitations on property rights of physical entities in the Russian Empire is highly important. In that period, limitations of ownership rights to real property were for the first times studied on the level of monographic works, this legal category became widely employed in science.

Limitations of ownership rights in that period were determined by the provision stating that with the great authority provided to the owner, it is concerning that the existence of a right without any limitation can have an adverse impact on the interests of other members of the same society or on the interests of society itself. These circumstances encourage the positive legislation to establish limitations on ownership rights. Thus, the conditions that led to the establishment of limitations of ownership rights in the Russian Empire were the interests of other authorised entities and society. Further, the priorities that led to the imposition of limitations in socially useful interests were defined. In particular, public health, public debt, the facilitation of communications between settlements, etc. In these areas of public life, free passage and travel through a someone's land were allowed, sanitary, construction, fire norms were established that limited the abuse by the owner. Indeed, violations of, for example, fire code by the owner can lead to the destruction of not only their property but also the neighbouring estates, when a fire can spread to them because of wind and will cause harm to others. Therefore, it is reasonable to limit the owner's wilfulness by the requirement to comply with the relevant building codes, fire codes, sanitary rules. It will correspond with general benefit and safety requirements. The latter is actually a part of the legal regulation mechanism containing appropriate limitations.

Complete control of a person over a thing is not done through establishment of property rights since there are appropriate limits. It is evident that the establishment of limitations on ownership rights leads to a situation where the right of ownership does not exist in full, and the removal of such limitations extends the scope of property rights. It is important to highlight the idea that limitation of the ownership right does not eliminate the right of a person (for example, alienation of a thing is not limitation), it only reduces its volume, which may also be temporary.

Some scientists of that time did not isolate limited property rights and limitation of ownership rights as separate legal categories. They attributed servitudes to the ownership limitations established in the interests of the neighbours, and at the same time noted that the legislation of that period uses the majority of well-established principles of "neighbouring law". Thus, limited property rights in the Russian Empire were regarded as limited ownership rights by some researchers. However, this approach is too superficial.

A more significant position was held by the scientists who separated limitation of property rights (in particular, participation rights) and the right over other property. Concerning the above positions about whether limited property rights relate to limited ownership rights or pose as a separate category, it should be noted that during the pre-revolutionary period a strong foundation for their careful distinction in legal thought was established. The basis for the isolation of limited property rights and limitation of ownership rights as separate legal categories is the following: the former provided a person with the right to another's item (for example, the right to use), the latter, through a specific limitation on the owner, did not provide them the opportunity to fully exercise their ownership right.

In particular, they distinguished the limitation of the right of ownership for the benefit of the state because the property should serve the interests of the state, not just individuals. Because the estate belongs to a person, the state declares it inviolable for others, but since this estate is part of the national territory, control over the land is limited (to maintain communication, freedom of movement, etc.) These limitations were usually divided into the general participation right, established for the benefit of everyone, and the private participation right, established in the interests of individuals. The specified division of the participation rights can be found in the idea that the general participation right acts as limitation of property rights, which was established for the benefit of all, but a private participation right was established in the interests of separate individuals. It is important to explain that the right to participate only infringes the owner, but does not grant

the right to use the property to other individuals. This highlights sustainability of the category of limitation of ownership rights during that period of participation rights, which were to a certain extent ignored by civil law scholars of the Soviet period, most likely because of total nationalisation of property and as a consequence – lack of demand for this legal category.

A widely accepted participation right was the inability to place windows on the border of adjacent estates. But under the agreement with the neighbour that removed this limitation, it was allowed to place windows on the border of neighbouring areas. Such limitations can be eliminated by consent (agreement) of a person. In addition, the participation right manifests in refraining from road ploughing, pit digging and other actions that would prevent passage, travel, transportation using the road. On the basis of this position, a limited property right, such as a servitude, granted the right to use other's property (passage, travel on an estate, etc.). In turn, the participation right limited the owner as they could not prevent the use of property, that is, they could not take actions that impede realisation of a servitude (refrain from digging pits, making fences or ploughing the estate on which the other person has a limited property right, meaning – not to interfere with its realisation).

In addition to the owner's limitations in the form of participation rights, the limitations on property rights that are not participation rights are also identified. The latter included limitations on ownership, use and disposal of property. In this regard, it was emphasised that limitations may relate to each of the constituent parts of the ownership right – possession, use and disposal – and may extend not only to one but also to other components of the ownership right. Considering this distribution helps to better understand separate limitations of ownership, it is worth inspecting it in greater detail.

Limitation of the ownership right consisted in the fact that the owner, who had departed from the Orthodox religion or brutally treated the serfs, was deprived of the right of entry in the estate. Custodianship was appointed over their property, and instead of the owner, it was owned by a custodian. At the same time, the owner received income from that estate and was able to sell it, therefore the use and disposal of property were not limited. Obviously, such limitations were aimed at preserving property, protecting and securing principles of that time (in particular, religious) and proceeded from the principle of reasonableness (it is foolish to allow a person who destroys or harms the estate to keep ownership over it).

Limitation of the right of use included a prohibition on the forest owner to perform devastating exploitation that render reforestation impossible; in the case of hunting, the owner of the land was prohibited by law from hunting certain animals and during off-season; in the case of subsoil, the owner must conduct development at the mine or the digging only under projects that were drafted and approved by the mining administration.

It is obvious that such limitations have survived to this day and they are established by the special environmental legislation, while the civil legislation affirms them at the general level in norms on the exercise of property rights. It should be noted that legal limitations are of dual nature, being on the verge of public and private law (in the latter aspect they concern the interests of the owner). It is obvious that such limitations are established for the sake of public benefit and are dictated by it.

By the order, the owner was limited in cases of establishing custody over their property (minor, insane), during arrest, prohibition of property acquisition. This was explained as the limitation over the owner's property for the peasants' need (used for agricultural production). Since the community viewed the property as the source of income from peasant production, the sale of a house that represented a peasant's need was prohibited, but the community was asked to pay its price. The freedom of private property transaction is largely restricted here for the sake of the economic interest of the communities themselves. This resembles a specific manifestation of limitations for the public needs that existed in pre-revolutionary law, in particular, there are reasons to regard this as a prototype of the modern preemptive right.

These and other limitations were borrowed from German and French law. However, there were strictly Russian limitations on the property rights of individuals. There was a distinction between ancestral and

acquired property. The former was considered to be inherited real estate, but it was impossible to dispose of it arbitrarily since it should pass to the heirs. There were limitations on alienation of ancestral estates. This should be attributed to certain limitations in the disposal of real property, generated by the peculiarities of family and ancestral structure of that epoch. Consequently, the validity of such limitation at that time was predetermined by the protection of the interests of other individuals – heirs of the owner, for which the law took measures for the safety of the relevant property.

Limitations on the transferability of items could relate to certain fine arts that were limited in transferability and could only be acquired with a permission from the Ministry of Public Education. The priorities here were societal interests and preservation of cultural heritage, which allowed limiting the circulation of certain things.

Some scientists classified expropriation as limitation of ownership. Manifestation of such limitations sometimes seems very strange from the modern standpoint, though it was quite understandable at that time. In the conditions of total lack of building materials, the owner had to tolerate dismantling parts of their buildings for the purpose of construction of workshops, access roads, construction of railways etc. Thus, the property right to a real estate was limited in the interests of public needs through expropriation of building materials from which it was built. The person could accept these public interests and sacrifice their property rights, which deprived the real estate of its useful properties. Since the legislation sometimes allowed compulsory acquisition of property, the compensatory approach to expropriation that existed in the pre-revolutionary times deserves some attention. In fact, the civil legislation only indicates that the repurchasing price of property that is being alienated (historical or cultural monuments) is determined by an agreement of the parties, and in the case of a dispute – by the court. At the same time, the modern legal regulation neglects special rules on forced repurchase, the evaluation criteria of property that is being alienated, therefore some aspects of the pre-revolutionary experience of compensatory criteria in this matter should be taken into account.

In pre-revolutionary law, there were limitations in contract law along with other limitations. Despite the fact that the supreme principle in the sphere of private autonomy, the exercise of individual's active freedom, is the principle of contractual freedom, the contractual sphere is subject to certain limitations. Consequently, limitations in contract law predetermine the possibility of the state's influence on civil circulation, regulating the possibility and procedure of conclusion of certain transactions and their content. Certainly, the limitation of the free sale of weapons affects civil circulation and complicates the ability of a physical person to conclude respective contracts.

By the way, some pre-revolutionary scientists highlighted the freedom of the contract from a negative party (nobody is obliged to enter into the contract against their will), which involved establishment of limiting obligations concerning monopolies (for example, railways) upon the conclusion of public contracts. They had to enter into contracts that were in the sphere of their activity, while the refusal to provide professional services could serve as grounds for a claim for damages. It was proposed to extend this responsibility to all enterprises providing services to the public – pharmacies, shops, carriers etc. After all, everyone has the right to expect that the services offered to the public in general, will be provided in particular to him. Indeed, such an approach deserves support and today continues to be actively realised in legal life. Such limitation in contract law is socially useful and necessary since it promotes normal civil circulation, serves its provision and satisfies the needs of consumers in goods, so there are grounds for its existence.

The positive freedom of contract (the right of persons to enter into contracts of any kind) has also been subject to limitations. The law cannot authorise contracts for murder, rebellion against the authorities, which would mean the destruction of public order. Consequently, limitations on contractual freedom may be aimed at preserving the rule of law in the state.

It is important to mention that the category of "flexibility of contractual freedom" affirmed that while limitation established by law narrowed contractual freedom, the lifting limitations could extend it. This approach allowed to see the degree of limitations imposed by law on contractual freedom and, as a



consequence, to ascertain the extent to which a person could voluntarily enter into contractual relations and how free it was. At that time, public interest could clearly be traced in the limitations of contractual freedom, in particular, the protection of the natural environment. Thus, in order to protect the fauna, the International Convention for the Protection of Birds Useful in Agriculture (1902) was adopted, where under article 1, it was prohibited to import, export, transport, sell, purchase and offer for sale nests, eggs and broods of birds on the approved list. Consequently, the transferability of this property was limited for the sake of public benefit.

Another important category is the limitations of unjustified enrichment by virtue of the concluded contract. It was thought that the party which had been mistaken and subsequently (to the performance of the obligation) found its mistake, should compensate the other party for the costs of the contract but has no grounds to demand the performance of the obligation in respect of which there was a mistake. As a result, if we agreed on the sale of a picture, believing that this is a copy, while it is actually a valuable original, the seller must compensate the buyer the cost of transporting it but had no grounds to demand the transfer of the picture. This approach is considered to be reasonable even in relation to the present: limits the execution of a transaction concluded under the influence of a misconception of significant importance.

At the same time, the negative contractual interest is limited to the actual costs incurred in connection with such a contract, but there are no grounds to exceed the sum the contractor would have received under the full validity of the contract. With regard to the responsibility of the person who was wrong, everyone entering into business negotiations with other persons or inviting into a business relationship takes the risk for all the losses that may come for the latter for their incorrect statements. This approach deserves attention and is quite useful, but unfortunately, it has not been sufficiently developed in modern jurisprudence, although it received coverage in the pre-revolutionary times.

The aspect of limitations on the property liability of persons under obligations due to injury was investigated. It was stressed that when determining the amount of property liability, the estate autonomy and the property status of both parties to the obligation should be taken into account. By the way, this approach has been preserved in modern legislation because civil law establishes that the court can reduce the amount of compensation for harm caused by a natural person, depending on its material situation, except cases when the harm was caused by committing a crime. Indeed, such an idea is relevant and continues to exist in modern law, and it is clearly justified by the principles of fairness and reasonableness. It would be unfair to impose penalties, which can leave a person without means of subsistence or housing (which besides property value also has a social value), and it is unreasonable to impose such a penalty that the person in their life would obviously not fulfill.

In pre-revolutionary times, the limitations on inheritance were primarily aimed at determining the circle of persons – inheritors. According to the *Russkaya Pravda*, inheritance rights were limited to one descending line. That being said, no unity of approaches to such limitations were observed. Thus, according to the Pskov judicial certificate of 1397, the right of inheritance was no longer limited to one descending line but extended to all relatives of ascending, descending and collateral lines. All this confirms the necessity of having a basis, a common approach for establishing limitations in inheritance law, in particular, concerning the circle of heirs. By this time, and this is confirmed by the history of advancement of domestic law, they are not properly developed.

Summarising previously said, it should be noted that the difference between limitations on the property rights that existed in ancient Rome and those that were applied in pre-revolutionary Russia, were successfully explained in a number of works that noted that the social side of law receives advancement in various spheres of legal life (limitations in contract law, limitation of owners of real estate, development of the institution of compulsory acquisition for state needs etc.). Finally, the idea of protection and development of civil circulation, as opposed to the individualism protected by the Roman law, was widely accepted. Universal values began

to acquire proliferation and respect when establishing limitations, which have also appeared at the international level. This is illustrated by the 1907 Hague Convention respecting the Limitation of the Employment of Force for Recovery of Contract Debts, article 1 of which established the non-use of armed force for the recovery of contract debts claimed from the government of one country by the government of another country.

Thus, the pre-revolutionary Russian civil law, unlike strict Roman law with its formulas and a clear logical, mathematical approach to law, has already embraced social theories, which, in particular, has affected the limitations of property rights of individuals. The consequence of this was the development of limitations in public interest (in particular in the interests of society), and not only the limitations in favour of neighbours, which were developed in ancient Roman law and partially accepted by the Russian law of pre-revolutionary Period.

The Soviet period of setting limitations on the property rights of individuals is important for the study because restrictive measures in regards to property rights of individuals, their rationale basically did not belong to a strictly legal plane. The limitations in the form of "participation rights", started in the pre-revolutionary period, were not actually needed by the Soviet civil law because of significant nationalisation of property, lack of servitude structures, emphyteusis and superficies in the Soviet civil law. During the existence of the administrative-command organisation of the society, civil law was predominantly state-governed and was primarily built on the basis of public law rather than private law. The establishment of limitations on the property rights of individuals was not clearly justified from the point of view of private law: they were often caused by purely ideological motives, because of available expediency. Such limitations included, for example, the Soviet-era limitation on the number of living space in the house, owned by a citizen. Based on the idea of achieving universal equality, the ability of an individual to own the means of production, enterprises etc was limited for the sake of public needs. In modern conditions, such limitations are eliminated in accordance with the construction of a legislation on the legal principles.

In times of totalitarian Soviet rule, people were turned into "cogs" of the state machine, and the rights that were recognised for them were protected by law only when they were realised for their purpose in the Soviet society, which was building Communism. There was a clear disregard for the rights of individuals because the right was exercised in the pursuit of ideological interests of a state, which were far from a purely legal rationale.

The study of approaches to the limitation of property rights that existed during the Soviet period will allow us to better understand their nature, to identify the prerequisites for establishing such limitations and the priorities they were intended to adhere to, to determine whether it is possible to recognise them as inapplicable today. The Soviet era deserves attention because the state had a different economic and, as a consequence, legal system. At that time, other priorities were at the forefront than today, when civil law embraced the ideas of European private law. In particular, non-legal regimes are characterised by a high level of human rights abuses, administrative limitations against the human right and the priority of public interests over private ones. At the same time, it should be noted that the accounting of approaches to limitations on the property rights of individuals during the Soviet era is necessary to form a holistic view of the nature of such limitations. The study of limitations on the property rights of individuals under conditions of state infringement, administrative regulation of civil relations will provide an opportunity to reveal an unjustified approach to establishing these limitations and their legislative regulation. These are important to study in order to avoid modern law embracing these limitations, which have appeared in it since Soviet times without being substantiated.

In Soviet times, the state was considered primary, and the law was secondary. As a result of this, during Soviet times the primacy of collective interest over personal was affirmed. Thus, the basis of limitations of property rights during the Soviet times was not a private interest but interests of the State that were based on ideological motives, from which ideas nationalisation of real estate and means of production, limitation of

transactions of this property, conclusion of economic contracts according to planned acts on distribution of products were introduced into civil law. Much attention was drawn to limitations of the rights of participants in the contractual process and to limitation of the right to early delivery in particular. This limitation was justified by the fact that the material funds were distributed according to a plan and were in effect, as a rule, for a year. Such limitations on parties of the contract derive from the planned nature of the Soviet economy, which in those conditions was efficient.

It is worth noting that currently there have already been conducted significant studies on limitations of property rights, which investigated limitations of property rights in the Soviet period. However, general approaches to the contemporary limitations of property rights of individuals remain not quite clear. The questions of what legal relations limitations of property rights of individuals were in and how they were established, what their prerequisites were, what priorities were presented have still not been explored, no periodisation of such limitations was conducted, although the complications of property rights of individuals were not the same in different periods of development of the Soviet legal system.

In general, the basis for limitations on property rights of individuals in the Soviet era was the state interests as a priority, while development of the rights of individuals and private interest was of secondary importance. The priorities for which limitations were set in those days were: seizing the means of production from private ownership, the security of the state, preventing surplus property in the ownership of citizens, avoiding housing speculation, combating generation of non-labour income, social justice, social protection of individuals. Some of these priorities, for which limitations on the property rights of individuals were established in Soviet times, are quite legitimate from today's standpoint: limitations on property rights of individuals to ensure human health, public safety and the rule of law.

It should be noted that periodisation of limitations on property rights of individuals in the Soviet period has its peculiarities depending on the increase or reduction of pressure on private relations, their consolidation at different levels of normative regulations. As a result, separate periods of establishment of such limitations should be specified.

The main types of legal limitations are legal fact-limitations that fit into the hypothesis of a legal norm, obligation, prohibition, suspension that are provided by disposition of legal norms and penalties, which characterises the sanction of legal norms.

In their activities, people take into account that the conditions of emergence of their rights and duties, privileges and prohibitions, desired or not desired legal consequences are determined by specific legal facts. Therefore, in some cases, subjects seek their beginning, while others would rather prevent their occurrence. Thus, legal facts that impose limitations are characterised as constraining circumstances, which are stipulated in the hypothesis of the legal norm.

Legal obligations, prohibitions, suspensions are specified in disposition of legal norms, but it is important to pay attention to different meanings of these factors (Wiberg, 2014).

Legal obligations – variants of necessary conduct that restrain the obliged party from committing certain actions aimed at satisfying their own needs and thus provide an opportunity to act in the interests of an authorised party. The characteristics of legal obligations are that they allow a person to act in a manner that is clearly specified in law, thus ensuring the limitation of an act of the obliged person, that is, they deter persons from all other acts that are contrary to subjective law.

In addition, it should be noted that legal obligations act not only as legal limitations. They also act as positive obligations, directing subjects to the need for a lawful act. As the general analysis of the psychological mechanism of legal regulation shows, positive obligations are still more connected to embarrassment rather than to stimulation of people's behaviour.

However, scientists pay more attention to the understanding of legal obligations as a negative factor. Even Hegel wrote that "an obligation is a limitation". In the legal literature, legal limitations are rightly linked to the narrowing of permits, establishment of prohibitions and additional positive obligations, since the obligation is a necessity that is (in case of its non-compliance) liable to punishment (Madsen, 1992).

Suspension – a temporary prohibition that regulates the ability of officials to use their functional duties. Suspension does not act as a legal obligation because it does not contain a final assessment and only suggests a further solution to the arising issue. At the same time, suspension contains elements of coercion on the part of a superior, controlling, supervisory agency that supervises or judicial body that temporarily suspends the existence of legal relations, thus preventing the occurrence of possible socially harmful consequences. Suspension also has a strong regulatory capacity (Qian, 2017).

Prohibitions – state-controlled deterrent means that, under the threat of obligations, are capable of preventing possible undesirable, wrongful acts that cause harm to both personal and public interests. Prohibitions act as passive obligations. By imposing prohibitions on the commission of certain acts, legislators thus impose on the citizen an obligation to refrain from prohibited acts. By creating obstacles to satisfaction of the interest of the individual against whom they act, prohibitions are aimed at realising interests of the opposite party.

The next element in the structure of the legal norm is sanction, where various kinds of punishments can be established as the most significant right-limiting means. Legal punishments are a form and a means of legal conviction of the guilty, wrongful conduct, as a result of which the person is necessarily limited in or loses something. There are many grounds for classification of legal punishments:

- depending on the branch, legal penalties are classified as constitutional, administrative, criminal, land, financial, etc.;
- depending on the scope of use – international, domestic and municipal;
- depending on the range of persons to whom they apply – general and individual;
- depending on the legal act containing said legal punishments – normative and enforcement;
- depending on the content, legal obligations are divided into substantive, moral, organizational;
- depending on the rights and obligations that are limited: limitations on civil and political rights and limitations on economic, social and cultural rights.

The classification of legal limitations broadens the understanding of their system, hierarchy, and gives much more opportunities to determine their functions and goals for society.

The objective of establishing legal limitations can be viewed on several levels. First, goals of limitations for all legal subjects (physical and legal entities, states) consist in ensuring the common good, development and functioning of the social system and its structural units. Legal limitations are universally recognised installations necessary for the organisation of life in any civilized society and to regulate relations between all legal subjects (Perlmutter, 2002).

Secondly, the limitations on the State (its bodies and officials) are intended to minimize arbitrariness and other abuses from officials, which is achieved by means of restraining state power by law and that is an obligatory attribute of a legal state (Bongar, 2017).

Thirdly, the goals of legal limitations and freedoms of a citizen tend to cause special concern in society. This happens because the rights and freedoms of a person and a citizen are of the highest value.

In general terms, the problem of legal limitations is a problem of limits of human freedom in society. After all, the freedom of each person extends only to the bounds from which the freedom of other people begins. However, the limitation of human rights is an acute problem for any society and state, since the normal process of functioning, life and development of society creates situations that require the state to establish certain limitations in the process of citizens exercising their rights. But the right to limit opportunities, freedoms,

to take away from people a part of their rights belongs only to the relevant state bodies as legitimate representatives of the whole society. It should be noted that the process of applying limitations requires a holistic system that guarantees their legal and justifiable application (Koszowski, 2016).

Guarantees in establishing legal limitations are necessary to ensure that legal limitations (at the level of norms) do not turn into obstacles to the exercise of the rights and freedoms of the individual (at the level of their realisation), so that from legitimate means they would not turn into socially harmful and illegal means.

Functions of legal limitations – main directions of impact of the right-terminating funds on the interests of legal subjects.

The main function of legal limitations is creation of conditions for satisfaction of interests of counter-subjects and public interests in protection and security. In exercising this function, legal limitations are intended to prevent illegal, antisocial activity. Right-terminating factors stabilize social processes, which illustrates their positive role. The function of protection and security, acting as a secondary function of the informational-psychological effect of law, is the basis for the function of public relations development.

In the functioning of the law enforcement mechanism, it is obligations and prohibitions that play the most crucial role. If obligations and prohibitions do not trigger, other limiting instruments come into effect, namely – the means of protection and responsibility that belong to the rights protection mechanism.

Essentially, legal limitations hold a subordinate position since they are a supporting form of the legal impact. At the special legal level of legal impact (at the level of legal regulation), the main means are subjective rights and legal obligations, permissions and prohibitions. However, in the informational-psychological aspect of the law, legal limitations are the leading means, together with legal incentives (because they are paired instruments that interact), and cover everything that is aimed at preventing illegal acts by exercising negative legal motivation. In this sense, everything that reduces the scope of opportunities and diminishes diversity of subjects' behaviour to a specific "limit" state is certainly a legal limitation (Mommers, 2009).

In society and state, the need to apply legal limitations is undeniable. However, it is necessary to pay attention to the fact that full application of the whole range of legal limitations without the functioning of legal incentives will not make a positive contribution to the development of social and legal relations in society. In the state there arises a need not only in socially active motivation for people but also in the presence of certain limiting, deterrent means, such as legal obligations, prohibitions, suspensions, punishments etc.

## **CONCLUSION**

The need for legal limitations is the basis of their functional purpose, the impact they have on society at this stage of its development and their importance, which sometimes acts as more important legal incentives. However, in our opinion, they should not be the leading means of legal impact, rather the necessary, supporting means. Although, exceptionally positive obligations, meaning the effect of legal incentives in the process of legal stimulation, cannot exist without legal limitations. It is this close relationship that the impact of law on society is built on.

It is believed that without the need to limit certain activities, the existence and functioning of law in society will be impossible. Nevertheless, it should be noted once again that only justified, legitimate legal limitations positively affect the protection and security of both interests of the authorised subject and society as a whole. That is, legal limitations should match the interests existing in the state and society and should only be established by legitimate state bodies.

Unfortunately, some legal limitations are connected to lobbying of certain interests; they are unlawful and established exclusively to satisfy the goals of certain groups of population, and sometimes – of separate individuals. Such legal limitations cannot be useful to the State and society as a whole. Therefore, if such

legal limitations are located among legitimate and necessary legal limitations, they have a negative legal motivation for society and reduce the positive impact that must be made by legal limitations.

The purpose of legal impact is to form the most desirable personal conduct for modern society and the state. However, to achieve this, it is important to establish limitations on actions of subjects of legal relations since it is necessary to remember that rights of one person can limit and prevent rights of other persons.

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## ARTÍCULOS

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# Existential Dissociation: to the Question of the Essence of Existential Consulting (*eks-consalting*)

*Disociación existencial: a la cuestión de la esencia de la consultoría existencial (eks-consalting)*

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### ABSTRACT

Familiar philosophy always offered in its "shop crutches" – something "kind a" for the mind and confidence that "everything is clear" and "life is never over." However, people disappointed in the consumer goods of existential recipes. Now, in connection with the rapid development of technical means through which "information about reality" spreads, "content", "texts" and "video", "comments on reality" and weekly "analytical reports on reality" are circulating: naivety: pleasures. Our task, the task of this text is try to feel, to see the "shifts" in reality and the means of its understanding, image, grasp, transformation.

**Keywords:** Humanitarian existence; human reality; reality and the means of its understanding.

### RESUMEN

La filosofía familiar siempre se ofrecía en sus "muletas de taller", algo "bueno" para la mente y la confianza de que "todo está claro" y "la vida nunca termina". Sin embargo, la gente decepcionó en los bienes de consumo de recetas existenciales. Ahora, en relación con el rápido desarrollo de medios técnicos a través de los cuales se difunden "información sobre la realidad", "contenido", "textos" y "video", "comentarios sobre la realidad" y "informes semanales analíticos sobre la realidad" circulan: ingenuidad: placeres. Nuestra tarea, la tarea de este texto es tratar de sentir, ver los "cambios" en la realidad y los medios de su comprensión, imagen, comprensión, transformación

**Palabras clave:** Existencia humanitaria; realidad humana; realidad y los medios de su comprensión.

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## COLLEAGUES

Of course – not we – the "pioneers". "Existential therapy" engaged by various professionals (Bujengtal, 1998; Bujengtal, 2001; Frankl, 1967; Frankl, 1990; Yalom, 2008; Yalom, 2009). In the 21st century – a new direction arose, which is called "philosophical praxis", "philosophical counseling" (Van Dortzen, 2004; Van Dortzen, 2006; Ehrenberg and Ehrenberg, 2010, Kagan, 2013). There is no doubt about the novelty, practicality, importance, effectiveness and prospects of these styles in counseling. However, the study of the biographies of the bearers of ideas shows that they are all from the realm of academic science and, most likely, they acutely feel the need to step over the border of "science", to get into "material", into "living". However, "getting into life", getting into "existence" is, as a rule, a problem. Although hundreds of years to hundreds of scientists it seemed that there were no boundaries between science and practice, existence, life. The confidence of any scientist – inheriting the ideology of the Enlightenment – lies in the fact that any person: can be educated, intelligent. Between people, between "minds" – there are no boundaries, obstacles, there is no abyss. Titans of the Enlightenment believed that the mind is something that can easily develop, improve, deepen, expand. Before the "mind": all are equal.

## METHODOLOGICAL FRAMEWORK

Mindful of his "habit of methodology", the habit of "scientific knowledge", the habit of seeking "truth" – we note with sadness that:

1. Categories "subject", "object", "knowledge", "method", "proof", "truth", "scientific research", etc. ... became metaphors, artistic images, intrigue in the art work "about scientists" types of "heroes" of subjects and "cinema". There was a "challenge to philosophy." To which the "philosophers" have so far not answered for some reason. Outsiders?
2. Knowledge – has lost its status as a "leader" of humanitarian ambitions, aspirations, meanings, strategies, goals, priorities, occupations, capital, liabilities (assets), "balance currency", "stocks", etc. For what many people are ready to give their lives? We venture to assert that "knowledge" does not enter today even into the first ten vital goals of most people. In any case, people with completely different deficiencies come to psychotherapists. And knowledge? Turn on the computer, ask a question and rake in the rubble of millions of links. Google – help us! However, to be a proud observer of the transformation of goals and values – a long time does not work. Because of the back, the question is catching up: why did the knowledge "fall"? What changed them? Why? What is the real structure of human potential, resource, capital? Those who exploit "human capital" have reached the "limits of capitalism." For many: there is an acute desire to look beyond the "limits of capitalism", beyond the "anthropic construction" that "was appropriate", but it shifted into a zone of irrelevance, a miracle incomprehensible.
3. It seems that for so long the former acceptable "exposure of success", as an important motive for human existence, as an exemplary "filler" of "existence": lost. The mass of people in the world – they were going to remain principled outsiders, "losers", "losers". They do not compete, they consider their "stay in Time" as something temporary, and success is what is worthy of contempt. The competition of outsiders? This is something incredible! The new hybrid existence, hybridization as a trend, is all the more surprising as it sets new boundaries, lines, formats for demarcating scenery in education, culture, and society. Aggressive underground: this is something that was not quite recently. If not "success" – then what?

4. Unexpected consequence: humanitarian education – becomes a problem. Firstly, because it is unclear – "what to expect"? Secondly, because it is not clear "what to want" (what to strive for)? Thirdly – it is unclear how to "receive" it? And, fourthly, WHERE?
5. The last, important, preliminary methodological remark: the source of "constructive proposals" – can only come from those who managed to merge, unite, reflect, comprehend, master, privatize both "knowledge" and "metaphors" and "methods" in their personal lives "And" actions, "and" capitalization "and" recapitalization, "and" philosophy "and" dehumanization." Thus it is necessary to keep in your head such a construction of the "human world", when different types of people, anthropic material, different people do not "simultaneously" intersect at one time. And, perhaps, it is appropriate to apply such remarks to the research, observation and expression of metaphorical judgments about this set of people, which are based on the recognition of the presence here and now of "aliens", "temporal travelers", "inappropriate people", "missed" ...

### Commentary to paragraph 1

*Subject or under-subject?* If the choice and notes about the "methodological framework" is acceptable, then the following "on the margins" should refer to this – to the "structure of my resource (potential)". At this point, we have to admit this with regret – there is no unity in understanding lines, borders, means of identification, nomination or samples. Therefore, several strategies for "demarkating" the contents of personal human life, the content of the humanitarian, anthropic, "my human" should be pointed out.

In order to somehow overcome the problem of "subject" in the act of unfolding the narrative about science – it is worth paying attention to the importance of "modal installations" of the human in its existence. What does this mean, what is it about? Only that everyone living: can somebody become, be, happen, exist ... And maybe "be different", "not become, do not happen, do not exist "by this", so "here". I am, if I want to be "this". Hence, in order to "want" – it is important to be able to "be able", or "must", or "be able". In this place of habitation of subjects – there is always a choice. And "philosophy" – becomes "modular" occupation, and not necessarily "love." Co-promote "wisdom" is not necessary. Everyone has the right to focus on stupidity as a strategy of existence. If "being a fool" is happiness, then why compete? Why blame? Why arrogance? So far, the "market of stupidity" – much wider, deeper and more than the "market of the mind". So: "to be a subject" means to make a choice, the consequence of which are "objectivity", "reliability", "wisdom", desires, strategy, and everything else. Peace: this is the consequence of my decision.

So, here is some (incomplete) outline of the strategies of my "choice" of subjectivity:

1. First method: apply the "accounting approach", "balance strategy", the strategy of research "wrap-up" of human "capital". And, accordingly, somehow normalize the records on the "accounts". Specify "assets" and "liabilities", reporting periods, dates, dates ... "School of the mind". "School of Passion". "Women's School". "School of Victories". "School of Defeat". "Love Stories". First grade. The tenth ... Second education ... 600 accounts of the balance sheet – accounting for my human capital.
2. Second method: To take as basis certain "basic methods" – mathematics, sociology, mathematics, topology, science, philosophy, etc. For example, "dichotomous", "dialectical", "metaphysical", "historical", "temporal" (structural dynamics), "humanitarian", "psychological", "cultural and historical", etc. However, is it necessary to "criticize" what is not accepted to accept? Is the profession of an "intellectual product expert" mandatory?
3. Third method: Accept for basic – global "cultural and historical" designs of civilized "poles" (India, China, Rome, Iran, Carthage, Cairo, Kabul, Tokyo, New York ...) are the defining features of logic, for example (in the order of their own theories of "logical output", "modal logic", etc.).

After reviewing such a list, a natural question arises: will we again fall into the trap of "criticism"? Or are we going to allow "synthesis"? The preliminary answer turns out to be simple: if we decide to respect a specific person, decide on the assumption of his freedom of choice and preferences, we will be able to prevent aggression against him, based on certain theories, schools or directions, inattention to himself – then we must, first, to allow some variety (for example, to allow Him to have several possible "centers of power" in his existence), and, secondly, to allow the existence of a "sleeping regime" for some of these "power centers," a strange dir ma "nedoaktualizatsii", "nedosuschestvovaniya". Of course, a purely professional question arises about the "awakening" or "termination of the functioning" of the center of power, but this is a question, rather, the topic of another research – "on the ethics of the consultant" and "the ethics of consulting" ... Once again – we risk being persistent: everyone within him has something that can become relevant, but before some times, situations and circumstances, before some stories "this" in the phase of non-existence, lack of existence, pre-relevance, pre-action, pre-action, a certain amount of "life-before-life". Prejudices? No. These "essences" are provocative, provocative, alluring, seductive, energetic. That's why they "wake up" easily.

So far – our proposal of human "about provocative entities" is as follows:

There is a "spirit of the top", the usual – "what is above us" ...

There is a "soul" (tempo, breath, metronome, time, vitality ...),

There are mental structures (rationality, knowledge, understanding, thinking) – "head"

There is, of course, a "heart" to which love, passion, desire, duty, grief, "propositions" (as formats of "relations" to the world, "others", people, as a center of subjectivity and subjectivity) belong to ...

There is a "spirit of the Niz", (sexuality, illness, energy, death, meanness, betrayal, suffering ...)

There is the "Spirit of the Back" (history, race, tribe, people, leadership, sociality, communication, culture ...)

There is the "Spirit of the Eye" – that which beckons, calls, allows you to hope, believe, save and be saved, bliss, feel grace, bliss ...

We hope that it is clear that when we talk about "spirit" we use a metaphor, and do not point to some "isolated existence" following the example of shamans, sorcerers, alchemists, witches or theologians.

## Commentary to paragraph 2

*Knowledge or "Unknown"?* The whole history of European civilization, it seems, is not worth it in this – it is devoted to the search for knowledge. It's different – what's there to argue about. But "knowledge" – was that which can be identified by referring to it "truth." Further – "knowledge" – could and became "sciences" with their objects, methods, laws, theories, etc.

A little later – they were persecuted: for the sake of the triumph of faith. However, they formed a fair competition to the faith and clarified many questions both of the faith itself and of its existence. For example? In questions about "reliability", "reality", "logic", "evidence", etc., etc. Already 500 years in the newest history of Europe – knowledge – are leading in respect to them. And it may seem that this will always be so. Moreover, at last, such technical means of storage, packaging and delivery of knowledge that (means) make "knowledge" are discovered – common and always-accessible. Everyone. Anyone. To each.

And at this very moment – there is a small and simple question: what is massively inaccessible? What is the sign of the "elite" – among people? Suppose: CONSCIOUSNESS. And, not "lack of education", "backwardness", "mossiness", "nationality", "unculturedness", "dullness", etc. And ignorance based on the ability to ask questions based on the questions asked and have not yet received answers. Of course, there are stupid questions! Only their stupidity: will be revealed later.

In this sense – "science" today, most likely, can be understood as a completely specific activity to generate ignorance. Only a professional today can find something to be surprised. And: ask a question. To ask is and

means: to be an elite. The structure of "ignorance" – yes, of course, is similar to the structure of knowledge. Because breakthroughs occur where forces and resources are concentrated. However, there probably are places of "near-knowledge", where so far no one has been. Are ready to express paradoxically: places where we were not – it's ourselves, each of us. I am the one to whom and where I will be, where I will have to exist. My secret place.

### Commentary to paragraph 3

*What instead of "success"?* In those episodes where you had to engage in public philosophizing, counseling, psychotherapy, business or education, you had to ask: what is the scenario, what is the strategy of life, what is life directed at? And often, too often – ordinary people answered that they want "success", that they are motivated by "successful people" (examples, samples, heroes, plots ...). On the one hand, the question is natural: why? Why IM – need "success"? On the other hand, another question is a little more complicated: what can happen "side by side" with success, as a motive, as a basis, as energy, for a movement for existence, for arrangement of one's destiny, for choice, decision and freedom?

Note that, it seems, the question of "success" is not the easiest yet. Why? To begin with, because it presupposes the existence of a certain competition and "victory": there is a "measure of success", a finishing ribbon, length, height, depth, weight, account size, etc. On the other hand, in order for someone to "win" – you want to want to win? Success is when I wanted and won, competing. And if he did not compete, did not "win", did not want to – and this "just happened", just "happened, just" is "just" always it was "?"

Next, and here, let's imagine that someone with you begins a story about "successful love." And you? Is it funny? Shame on you? Disgusting? Here is something and it: there is no such word combination in your arsenal. You: a decent person. So exactly – how is a "successful debt" possible? "Successful Honor"? It turns out that "success" is a partial activity for "monetizing humanitarian liabilities", only a part of them can be turned around. On the other hand, some positions are opened to at least try to guess how many there are and "what" in the places "without success", "without hope", but with "love", "happiness", "joy" and other things? Deal with the dislocation of "no-successful" humanitarian liabilities (assets).

### Commentary to paragraph 4

*Humanitarian education.* The European education strategy appears to be in a deep crisis. This crisis is connected, first, with the crisis of relations between "universal and individual" (to be precise – between the representations and theories of both); and secondly, the fact that the issue of the "temporal and anthropic underground" has not been resolved. Suppose that it is for this reason that it is considered that education is only a method of humanitarian (existential) therapy – that is, way of "deducing from the existential (social) underground". While the therapy itself is carried out, as a rule, in formats that we would designate as the "Method of minimal anthropic provocations".

### Commentary on the experiments

*Experience on existential consulting and existential therapy.* It is difficult to consider statistical data on this part of the therapeutic and consulting work. Why? Because every existence, every life, every destiny is unique. Well, perhaps, the man got into the "historical meat grinder", the concentration camps, Auschwitz, for war ... From here and seemingly a simple scientific question: how to take into account the results?

We have developed a test in which we use the principle of "expert interview". Only every time – the interviewee – is in itself, alone, separated, separated, isolated, unique. USED scale – has seven sections, each of which is marked (possibly) in color, in each of the sections – seven variants of "answers", labels,

levels, grades, shades of the theme. And, therefore, anyone who agrees to "be an expert" – puts his notes on the sheet, which includes both the "past", and "happened" and "prospects" (opportunities). It turns navigational map, navigator. We do not know analogs. In this sense – this is the author's technique.

### ABOUT THE NOVELTY

To begin with – it is necessary to decide on a simple question: can a person exist without a consultant? Or: it cannot?

A funny question? ... Yes, of course, parents, home, clan, state, society, culture, nation, people, leader, parliament, government, law, God ... – "consultants": a lot of names!

Most often people resort to the help of professional consultants, therapists, magicians, sorcerers, doctors and shamans when they have something "hurts." There is, of course, a peripherally ironic trend – healthy people – "engaged in a "healthy lifestyle" in order to be "even healthier". Nevertheless, this cannot prevent us from stopping at the "diagnostics" of the state of the "center of force". We are not yet going to establish any "certain order", normalize, "approve", "agree". Let's start with a simple, generally accessible – that seems to everyone "understandable": from the "mental" (rational, intellectual, etc.) forces.

What is a "**mental force**"? Ability and readiness to understand and accept the incomprehensible. And – it does not matter – in what place, what is the volume and who owns this "incomprehensible". Someone may seem ridiculous this our note about "incomprehensible". However, we will recall that "it is clear to one" is not always and not necessarily understandable to another. Everyone has a high school experience behind. And everyone will be able to remember the dunce-schoolmate who "could not understand" the simplest things. Understanding, thinking, logic, rationality, intelligence, stupidity, fools – many hundreds of pages of decent texts are devoted. Gnoseology, epistemology, psychology, etc. – from a scientific point of view, they are exploring the question: "How can a man not be stupid?" So that "mental strength" and "power of enlightenment" are the two most researched questions in the history of mankind.

Now – the "**Spirit of the Top**". Do you remember Kant? About the "starry sky above your head"... We think that this is about the "Spirit of the Top" – because everyone had it: it took breath as soon threw back his head and looked into the abyss of space, the universe, infinity ... Ready to admit that Kant was simply shocked simplicity and evidence of the "law of the heart" and the "law of heaven" and did not look for details or other addresses anymore. Concentrated and admired. We would venture to notice that when the "spirit captures" – this is what comes from above. And not even from the head. Here – and faith, and hope, and ideals, and salvation, and dreams, but also disease. "People without a top" – get sick. This is the classic of osteopathy. When people are born – they have a "fontanel". And there is even such an established expression – "breathing the brain." Effects? Bad sleep, learning difficulties, problems with concentration of attention, incorrect bite of teeth, general oppression of the functional systems of the body. Noticed? "Grandmothers" ceased to "rule the head" to infants and the "quality of the nation" deteriorated. A person ceases to feel the rhythm of the world, ceases to sense the spirit of the Upper – as a result of birth traumas or craniocerebral traumas (acquired through life). A person loses co-image, co-dimension, synchronism with the world. He is arrhythmic to the World. Such a trauma of the spirit is reminiscent of the absence of a musical ear: a person does not get into the rhythm, does everything out of place. Because the world does not "hear" or "feel".

The third, but not in the degree of importance, is the "soul". The mention of sincerity, of the soul, of callousness – has become customary. However, the application is rather a familiar metaphor for the location of the "incomprehensible". Every once in a lifetime – is tempted by might, salvation or grace. Every alchemer of "mercy" (it does not matter – whose ...). Only here – can "everyone" tell something intelligible about any of these stories? What is the "dislocation" of the human soul? Who is ready to stand and answer – to indicate "place"? Literature, poetry, art most often catch the location – in the "heart", we would venture to assume that

the "heart" is the source of desires, modalities, love ... Believing that it is not the abode of the soul. But the heart as a "center of power" – needs "breathing" (inhalation – "lungs"). Can breathing be considered a "gesture"? Probably. Only not as "breath". And as a "sigh", "sighing", "spasms", "squeezing", etc. It is clear that the trauma of the soul – turn into a variety of diseases and the heart and lungs. The most recognizable "trauma of the soul" is resentment. Insults (if they are repeated and cultivated) – lead, usually, to some kind of oncology (according to the observations of experienced therapists). We would venture to notice at this point the narrative about the "centers of power" of man, that "soul" can be called "the source of modal propositions" and "life" strategies. In the sense that when you want something, you can or should, then you must definitely get into "vibration", hum, beating your heart, into your breathing, getting into yourself to become co-dimensional. Friedrich Klages says that the soul is the bearer of continuous rhythmic processes, "co-axes" with the processes of vibration of the world, the universe ... Maybe it's time to say that the soul is a part of the universe that is given to a person as a memory of belonging?

The easiest way, probably, is to unfold the narrative of the "heart". How much literature is written about "hearty deeds", "heartlessness", and other human adventures!? Will we be mistaken if we suggest that it is the heart (as the center) that is the source of love, passion, desires, duty, honor, will ... and any other modal circumstances of life? Yes, verbs can turn into nouns: love – in love, want – in passion, must – in debt; verbs "cast in granite" – turn into "monuments", into "memory", become "material" for comments, reflections, sadness, memories. But not only: mistakes in "operations with modalities" lead to impotence, illness and defeat. Inattention to heartfelt affairs: is fatal.

The next center of power is the spirit of bottom. Not all human life is connected with high thoughts, deeds and sacrifice. Not all intentions are pure. Not everything: honestly in life. Sexuality, death, meanness, betrayal, suffering – is there anything unusual in the "bottom"? The fact that people usually prefer not to say "about this" – leaving "low" – for the time of sessions with a therapist – does not mean that people live without it. "To be low": this is usually, usually, habitual. It is precisely that each of us has or will have to win over ourselves, to defeat our low aspirations, thoughts, feelings, intentions – from each person. To be a man every day – of course: it's work. And, in this sense – the temptations of baseness – more than temptations of high. In a sense: God is not at all tempting! Here, however, there is a certain paradox, a certain difficulty – the difficulty of feeling, which is nourished by the "spirit of the bottom": if "to be a god" is so difficult, difficult and unpleasant-why should he become like him? Especially if it's so simple: to afford everything!? ... There are few people who would be ready to correlate their current illness with their actions committed years earlier. Although in "logic" – everything is simple: the betrayal of people, the betrayal of "others" – leads to betrayal of oneself, to their death, to their illnesses, to their pain, to their suffering. Only usually: it's too late. The spirit of the bottom is, of course, what is often metaphorically called the "kingdom of the dead." Go to the cemetery, sit on the first bench you find and listen to yourself. Remember your sorrow, when a loved one was leaving you and it turned out that you did not finish what you had finished, did not finish telling, did not clean up, did not finish it ... Late. Border. Only in dreams.

The bottom is "that light," which is not often understood. If here we are in the "white light", then there? On the Black? So far, and this topic – put aside. Having assumed that there is a border – through which ... – it is difficult to communicate, talk, gesticulate: all the "flowers on the graves" are flowers to themselves, is not it?

So we got to the mysterious "Spirit of the Back". Do not try to find in Google or Yandex. There is no such. This is author's, from practice, from own experience. Let's try to explain what we're talking about. First, when you are scared – are you running away? Are you afraid to look back? Do you "live" with your back forward? Or back – back? From what and to what do you move in your destiny? From the usual – to the dream? Or from bad to better? Behind: the "golden age"? Or "horrors"? The questions are not trivial, not contrived, not

"theoretical". Europe in its development – for a long time was in a phase of rapture "enlightenment". A lot of people sincerely hoped that "enlightenment", "mastery of sciences and knowledge" – will make people purer, higher, nobler, kinder ... And only a few – absolutely coldly built such "pictures of the social world" in which "development" – was portrayed as development from "bad" to "even worse." To the "worst". For example – S. De Sad: gave his name to the whole trend in culture and practice – "sadism." But with a theoretical construction – nothing can be done: everything is accurate, reasonable, human ... Where is located, where horror, fear, threats, danger are located? From the practice of people – where they are not expected. Human mucks are concentrated behind the back. Hence the expression – "knife – in the back", etc. Behind him – unexpectedness, incomprehensibility, inconceivability. Another question – are they all there? Say – "betrayal" and other "seven sins" – there? Or "seven sins" – one for each "center of power"? In any case, for the time being, we can limit ourselves to the assumption that "human (life) mucks" appear because of the back, probably therefore, when "bad" – the back "gets colder" or becomes covered with "sticky sweat": the somatics signals the presence of a terrible, irrational, dangerous. This is an irrational feeling, and we marked it as the spirit of the Back.

"Spirit of the Eyes" – in a sense, and the application is the opposite of "the spirit of the back." Firstly, if only because there is no "eye" on the back, and any person gets most of the information through the eyes and the world, about "where is he" and "where is he"? Eyes like to admire, squint, peer, staring, "roll up", "follow", and not just "see." To see is "physiology". And this: boring. It is clear, probably, that the eyes serve and signal about a lot of "positive" feelings, emotions and moods. We would attach them to one of the most important human emotions: to "dreams." They did not attach "analytically", but by means of "gesture" – by their own decision. Without proof. Since many times in practice have seen people who have "closed their eyes" – peer into their "future" ... So: seven "spirits", and hence "seven types of practices," seven types of "injuries," seven types of "health", seven "departments" and "laboratories" ... Another question: is this traditional "packaging" of "human material" "System? Do we have a hope for systematic scientific knowledge? ...

## CONFLICT

Today, as it seems, there are poles in relation to "existence", and, accordingly, to *eks-consalting*. One part of the researchers considers ALL healthy and only a part of people – "sick", deformed, "wounded". The second part of the researchers believes that EVERYTHING is "sick", and "successful" – in more than other degrees. And the disease is called "life", all have the right to claim their own specialty, uniqueness, unlike their strategies and recipes. And in this private law – in fact, and their right to their lives is expressed. Hence, different strategies, methods, tasks, objectives of counseling. Two extremes. One extreme: to persuade people (in the process of counseling) to "be like everyone else", "do not stand out", reconcile with their grayness and similarity, claim only their little daily ordinary happiness. The second extreme is to invite everyone to a personal feat, to unusualness, dissimilarity, leadership, ambition, opposition, privatization of happiness, destiny, existence, life, memory.

We had to see the surprise on the faces of the patients, when they found out that one could live not only with the "head", not only with "rationality". That you can draw up several different goals to achieve, place them in reach, accessibility, perceptibility. Surprise, which can easily be called "existential surprise" – related to meeting with their own wealth, and to the discovery of their power over time, power, salvation, love, grace. Over what has long been considered a wealth of social and religious organizations. Not everyone understands that besides success in money, career, public (political, for example) life – there are also other successes. The exaltation of the "centers of power" – the assumption that existence can easily be realized in these horizons of dislocation of the centers of force – often turns out to be shocking for people. When they realize that they are quite ready to master temporal worlds – people often believe that all their starts are over. And



they: have come to eternal life here and now. Exhaustion of the "conflict of the poles" – this is our own therapeutic task, the task of the ex-therapist, eks-consultant.

### **APPROVALS ABOUT THE "OBJECT"**

1. The new historical community "the Soviet people" was actually created, fostered, grown, developed, received (obtained): how new breeds of animals are obtained in the process of biological (agricultural) breeding. "Soviet people" – were "withdrawn" in the Soviet Union as a "sick test tube." Signs of the breed:
  - a. Fear, respect, trust, consent, support, acceptance of "unity", acceptance of "laws of historical development", acceptance of "contradictions", "dialectics" and "opposites", acceptance of "bright future", etc. "constructs" reality.
  - b. Consent to "poverty" as a sign of chosenness, reward, encouragement; since only the "beggar" has the "right" and "prospects" of "universal happiness".
  - c. Qualification of the "objective situation" as "reality with temporary shortcomings".
  - d. Qualification of the "theory of reality" – as the most advanced doctrine, and "critics of advanced teaching" – "dissidents" and "enemies of the people." Enemies and dissidents, of course, are subject to mental and psychiatric forced "treatment."
  - e. There are, are acceptable and are subject to destruction – people who have doubts about the "descriptions of reality", approved by the "decision-making bodies" of the "transformation of reality" in accordance with great intentions, scientific plans and programs.
2. Thus, for a long period of the existence of the "socialist society" (the "Soviet experiment"), a lot of people became the "product" (population, "people", "clan", etc.) – the majority. The majority that has lost the experience of ordinary human relationships based on personal interest, their own profit, their business, respect for someone else's property, an understanding of the boundaries of "privacy" and the inadmissibility of breaking these boundaries. In other words, many people resided in the territory left after the collapse of the Soviet Union, for which their own life, private landmarks, personal preferences – lost their meaning, meaning, taste. Only "to be like everyone else", only "never to stick out", only "no initiative" (because "initiative is punishable") – and created a basic archetype for the existence of these people. The basic archetype – could easily be described in several "Soviet moral maxims," namely:
  - a. Inequality is not fair, since equality is fair;
  - b. Everyone – everyone – should, because – a friend, friend and brother;
  - c. "Die yourself, and help your comrade";
  - d. "The country is surrounded by enemies of socialism", so it's always logical to be ready to "tighten up your belts";
  - e. In every house there should be a stock of matches, flour and salt – in case of war. And, probably, a white sheet – to protect against "radiation" ...
3. "Patients" were more than "healthy". Even more – "sick" found "healthy": sick. In this sense, it was dangerous to "engage in philosophy or psychotherapy" – in Soviet times. Because you risked to cause "the wrath of your superiors" with your unacceptable "innovation." Or "the wrath of the sick" – its "inadequacy". So until now and continues. It is not clear – professionals on humanitarian issues, on anthropic existence, on "existential issues", on the sociology of agreements and diversity, on the new culture: are they for whom? For Russians"? How to advise and change the attitude of millions? How to stand in front of a million people

with statements: "Are you – are sick!?" How do texts look – acceptable for "million"? Or: how much does one tablet weigh for one million? And how to "give" it? ... These are: questions about "procedures"...

4. Classics of philosophy and psychotherapy – for Russia is not suitable. So there is a strange situation when you can:

- a. Wait a couple of tens or hundreds of years, when the adepts of socialism and "knowledge" will die.
- b. To be engaged in the training of the "average medical staff", the sisters of psychiatric charity, whose task will be "to brighten up the time of psychological suffering" to the interval of "withdrawal", to accompany the dying adherents to the grave, to ensure the "survival period" by humanity;
- c. "Roll up your sleeves" and start "treating everyone". On Fridays. Create and run a powerful "cognitive (metal) virus", which in the mode of "lasting effect – will heal millions without human intervention.
- d. The development of modern means of communication suggests that network groups will soon become popular: "anonymous socialists", "anonymous communists" ... and the like. It is clear: following the example of "anonymous alcoholics" ...
- e. Create a political party – "The End of Socialism", involve in its ranks the majority of those living on the territory of the former USSR and there – "wash all the brains of all" with a new ideology.

In short, the task was not trivial for the representatives of this professional group. For themselves, "psychotherapists" or (and) "philosophers" do nothing with the brains of millions cannot and cannot. And, in this sense, Western psychotherapy or philosophy – turned out to be an insignificantly small personal exotic means for working in the territory of the former USSR. If, for comparison, in the United States about 30% of people (population) regularly visit their psychotherapist, and for \$39, you can get a regular subscription to "psychotherapeutic advice" at any time and for any time, in Russia for one million people, probably, a man of 100 professional doctors-psychotherapists. The rest seem to be treated in "political parties", "trade unions" and "work". So far, it is not even clear – is there any way to document the "mental health" of the "Russian people" with some objective methods?

5. Without a primary diagnosis, without primary sorting – it is impossible to make a decision about "treatment", about the selection of methods, theories, means, techniques, drugs, institutions, organizational forms and management procedures – regarding the consequences of such a heavy "mass defeat". Besides, of course, the "adherents of the Soviet way of thinking", the adherents of anonymous communism "- I can immediately quote" examples from there ", " refer to the processes and phenomena that take place "beyond the Russian border." But we understand that: a reference to "someone else's" does not clarify anything in "its own".

Decide on the "formats" of communications. There is a great temptation – to apply to the "circumstances of the border" (cultural, ethnic, confessional, historical, national) – the "dialectic of the border". When several statements ("A" – "non-A") + ("A" is equal to "B") + ("not-A" is equal to "not-B") operate simultaneously ... and all this is true at the same time! ... ). In other words, in the situation of "dialectics": dialogue is never possible. Someone must die. Someone must "win" ... There is a variant: "implantation" of the "virus". "Infection". The third option: "agreement" on the boundaries and interaction. Fourth: indifference and the assumption of non-interference. Fifth: investments in a competing object, system, organization. Arsenal of means of "soft pressure" – is quite diverse. It is important to understand – what will you do with the "refugees"?

There is another, hidden, question: why do you need this? "Earn"? "Debt"? "Passion"? "Habit"? "The rescue"? "Intelligence"? ... What? Are there alternatives? Or do you have this demarcation line inside you that does not allow you to be identical, generates a personal dissociation?

## RESULTS

Our experiences in the field of individual (including remote "existential counseling") have shown that a professional who chooses the techniques, methods, formats, methods and depth of existential penetration, existential correction, therapy and exposure should at least be prepared to ensure that, that the patient came to him from the "other world". From a world in which there is no hope, the dominance of pain, humiliation, violence and time is utilized on an incredible scale. The consultant has no debt and so he is different from the doctor. The consultant has a temptation – to create a healthy fate, to admire the picture of the embodiment of his efforts. Simultaneously: every new partner in the "existential business" is also a change of "philosophy". The philosophy of this matter and this life.

## CONCLUSION

There came strange times. Their compression – as a result of network communication formats – incredibly accelerated the "process of life", the "process of science", the "process of knowledge". Deficiency is not knowledge, but ignorance. Practices of working together with ignorance and are today, at the current time, are in demand by those who still want to be a psychotherapist. False existence, false "existentialism", a false picture of the world – do not abolish the presence of a sense of lost reality, do not put an end to the search for authenticity and identity. Step over a lie, trusting a professional "stepping over" – this is a task for a few. In Russia, unlike civilized countries, there are so few "psychotherapists" that it takes 100 years to get a little more. Slightly more than in developed African countries. Ask any of your friends: how many psychotherapists does he know? And try to wait for a polite answer. Engineers? I remember. Philosophers? I remember. Therapists? Remember? Taxi drivers? I remember. Psychotherapists? No, I have not met ... According to rough estimates – in Russia there are ONE of them for 10,000 people ... That's why, until now, different rallies are going to tens of thousands ... In anticipation of therapy of the soul.

We consider it necessary to hold a federal scientific and practical conference on "digital" education, philosophy and "existential consulting".

Apparently, for the continuation of research and development in the field of "existential consulting", "digital education" and related (including "methodology" philosophical issues, temporal philosophy, etc.), it is appropriate to create an organization. Most likely in the format of a "non-commercial partnership", open to accession of any individuals and organizations willing to interact at a non-state level.

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## ARTÍCULOS

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# Freedom of Thinking in the Terms of Virtualization of the Technological Environment

*Libertad de pensamiento en términos de virtualización del entorno tecnológico*

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### ABSTRACT

The article deals with determining the specificity of the representation of the phenomenon of freedom in the mind of the subject when interacts with objects of virtual reality. On the basis of phenomenological research, the author claims that the essential characteristic of the representation of the phenomenon of freedom in the mind, when interacting with virtual reality, is the intention to superiority, not only over natural and spiritual laws but over principles of categorical thinking. A person, when interacting with virtual reality, represents freedom as a value setting expressing the desire for superiority over the existing social loges.

**Keywords:** Category; freedom; phenomenon; virtual reality.

### RESUMEN

El artículo trata de determinar la especificidad de la representación del fenómeno de la libertad en la mente del sujeto cuando interactúan administradores con objetos de la realidad virtual. Sobre la base de la investigación fenomenológica, el autor afirma que la característica esencial de la representación del fenómeno de la libertad en la mente, al interactuar con la realidad virtual, es la intención de la superioridad, no sólo sobre las leyes naturales y espirituales, sino sobre los principios del pensamiento categórico. Una persona, al interactuar con la realidad virtual, representa la libertad como un valor que expresa el deseo de superioridad sobre los loges sociales existentes.

**Palabras Clave:** categoría; libertad; fenómeno; realidad virtual.

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## **INTRODUCTION**

What is freedom? There are plenty of answers to this question. Some philosophers argue that only in a creative impulse a person is able to feel the touch of higher divine freedom (Berdyaev, 1989). Others believe that observing moral norms solely from a sense of duty is a truly free act (Kant, 1994). Often freedom is viewed as merely an illusion of the mind, arising from ignorance of all the causes of the events that are happening. For example, according to some supporters of this position, a person thinks that he acts freely, while he is being pushed to a certain action by circumstances that are formed from an infinite number of reasons (Spinoza, 2015). There is a widespread position that through freedom a person truly becomes a man, choosing life goals and the meaning of his being, that is, freedom is the choice of the life path by man (Sartre, 2000).

We listed only some of the philosophical interpretations of the phenomenon of freedom, but they are enough to see the whole ambiguity of understanding this phenomenon. Each of the existing concepts is backed by weighty arguments, and without worrying about reflections, a philosopher can choose any of them, for the reasoning of each is quite equivalent. It may seem that the single phenomenon of freedom does not exist at all, and this term refers to completely different phenomena of the social and spiritual life of a person. Perhaps it is. However, along with humanism, human rights, and democracy, freedom in a modern civilized society is a key value, a guide to the vital aspirations of most people. Therefore, the study of this phenomenon is the most important task of philosophy and science. We will assume that the variety of ways to define freedom comes from the fact that in each individual situation, in different conditions or in different systems of mental and social relations, freedom acquires its specific features.

At the present stage of the development of civilization, a new form of being of a person called virtual reality is coming into being. In this regard, it becomes particularly relevant to study those transformations that undergo fundamental human values, including freedom, under the influence of new living conditions. We propose to consider specific features of the phenomenon of freedom in the space of virtual reality. The most appropriate method for achieving this goal is the ontological and historical phenomenology that allows us to discover the historical genesis of the phenomenon of virtual freedom.

The goal of the study is to determine the specific features of the representation of the phenomenon of freedom in the mind of a subject when interacting with virtual objects, which makes it possible to evaluate some transformations of the social values of a person in the conditions of virtual reality in the modern society.

## **PHENOMENOLOGY OF THE VIRTUAL ENVIRONMENT**

In order to identify specific features of the phenomenon of freedom in a virtual environment, it is necessary to determine what the phenomenon of virtuality is.

What is virtual reality? This question causes considerable difficulties, both among ordinary people and philosophers. This is due to the historical youth of the problem of identifying virtual phenomena, there is no common opinion about when a person first encountered virtuality. The time of the emergence of virtual phenomena, according to various studies, is calculated from the period of the birth of the human psyche until the creation of the first computer.

In philosophy, a position is widespread, according to which the starting point of the emergence of virtual reality is the emergence of the ability of the human psyche to generate so-called subsistence objects. Subsistence objects are imaginary objects possessing the qualities of real ones, whose existence is considered by the human psyche as potentially possible (Meinong A.) (Lindenfeld, 1980). For example, such a thing as the "golden mountain" is composed of the qualities of two real objects, a mountain and gold, although it does not exist in reality, but is potentially possible (Dugin, 2009).

A similar position is held by J. Baudrillard in his theory of simulacra. He argues that, over time, the socio-psychological space of modern civilization is increasingly saturated with simulative forms of existence. A

simulacrum is a copy without the original. By its characteristics, the simulacrum is similar to subsistence objects, but it has its own representative force, that is, its own nature independent of the psyche. An example of a simulacrum is a photograph, which, after being edited by special programs, loses its connection with the original. That is, the edited photo turns into a simulacrum at the moment when the subject becomes indifferent to the question of the reality of what is depicted on it, it does not matter for him that it is not an original, but a modified copy (Baudrillard, 2015). However, in the concept of J. Baudrillard, this term implies a much broader class of processes related not only to virtual reality but also to politics, art, interpersonal relationships, etc. and reflecting the tendency to increase the simulative forms of human behaviour in the modern society of postmodernity.

Considering the psychological aspect of virtual reality, one can refer to the developments of N.A. Nosov. He understands virtual reality as some ability of the human psyche to assert imaginary worlds as real, and supplement them with perceived reality (Nosov, 2000). In his work "Virtual Psychology" N.A. Nosov considers virtuality as an integral part of the human psyche. The psychological approach demonstrates one of the fundamental problems of identifying a virtual phenomenon, the problem of distinguishing its subject-object status. Any object of reality appears exclusively in the form of a phenomenon reflected in the human psyche, its presentation is inevitably influenced by its forms and patterns, so it is extremely problematic to clearly distinguish the mental subjective image of a virtual object and its objective characteristics.

Many researchers are trying to solve the problem of searching for subjective (mental) and objective features of virtual reality in the socio-cultural space. (Bataeva, 2011; Muratova, 2014; Reshenin, 2013; Sterledeva, 2011; Khazieva and Clyushina, 2014). For example, R.V. Leushkin believes that "modern understanding of a virtual object identifies such a characteristic of it as incompleteness of existence. This is the fundamental difference between a virtual object and a real one, which is informationally, logically, and empirically complete" (Leushkin, 2014). But the question arises: what is meant by the incompleteness of existence? To what extent and in what capacity should the object be incomplete in order to be considered virtual? The author, using the constructivist and mathematical approach, proposes to refer to virtual objects those that equally possibly exist and do not exist.

Thus, the degree of incompleteness in the method proposed by R.V. Leushkin is determined exclusively mathematically. But if we return to the psychological approach, the imaginary object is recognized as existing in one form or another. For the subject's mind, any imaginary object is endowed with the completeness of existence.

The difficulty of demarcating virtual reality is beyond doubt. Some researchers generally refuse to search for clear boundaries between the real and virtual world. Thus, D.V. Vorobyov and A.A. Sirotkina simply state that "... we exist not so much in the real world as in the world of mental constructs, that is, our own mental constructs, substituting, or, most likely, having already substituted reality for themselves" (Vorobiev and Sirotkina, 2008). It can be concluded from this that there are still no clear criteria for identifying virtual reality and distinguishing it from other forms of being. In this situation, it becomes difficult to identify specific semantic characteristics that the phenomenon of freedom acquires for a person when entering a relationship with virtual reality.

These difficulties, in our opinion, are due to the fact that not its own intrinsic attributes of virtuality are subjected to the research, but features that distinguish it from reality. Therefore, such a phrase as virtual reality can often have a contradictory meaning. In the newest philosophical encyclopaedia, it is defined that "virtuality (from Latin *virtualis* - possible) is an object or state that does not really exist, but can arise under certain conditions" (Stepin, 2010). That is, the basic quality of virtuality is the potentiality of existence, while the real can be called what actually exists. Consequently, one can understand virtual reality as a being that exists simultaneously potentially and actually. In our opinion, attempts to find distinctive, and not essential, features of virtuality lead to a complexity in understanding this phenomenon.



We believe that virtual reality is one of the forms of reality that by technical means has acquired an independent being embodied in an objective form. Virtual reality is an environment consisting of virtual objects that have special qualities that distinguish them from objects of reality.

An object as a phenomenon arises as a result of the process of objectification, that is, the transfer of abilities and qualities to a thing, through which it becomes part of the socio-cultural being of a person. At the same time, the object acquires stable qualities, it starts to influence the behaviour of a person, that is, each specific object, when interacting with it, requires a certain treatment, otherwise this interaction cannot arise. The surrounding objects require certain skills from a person, thus influencing his behaviour. That is, a person, changing the surrounding things by his activities, changes himself, because of which a system of human-object-human relations arises. Thus, each object introduces its own specific meaning of freedom. For example, if a person interacts with a subject such as a car, then within the framework of this interaction, freedom acquires additional meaning and is understood as freedom of movement. Such a specific meaning of freedom is due to the purpose of a particular object.

There is no doubt that virtual reality is part of technological progress. However, it also presupposes specific forms of interaction with the person, while the principles and laws by which the virtual reality functions differ from those principles and laws by which the technical means that create it operate. Therefore, considering it as a unique object environment that interacts with a person will allow us to reveal new meanings generated by this interaction. The sense core of the phenomenon of freedom will become accessible to research only after the specific purpose of the class of virtual objects as a whole is determined, for what these objects exist.

Moreover, although the virtual object functions according to its principles and laws, we affirm that it represents a new class of technical objects that has arisen by a natural evolutionary path, the result of a specific technical thinking that originated in the framework of European culture. Therefore, the comprehension of the specific meaning of freedom that it acquires in virtual reality, is necessary to begin by considering a more general specificity of this phenomenon within the framework of interaction with the objects of technology in general.

### **PHENOMENOLOGY OF FREEDOM IN TECHNICAL THINKING**

Let us consider the nature of the technical phenomenon. The development of modern civilization is inextricably linked to the development of technology. The term technology comes from the ancient Greek τέχνη (techne) – art. The term had a very broad meaning, with its help any creative activity, both artistic and handicraft, aimed at creating something, as well as the object itself, which arose as a result of this activity, was designated.

One of the first representatives of the philosophy of technology, P.K. Engelmeyer generally considered technology to be the only instrument of social progress (Engelmeyer, 2010). But the origins of this progress lie in the specific form of thinking that originated at the dawn of European civilization.

More radical views were held by M. Heidegger who stated that technology is not a simple instrument of progress or a form of thought, it is a special form of human existence. Turning to the sources of the original archaic meaning of "techne" (τέχνη), M. Heidegger concludes that "... technology is not a simple tool. Technology is a kind of unveiling a secret... It is an area of withdrawal from the secret, a realization of the truth" (Heidegger, 1993). At first glance, for a contemporary person accustomed to using all the benefits of civilization and technological progress as a means of satisfying his needs, such a statement seems strange and incomprehensible. But in this case, we are not talking about the object as such, but about a special kind of relation of a person to the object in the process of its creation or interaction, which determined the aspect of being, called by the ancient Greeks as "techne." This relationship determines the specificity of technical

thinking embodied in the image of the creator of the demiurge, and the direction of technological progress to create the perfect objective being of people.

Let us consider the specifics of the form of demiurgic thinking which was determined by the existence of technology and originated at the origins of European civilization, in ancient Greece. Demiurgic thinking in ancient Greece for a long time was of a secondary nature, but subsequently, the influence of such a way of thinking became more significant. This tendency was especially strong during the heyday of the Athenian school of philosophy, the most famous of which were Socrates, Plato, and Aristotle. The main deity for these philosophers, embodying universal wisdom, is the Demiurge, that is, the maker, the artisan. Art as "techne" becomes a means of person's ascent over ordinary thought, to the sources of divine wisdom. In the dialogues of Plato, whose main hero is often his teacher Socrates, the nature of the craftsman's wisdom is comprehensively considered. So, for example, in the dialogue of Alcibiades II, Plato's Socrates concludes that the highest wisdom is not in the skill itself, not in being skilled in a concrete matter, but in knowing how to best apply one's art, that is, the wisdom of an artisan is the knowledge of the highest good (Loseva and Asmus, 2006). Plato, in his dialogues, tries to consider the fundamental questions of philosophy from the point of view of the artisan and concludes that the meaning of a person's life lies in the best way of its organization, that is, life itself is regarded as the art ("techne") that a person creates. It is with this ability to create their life in the best possible way that the ancient Greek philosophers connected the meaning of freedom.

It was M. Heidegger who pointed to the dual nature of the way in which technical progress is taking place. He argued that technology is a way of realizing the truth, but the very concept of truth was ambiguous to him. He distinguishes the truth as *veritas* ("veritas") and the truth as *ἀλήθεια* ("aletheia"). "Aletheia" (ἀλήθεια) is a process of revealing the being of things in existence, its hidden meaning. "Veritas" (*veritas*) is the truth giving superiority over something, this is the truth of power. In either case, the truth revealed to a person in the being of technology leads him along the path of liberation, but in different ways. The technology in ancient Greece was a special form of the spiritual and physical being of a person.

Undoubtedly, the modern understanding of the phenomenon of technology differs from the original ancient Greek meaning. Nevertheless, a number of thinkers who were at the source of the modern philosophy of technology considered the Ancient Greek way of understanding the existence of technology as a special form of human being, which determines the principles of his spiritual and physical reality closest to the truth. (Berdyaev, 1989; Dessauer, 1927; Marx and Engels, 1959; Heidegger, 1993). But for today there is no unequivocal opinion on the role and sense of freedom in the reality created by technological progress. Some philosophers-technologists believe that the motive for the liberation of a person is the key to the development of technology in modern civilization (Ortega y Gasset, 2002; Engelmeyer, 2010). Other thinkers argue that technology enslaves a person, taking away his freedom and turning him into a one-dimensional being. (Adorno, 2012; Marcuse, 2002). There is also the opinion that technology can both enslave a person, and lead him, with the right attitude, to a more perfect and free form of existence (Aron, 2010; Mumford, 1991; Ellul, 1986). One way or another, the question of the meaning of freedom, which it acquires in the interaction of a person and technology, is a key one in modern philosophy.

In our opinion, the question is not whether technology leads a person to liberation, but in what path of liberation modern technical thinking chooses, what kind of freedom modern technology offers a person. As J. Ellul, one of the most outstanding philosophers of the twentieth century, noted - the degree of development of technology begins to be determined by its rational efficiency <sup>30</sup>. If we are talking about the utilitarian effectiveness of technology, then, of course, technology is considered solely as a means to achieve goals. However, if technology remains only a means for modern society, if a person tries in his activity only to master it and the world through it, then undoubtedly, he can see the way of his liberation only in superiority over nature, only in the power that technology gives him. K. Jaspers, an existentialist, held a similar view. He was one of those who emphasized that the superiority given by technology is embodied in the form of power. That

is, superiority does not involve destruction, superiority means, on the one hand, a way out of submission, and on the other, gaining control over the reality that is surpassed.

### **PHENOMENOLOGY OF THE OBJECT OF TECHNOLOGY (τέχνη)**

The reality of the object is determined by the principles by which it exists and functions, within the framework of these principles it acquires its meaning. For example, a work of art acquires real meaning only in the sphere of spiritual, value, moral, or aesthetic principles. It does not matter whether this art object denies these laws or embodies it, it loses its reality, its being, precisely as an object of art, at the moment when the above principles cease to determine the form of its being. Art paves the way for a person to perfection, to the good through ethical and aesthetic superiority over ordinary biological life. Art directs a person's spirit into an endless journey to higher ideals or throws it into the abyss of boundless chaos. In either case, through the object of art, a person tries to go beyond the ordinary life and rise above it; in this the phenomenological core and the very meaning of his freedom reveal themselves.

The object of technology acquires meaning and form within the framework of laws discovered by the scientific form of cognition and the scientific paradigm determines its reality, its meaning. The object of technology as well as the object of art is aimed at overcoming the boundaries of individual nature and human life (bios), and not in the ethical, but in the physiological aspect. The object of technology is designed to make a person faster, smarter, stronger than he is by nature. However, ultimately, it is not just about physiological, but about the physical superiority of a person, the liberation of his body, his "fusus" (φύσις), from his own natural laws. That is, if we say that natural science laws determine the reality of the object of technology, then the phenomenology of freedom in technical thinking acquires meaning in superiority over the natural science laws of nature. The meaning of freedom in modern technical thinking is an intention to superiority over natural science laws.

Virtual reality is one of the forms of the new information technology. This new form of reality can be embodied in the form of a virtual object environment, that is, a medium consisting of system-defined, autonomous (functioning by certain principles) system entities with which the operator is able to interact.

But what does superiority mean? Superiority over something does not imply its destruction; superiority gives the power to handle this with something at the behest of the will. That is, if a person surpasses the moral standards, then he can change them or leave at will. Thus, if we agree that technological progress throughout the history of its development was aimed at superiority over natural science laws, the creation of a virtual object was a natural law of this process. A virtual object can also obey natural science laws, but this time at the behest of its creator.

However, if the objects of art surpass the aesthetic and moral laws, and the objects of technology - the laws discovered by natural sciences, then they cease to be so and cannot be identified as real in their own quality. Superiority in this case is an intention, but not a fact accomplished. Entering the relationship with the object of technology, the subject perceives this intention as freedom; the freedom given to a person by technology, is embodied in the pursuit of superiority. In this respect, the subject considers freedom as the possibility of superiority over aesthetic, moral or natural science laws. Proceeding from this logic, if we recognize that a virtual object is the next stage in the development of technological objects ("techne"), then freedom in relation to this object must be thought of in the form of superiority. But if a virtual object already surpasses aesthetic, moral and natural science boundaries as an established fact, then what is the aim of the intention for superiority, from what does the subject seek to liberate in the virtual world?

**THE MEANING OF FREEDOM IN THE SPACE OF VIRTUAL OBJECTS OF TECHNOLOGY**

In the Indo-European language family, the root "virt" means the event created, generated at the moment (Nosov, 2000). However, not every created, that is, passing from potency to reality, event could be designated in this way. For example, the Slavic word "verti" means "simmering," "boiling," that is, transition from a calm state to a more dynamic one. Latin "virtus" means a transition to a more superior quality. Although, a later Latin word "virtualis" can be translated as a potentiality or possibility; nevertheless, this term denotes not just possibility, but the possibility of a more powerful, dynamic, perfect, superior state. As can be seen, the original meaning of the term "virtuality" already contains an indication of the intention for superiority.

Analyzing the work of some modern authors investigating the phenomenon of virtuality, we can assume that the phenomenon of virtuality has not lost the original qualities, which were indicated by the term denoting it. For example, S.A. Gorinsky argues that "the stimulated dramatized visibility of a computer artifact proves to be akin to the "principal nonobservability" of a virtual particle in quantum physics: in both cases, the discourse of virtuality is realized in the categories of the exclusive and perfect, for in both cases the gap between a concept and existence disappears" (Gorinsky, 2014). The qualities of exclusivity and perfection are close to the original meaning inherent in the word "virtuality." They can constitute the semantic core of virtual reality, what determines the meaning of existence of a virtual object.

But what kind of superiority and over what does the virtual object give, more perfect and exclusive than what should it be? At first glance, the unique feature of a virtual object is its superiority over ethical, aesthetic and natural science laws. Virtual objects are capable of violating all the principles of reality. However, neither ethical or aesthetic, nor natural science laws determine the reality of a virtual object, a virtual object has already surpassed them and is already free from them; in relation to these factors of reality, a virtual object cannot translate an intention to liberation.

The intention to superiority, on the example of art and technology objects, is aimed at those principles and laws that determine their reality. The object of art is meaningful only in the axiological space of culture, and the object of technology - in the use of laws discovered by natural sciences. Consequently, if a virtual object is a kind of technological objects, like "techne", the intention to superiority should be directed to those factors that determine its reality. What determines the reality of a virtual object? As N.A. Nosov points out, a virtual object possesses its own space, time, substance, and can violate any physical parameters (Nosov, 2000). However, to be a part of reality, he must have at least some kind of temporality, at least some spatiality; he must act and endure, etc. Space, time, substance, action and enduring are just some of the basic categories of human thought. That is, a virtual object is identified as real based on the categories of thinking and within the framework of these categories its meaning is determined.

Categories are extremely general concepts that reflect the fundamental procedures of thinking. Therefore, their generalization under the term "category" or an attempt to give them a clear definition is incorrect; their nature is understood extremely intuitively. Aristotle tried to describe all possible categories for the first time, identifying ten of them: existence, quantity, quality, relation, place, time, position, possession, action, and suffering. Porphyry, in his comments to Aristotle, called the ten categories as just "these ten", emphasizing the problematic nature of their generalization by a single concept. Many categories that were identified further in philosophy, one way or another, in various aspects, are reducible to the first categories identified by Aristotle.

We can talk about categories as basic logical forms of common sense. Thus, for example: "In the philosophy of modern times, Aristotle's doctrine of categories was preserved, although the categories were called supra-predicaments, universals, praedicabilia. They were interpreted as the kinds of being and their number remained the same." F. Bacon among the incoming qualities of being, or transcendences, identifies such categories as big and small, similar and different, possible and impossible, being and non-being (Bacon, 1977). Descartes and Spinoza speak about three categories - substance, modes and relations; Leibniz -

about five general kinds – substances, quantities, qualities, actions and relations (Leibniz, 1893). However, Hobbes compiled his own table of categories, the basis of which are the categories "body" and "accidents" (among them "quantity", "quality", and "relation") and associating the categories with groupings and series of names, that is, with the results of the act of designation. Geulincx interprets categories (substance, unity, etc.) as modes of thinking. D. Hume understands the categories of substance and causality as associations rooted in habit and faith. Tetens, Lambert, and Platner view categories as the ability to think of attributing things to objects..." (Stepin, 2010).

If we follow most of the approaches to categories, there is something in common that can be distinguished. All these approaches to categories treat them as higher beings that produce reality or derivatives of ways of comprehending reality by thinking. That is, categories are perceived as stable forms of consciousness or reality that determine the logical being of the subject and, therefore, one can say that Aristotle's categories are classical categories of the common sense of reality as such. Trying to determine the fact of the reality of an object, thinking attempts, first, to discover the presence of fundamental properties in it described by categories, for example, whether an object has spatiality, temporality, substance, relations with other objects, etc.

As objects of art are intentionally aimed at superiority over spiritual boundaries, ethical and aesthetic, and objects of technology over physical boundaries, so virtual objects are aimed at liberation from logical boundaries. In this case, the meaning of freedom, translated by a virtual object, is embodied in an intention to superiority over categorical thinking. When interacting with a virtual object, the individual sees the meaning of freedom in superiority over the existing categorical logos in society.

## **CONCLUSION**

An analysis of the phenomenon of freedom shows that virtual reality is not only a simulative but also an independent form of creative activity that has evolved through technical thinking. A free act in the space of virtual reality can be understood not only as an activity aimed at destroying the existing stable patterns of being and thinking, but also as creativity oriented towards creating new forms of social logos that surpass the old ones. This conclusion is valid not only for someone who creates a virtual reality. The virtual object itself, by its nature, guides a person to a special way of understanding freedom, as a superiority, the result of which can be both destructive and creative activity. At the same time, creative activity in a virtual environment is mainly directed to the field of categorical thinking, so the development of a virtual environment can lead both to the destruction of categorical thinking, and to the creation of a new type of logical reality that surpasses categorical thinking. The result of this process directly depends on the specificity of the value attitude to the meaning of freedom in virtual reality.

In the twentieth century, M. Heidegger argued that "the essence of modern technology lies in Gestell, or "enframing", the latter obeys the mission of disclosing the secret," and freedom, in turn, "... is the area of destiny that sends a person to one or another way of revealing the Enigma" (Heidegger, 1993). Perhaps, for virtual reality, as a field of technological progress, these words are also relevant. The freedom that a person acquires in the world of virtual objects can push him to strive to dominate reality, thereby destroying it, or can direct him along the path of revealing the secrets of his own being and creating the true logos of life. Perhaps now more than ever, Heidegger's call for a reinterpretation of the essence of technology, for the return of the original understanding of "techne" as a special form of revealing of human being and, perhaps, it is virtual reality that is a completely new stage of such revealing.

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## ARTÍCULOS

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# Contractual Regulation of Relations of Joint Ownership of Individuals in Ukraine (on the Example of Agreements on the Transfer of Property into Ownership)

*Reglamentación contractual de las relaciones de propiedad conjunta de personas en Ucrania (sobre el ejemplo de los acuerdos sobre la transferencia de bienes a propiedad)*

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### ABSTRACT

The article is devoted to the theoretical analysis of legal regulation of contractual relationships related to the acquisition a right of common property by individuals in Ukraine. A civil contract as a regulator of relations common property of individuals is analyzed. The place and role of civil contract among the grounds of the appearance of a right of common property of individuals are found out. The author notion of a civil contract as a regulator of owners' relations of property is proposed and its essential terms are singled out.

**Keywords:** Civil legal contract; hereditary contract; life abstinence; right of common property.

### RESUMEN

El artículo está dedicado al análisis teórico de la regulación jurídica de las relaciones contractuales relacionadas con la adquisición de un derecho de propiedad común por parte de personas físicas en Ucrania. Se analiza un contrato civil como regulador de las relaciones de propiedad común de los individuos. Se determina el lugar y la función del contrato civil entre los motivos de la aparición de un derecho de propiedad común de las personas. Se propone la noción de autor de un contrato civil como regulador de las relaciones de propiedad del embajador y se señalan sus términos esenciales.

**Palabras clave:** Contrato civil legal; contrato hereditario; abstinencia de vida; derecho a la propiedad común.

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## **INTRODUCTION**

The importance of scientific development on the meaning and role of civil contract law in the occurrence of common property of individuals is caused, above all, by the integration of Ukraine into the European and world community and the need of taking account of the positive foreign experience in these matters. The success of implementation of these tasks at this stage primarily depends on how civil legislation of Ukraine meets modern tendencies of development of contract law of the European Union, its adaptation to the current economic and political conditions and integration processes related to the signing of the Ukraine Association Agreement with the European Union.

The importance of civil contract directly reflected in the Civil Code of Ukraine (hereinafter – CC) (Dovgert, 2004), where among other grounds of the occurrence of civil rights and obligations a contract is specified, and freedom of contract is one of the general principles of civil law. Therefore, the study of new doctrinal position contract as a legal fact that underlies the acquisition of common property and complex scientific research of civil contracts, legal result of conclusion of which is the acquisition of common property are relevant.

## **CIVIL CONTRACT AS A REGULATOR OF RELATIONS OF COMMON PROPERTY OF INDIVIDUALS IN UKRAINE**

Civil contract is an effective regulator of relations common property of individuals in Ukraine, which took an independent place in the mechanism of legal regulation. In the works of the modern period of contract law the term “contractual regulation” is used increasingly. Contractual regulation of relations of common property is individual, because it provides binding nature to specific order to acts of counterparties concerning committing of which they agreed. The contract is concluded between equal subjects and aimed at mutual satisfaction of their needs at the expense of each other. Since one of the essential characteristics of any agreement is absence of possibility of either party to impose its terms to other party, the conclusion of the contract is only possible when each party considers fair contractual terms for them. Upon reaching this agreement, the parties are guided by the understanding of justice that is generally accepted in society. That is actually very civil contract is one of the ways of objectification of imperatives that are the essence of natural law of a society. In this understanding, an agreement is a way of legal regulation of conduct of the parties in civil obligations, because the will of the parties is fixed in the contractual terms, in accordance the conditions for contractors are flush with dispositive legislative provisions (Wilkinson-Ryan and Hoffman, 2015).

In this regard, it is advisable to state that the legislator in Art. 6 Civil Code of Ukraine recorded a provision that civil contract has acquired the status of an independent regulator of property relations of co-owners between themselves and with third parties, thus giving to the regulation of contractual relations of common property prevailing value comparing to statutory regulation. According to p. 3 of the Art. 6 of Civil Code of Ukraine civil relations can be regulated not only by the acts of civil law, but also by their participants - subjects of these relations. That is in the relations associated with the emergence of common ownership of individuals the shift from their legislative regulation to contractual determination can be traced. However, civil contract must meet the rules that are mandatory for the parties and valid at the moment of the conclusion. Thus the legislator in par. 2 of p. 3 of Art. 6 of Civil Code of Ukraine emphasizes the objective headship of the imperative rules of the law above contract. It can be concluded that the equality of dispositive provisions of Chapter. 26 of Civil Code of Ukraine and terms of the contract is possible when this equality is assumed by discretionary norm. However, with entering into force of a new law that regulates the common property of individuals differently, the conditions of previously concluded civil contract remain in force, unless otherwise will be provided by law. It should be understood that the rights and obligations of the contracting parties are

related directly to the rules of Ch. 26 of Civil Code of Ukraine, as they are defined by the parties aiming at regulating their actions on pre-defined rules of conduct (contractual terms). Therefore, the contract is not just an agreement between the contractors, but primarily an individual regulator of relations between owners and third parties. Instead, the law acts as a general normative regulator of the relations of common property.

Therefore, it can be concluded that the contractual regulation by its impact on the relations of common property is wider than the statutory as legal regulation is aimed to managing the co-owners of property relations and contractual – to their organization and formation. Therefore, the contract serves the one unique social and legal structure of private law that determines its specificity and at the same time gives the parties the widest freedom of actions, provides the opportunity to become a sort of «legislators» for themselves, but in the limits defined by law.

The relationship arising from conclusion of the contract are recognized not only legal and not so much because they are directly regulated by rules of positive law, but because there is close legal connection between contractors. Law recognizes the rules of a contract created by the parties (subjective rights and obligations), that is it ensures their forced realization and protection. As a striking example of the recognition of legal relations arising from the contract may serve a deed of gift of shares in the right of common property under which the rights and obligations for contractors occur not by transferring the prescriptions of the law on the real situation through their voluntary actions, but directly from the agreement of the parties. In the process of concluding of such a treaty legal norms of individually direction are created, i. e. concerning specific and well-defined subjects and are designed for them.

Thus, contractual regulation in mechanism of legal regulation of property relations co-owners occupies a special place, forming a separate subsystem – a set of elements that form in their systematic unity mechanism contractual regulation of relations of common property of individuals. It appears that aforesaid subsystem of contractual regulation has determining value for the mechanism of legal regulation of relations of common property, since it establishes the content of other elements, and, consequently, the mechanism of regulation of private relations in general. The mechanism of regulation of contract is formed by model of contractual relationships approved by positive law; principles of contract regulation, contracting manners. Thus, the mechanism contractual regulation, the core of which is a civil contract, is an integral component of the mechanism of regulation of private relationships. Contractual regulation of property relations of co-owners and third parties performs the following functions:

- law-making (is shown in shaping the content of the agreement, which serves as the basis of occurrence, change and termination obligations);
- organizational (organizing a self-regulation of property relations between owners and third parties);
- informative (containing information about the content of a civil contract);
- preventive (prevents conflicts of interests of participants);
- ensuring compliance with the law terms of a civil contract and the legality of action for its implementation.

### **THE CONCEPT AND THE ESSENTIAL TERMS OF THE CONTRACT AS A REGULATOR OF RELATIONS OF PROPERTY CO-OWNERS**

In civil literature the position of the multiple meaning of the term “the contract” is predominant, which covers such legal phenomenon as legal fact (bilateral or multilateral transaction), which is the basis of civil rights and obligations; contractual obligations (relationship) arising from the concluded contract; a document that fixes the fact of establishing binding relationship between contractors (Dzera *et al.*, 1998; Yoffe, 1975).

It should be noted that the concept of multiple meaning of the concept of a contract has found its realization in the civil codes of many countries, built on pandectists (Germany, France, the Netherlands). It is adopted in contemporary Ukrainian legislation too.

Among general contractual provisions, the defining place certainly belongs to the definition of the concept of a contract by the Civil Code of Ukraine. According to p. 1, Art. 626 of the Civil Code of Ukraine the contract is defined as an agreement between two or more parties aimed at the establishment, modification or termination of civil rights and obligations. We cannot argue that this definition is completely new for the jurisprudence because before the adoption of the Civil Code of Ukraine in 2004 sufficiently established views on the concept of civil contract had evolved in the legal doctrine. Analyzing this definition contract, V.V. Luts says that the agreement is not limited to the fact that it affects the dynamics of civil relations (creates, modifies or terminates them), but also determines the content of specific rights and obligations of the participants of contractual obligations according to legal requirements, business traditions and requirements of reasonableness and fairness. In this sense the contract is a means of regulating the behavior of parties in civil relations (Luts, 2001). So the contract is also a legal fact and form of existence of relationship, and a document that fixes rights and obligations of the parties, and a regulator of property relations, herewith co-owners are recognized as the subjects of the contractual regulation that allows to establish criteria for their possible behavior. Taking into account that civil contract is aimed at regulating property relations of co-owners and third parties such its meaning fully covers all the above roles because as a regulator of property relations the contract may take different forms: in some cases, it is a commitment, in others – legal fact, action, transaction or document containing conditions for the regulation of property relations of co-owners.

Considering the above, as regulator property relations of co-owners civil contract is system of actions fixed in statutory form and achieved by the parties to meet their own interests by the mutually agreed will of both counterparties of the future contract aimed at emergence, modification or termination of their right to common property. I. e. the legal model of a civil contract as a regulator of relations of property of co-owners and third parties is that it is:

- legal fact (legitimate action – legal act) upon which obligations of the parties arise;
- a document containing the conditions for legal regulation of property relations;
- the form of existence of property relations of co-owners and/or third parties (commitments).

To become a civil contract legal, it must meet certain requirements, compliance with which is necessary (West, 2017). Before adopting of the Civil Code of Ukraine validity of the contract terms were taken from the norms of civil law by doctrinal means. Today these general requirements for transactions are provided at legislative level in art. 203 of the Civil Code of Ukraine and are reduced to the thesis that the agreement does not contradict a number of criteria. First, the content of the contract cannot contradict the Civil Code of Ukraine, other acts of civil law and the interests of the state and society and its morals. We can see that the legislator in one norm actually combined two conditions: legality and morality. According to art. 628 of the Civil Code of Ukraine contents of the contract terms are points determined at the discretion of the parties and agreed by them, and conditions that are binding under civil law. In other words, the content of the contract is a set of conditions under which mutual rights and obligations are fixed.

Regarding such a condition as the compliance of the content of the transaction (contract) with the interests of the state and society, its morals, it is appropriate to note that the accordance of the content of transaction to these requirements is novel among the conditions of its validity and caused by increasing of moral justification of legal regulations (Bell and Parchomovsky, 2005). The literature on philosophy of law it is rightly noted that in terms of overall value system that have been developed in modern society, law must comply with morality. However, the right should comply not with all requirements, and even more – not

ideological (such as the requirement of “communist morality”), but with generally accepted, universal, basic ethical requirements, the basic principles of Christian culture or a culture that is the same with Christian, including the culture of Buddhism, Islam. Analyzing concrete examples of interaction between morality and law, S.S Alekseev concluded that “the right in its organic is a phenomenon of deeply moral order and its functioning is impossible without direct inclusion into the fabric of the right moral criteria and assessments” (Alekseev, 1999). It can be concluded that the category of morality (the moral principles of society) is used in the context of the “inner sanctum” of civil rights, namely the right of property, contract law, the legal capacity of individuals and entities and more.

The second condition for the validity of a civil contract as a regulator of relations of property of co-owners is sufficient amount of legal personality of them and of third parties who want to acquire a share in the right of common ownership. Thus, the right to conclude contracts is an element of civil legal personality of individuals, legal entities of the state, local communities and others. These persons acquire and exercise civil rights (and therefore – perform obligations) by the implementing legitimate acts, among which the prominent place is occupied by agreements. Taking into account that scientific interest in this work is devoted to the common ownership of individuals, it should be noted that invalidity of contracts the parties of which are the individuals is based on the same criteria as the general rules of the appearance of capacity, namely age and mental attitude to committed actions. According to these criteria, the Civil Code of Ukraine has formulated such of invalid transactions:

- transactions committed by juvenile person outside of the civil capacity;
- transactions committed by minor person outside of the civil capacity;
- transactions committed by an individual, whose civil capacity is limited outside of the civil capacity;
- transactions committed by incompetent individual.

On the basis of the analysis of norms of the Civil Ukraine it can be concluded that neither individuals who have partial capacity, nor individuals who are recognized as incapable, do not have the required volume of civil capacity to be a party to the contract under which joint ownership of individuals arise or terminate. However, minors and individuals who have limited capacity may be parties to such agreements. We can make such a conclusion, given that according to Art. 32, 37 of Civil Code of Ukraine minors and individuals whose capacity is limited may perform other transactions, except those which are provided by the noted articles, with the consent of the parents (adoptive parents) or trustees. So they can enter into a contractual relationship regarding the occurrence or termination of their common ownership on the property with the consent of their parents or guardians. In some cases, according to Art. 35 CC under which full civil capacity can be provided to an individual who has attained the age of sixteen and works under an employment contract or wants to do business; such person acquires full civil capacity since the state registration as a business entity (entrepreneur). That is quite possible that the party of the contract of sale of shares in the right of common partial ownership may be minor who has legally acquired the entire volume of civil capacity. The same applies to such ground of providing full civil capacity (p. 1 of the Art. 35 of Civil Code of Ukraine) as a fact of recording a minor as mother or father of the child. Thus, depending on the volume of capacity of an individual he or she can take part in a contractual relationship involving the appearance and transfer of ownership from one person to another. One of the conditions of validity of a civil contract is compliance of outward expression of the will of the participant (expression) to his or her true inner freedom. The will of the party of the agreement should be freely, without any pressure from the counterparty or others and meet his or her inner freedom. The unity of the will and its detection is the basis for the legal assessment of the behavior of the subject and the recognition of this behavior as such that has legal value. There is no unity of will and determination, if the contract is concluded under the influence of fraud, violence, threats or due to

malicious agreement of a representative of one party with another party or coincidence of difficult circumstances. Such agreements are declared invalid because the will of the person to commit the transaction is absent, and will reflects not the will of the party of the agreement, but the will of other person who has influence on party of a transaction.

Another criterion of the validity of a civil contract is compliance with the statutory form. The form of contract is a way of expressing the will of the parties, aimed at the entry and staying in contractual relations; that is, for the receiving by the will of a person as a subjective phenomenon a legal matter, it is necessary to provide some objective expression, i. e. some form. Art. 205 of Civil Code of Ukraine discloses the contents of objective expression of the form that simultaneously reflects means of the external expression of will of the subject of a transaction. Civil law of Ukraine provides for two forms of committing transactions: oral and written (simple or notarial).

In the Civil Code of Ukraine (p. 1, 2, Art. 639) the general rule is fixed according to which a contract may be concluded in any form if the form requirements of the contract aren't provided by law. In general, the practice of concluding of agreements that are the basis of the right of common ownership written form of their conclusion prevails.

Particular requirements for the registration of the contract in a written form are provided to individuals who owing to illness or physical defect cannot personally subscribe. On instructions from such a person contract is signed in the presence of another person. Signature of another person in the text of the transaction, which is notarized, is certified by a notary or an official who has the right to commit such notarial acts with reasons of which the text of the transaction cannot be signed by the person who commits it (p. 4 of Art. 207 of the Civil Code of Ukraine).

Notarization of contracts is mandatory only in cases when the right of common ownership of real estate is transferred under the contract or the parties themselves insist on such certificate. Notarization of contracts is mandatory only in cases when under the contract is transferred to joint ownership of real estate or insist on such certificate the parties themselves. Notarization of the contract means that its content, time and place of, the intentions of the parties, its compliance with the law and other circumstances are inspected and officially fixed by a notary, and therefore are regarded as established and reliable (Kharytonov and Saniakhmetova, 2003). In case of failure of the requirement for notarization of the contract by the parties, such contract is invalid. However, there are exceptions to the rule, namely, if the parties have agreed on all essential terms of the contract and there was a full or partial implementation of the contract, but one of the parties avoided its notarization, the court can recognize the contract valid. In this case, the following notarization of the agreement is not required.

Among the general requirements, compliance with which is necessary to force civil contract, an important role plays the requirement that the transaction should be directed to the actual occurrence of legal consequences that are conditioned by it (Cassier, 2002). Earlier this condition actually was not isolated separately, though the Civil Code of the Ukrainian SSR in 1963 envisaged the invalidity of the imaginary and fictitious transactions, in which there was no focus on the occurrence of legal consequences. On this occasion, it was stated that such a condition actually does not need legislative consolidation as in legal practice, such transactions are rarely concluded and their members do not have normal mental abilities (Meyer, 1997). In modern investigations, legal parties of the contract are required to have a serious intention to achieve a particular legal result that is allowed by law. Persons who enter into a contract should understand what their action would cause, that is they should understand the aims and nature of their actions. Therefore, the court recognizes as invalid fictitious transaction that is committed without the intention to create legal consequences that are conditioned by this transaction.

Another criterion of validity of a civil contract is compliance with conditions of consistency of contract exerted by parents (adoptive parents) to rights and interests of juveniles, minors or disabled children. As it was noted above, the volume of civil capacity of juvenile children is that such persons can independently

perform only small domestic transactions and exercise moral rights on results of intellectual activity protected by law. Minors (aged 14 to 18) can independently conclude agreements related to the management of their earnings, scholarships or other income, as well as can independently enter into a contract of bank deposit (account) and manage deposits made by them in their name. Other transactions should be concluded by these persons with the consent of the parents (adoptive parents) or trustees. Of course, at the conclusion of transactions by minors with the consent of the parents (adoptive parents) they shall primarily take care of the interests of their children.

Thus, compliance with general requirements for of validity the transaction mentioned in Art. 203 of the Civil Code of Ukraine is important first of all for contracts aimed at transferring ownership from one person to another, because only valid transaction may create legal consequences that are conditioned by this agreement.

### ***THE MOST WIDESPREAD TYPES OF CONTRACTS ON THE TRANSFER OF PROPERTY IN COMMON OWNERSHIP (SALE, EXCHANGE, PERMANENT ALIMONY, GIFTING, HEREDITARY CONTRACT)***

The most widespread kind of agreements on the transfer of property in common ownership is a contract of sale, which is used in realization of sales for production purposes, on the wholesale market of consumer goods, particularly through commodity exchanges, wholesale fairs, exhibitions, sales, etc., retail and catering, in implementing agreements of commission and consignment, in the privatization of state and municipal property, foreign trade turnover, etc (Merrill and Smith, 2001).

From enshrined in Art. 655 of the CC Ukraine determination of the sales contract it is shown that this contract is always compensated, bilateral, and may be as consensual (the seller is obliged to transfer, and the buyer is obligated to accept property) and real (the seller gives and buyer takes property). That is, in any case, the basic and defining feature of all types of sales contracts are compensatory and irreversible alienation by the seller the property (goods) and transfer it in the property of the buyer – otherwise the contractual relationship is no longer possible to qualify as a sale.

One of the main features of contracts of sale is the fact that they mediate the transfer of ownership from alienator to the acquirer. That is, they are legal mechanism that ensures the dynamics of the fullest property right as the legal fate is determined by the property owner, he has the right to sell (of course, with the abidance to general rules of civil law about the legal capacity and capability). This fact is reflected in the art. 658 of the Civil Code of Ukraine, which states that the right to sell the goods belongs to the owner, except the cases of forced sale and other cases established by law.

Parties of the contract of sale may be any subject of civil legal relations – individuals and legal entities, municipalities, the state, but the conditions of participation of each of these subjects in these contracts are not always the same, since they depend in particular on volume of legal capacity of every specific subject of civil relations. Thus, the possibility of conclusion by individuals of certain kinds of purchase agreements also depends on if they have the status of a business entity, inasmuch as only an entrepreneur can be, for example, seller (supplier) in the contract of retail sale, delivery and more.

During a conclusion of a contract of sale, the type of ownership of the alienated property is important. According to Art. 361 of the Civil Code of Ukraine each participant of common partial ownership owns particle in ownership of the common property, according to this each owner independently manages his share in the right common property. I. e. each participant of common property has the right to compensation or donation of his share to others. In this case, we aren't talking about transfer of the part of the property in kind, but about share in the right of ownership. This transfer of the share may be done by the owner by conclusion of the contract of sale. Choosing of the way of disposition of shares in common partial ownership of the property depends entirely on his will, discretion and interests (Krupchan, 2005).

In civil law some guarantees of protection of the rights of co-owners who are not interested in the alienation of shares in the common property to third parties are established. Thus, in accordance with Art. 362 of the Civil Code of Ukraine in case of sale of the right of common property by one of its members to a third person other co-owners have the right on preferred purchase of the particle at the price at which it is sold, and at other equal conditions except the sale by public auction. It is important to determine the moment of transition of the share in common partial ownership to the purchaser under the contract. Inasmuch as we are talking about the share in right, common rules for the moment of transfer of ownership from the moment of transfer of things in this case cannot be applied, and the principle enshrined in Art. 363 of the Civil Code of Ukraine acts. Share in the common partial ownership is transferred to the acquirer from the date of conclusion of the agreement unless other is provided by agreement of the parties. Exceptions to this rule are cases when the contract should be notarized. Share in the right of common partial ownership under the contract, which must be notarized, passes to the purchaser upon notarization or since a court decision on the recognition of a valid contract enters into force, and (or) state registration of rights.

Providing for co-owners a preferred right of buying is caused by several factors. First, they may be interested in acquiring the alienated particle to satisfy their material and cultural needs. Also, they care about the person who will become participate in the right in common partial ownership, how he or she will perform obligations of maintenance of the common property, using it. Given these circumstances, the seller must notify in a written form the other participants of common ownership its intention sells the share indicating the price and other terms on which he sells it.

In case of refusal of co-owners from the preferred right of buying or their failure of the right to immovable property, within one month, and in respect of movable property - within 10 days from notification the seller may sell the share to any person (p. 2, Art. 362 of the Civil Code of Ukraine). This is a specific term and it cannot be renewed or extended. If several co-owners claim the share, the seller can sell his part of each of them. Other co-owners cannot hinder it from doing it, even if they have more need for the acquisition of the said share.

The issue of guarantees of realization by the participants of common partial ownership a preferred right of buying is important for the cases of sale, particularly in the case of violation of the right and sale to third party. Limitation of action for such claims is set by of the Civil Code of Ukraine at one year. Transfer of rights and obligations of the buyer to co-owner, as it arises from the content of the law, is carried out without preliminary recognition of the transaction on the alienation of the share in common property to a third person invalid. Under violation of the right of a preferred buying we should understand the cases of transmission of the preferred right of purchase in common partial ownership by co-owner to others.

Sale of property that is in common joint ownership can be made only with the consent of all co-owners. Spouses as a subject of civil relations may also acquire and dispose of property by a contract of sale on the right of joint ownership, unless otherwise provided in their agreement. Thus, in accordance with Art. 65 of the Family Code of Ukraine wife, husband manage the property that is the object of joint ownership, by mutual agreement. During the conclusion of an agreement by one of the spouses it's considered that it acts with the consent of other spouse. The same rule is provided concerning disposal of property that is the object of joint ownership. That is, each of the owners is entitled to perform various transactions concerning joint property, that is significantly different from the rights of common partial ownership, where each of the owners has the right to dispose of only his share with the compliance to preferential right of purchase and sale of shares, while in common joint ownership the disposing of joint property is made with the consent of all co-owners. In the case of conclusion of a contract of sale by one of the spouses under Art. 657 of the Civil Code of Ukraine consent of the other spouse must be submitted in a written form and notarized.

The ground of acquiring by an individual the right of common ownership on the property can be barter; its main difference from the contract of sale is that the transfer of property ownership is not mediated by movement of funds. According to p. 3 Art. 715 of the Civil Code of Ukraine in case of inequality of



exchanged property agreement can install additional payment for goods of greater value that is exchanged on commodity of lower value. Moreover, this cost difference can be compensated by performing certain works or provision of services – there are no legislative obstacles for the implementation of such calculations under the contract of barter.

According to p. 1, Art. 715 of the Civil Code of Ukraine under the agreement of exchange (barter) each party undertakes to transfer the other party into the ownership one commodity in exchange for other. Each of the parties of barter contract is the seller of the commodity which he or she transmits to the exchange and the buyer of the goods which he or she receives in return. That is the legislator considers the concept of “exchange” and “barter” as synonyms. We immediately express that our disagreement with this identification, as opposed to of exchange contract, barter is a business transaction and may include non-monetary exchange of goods based on the results of work, services etc., while exchange according the Art. 715 of the Civil Code of Ukraine means the exchange of one property (thing) in kind to another property.

One of the characteristics of exchange contract is the moment of occurrence of the right to joint ownership in the contracting parties on the exchanged property. According to p. 4, Art. 715 of the Civil Code of Ukraine the right to ownership on the exchanged goods passes to both sides after the execution of obligations on transfer of property by both parties, unless otherwise is provided by contract or law (one of the examples of the other case is the exchange of real estate, joint ownership on which arises from the moment of notary license of contract and state registration of rights owners).

The issue of liability of the seller in case of recovery of goods from the buyer by third party is quite original and at the same time not regulated. According to the fixed in the Art. 661 of the Civil Code of Ukraine general rule, in case of withdrawal by court order goods from the buyer to a third person on the grounds that arose before the sale of goods, the seller must compensate the damages to the buyer if the buyer did not know or could not know about the presence of these bases. However, sometimes members of civil relations recourse to an exchange contract when there is a mutual interest of each of them in the property of his counterpart, and the exchange carried out on condition of the transfer of the same property, but not the other. The application of the legal consequences in this case under the Art. 661 of the Civil Code of Ukraine would mean that property which the owner exchanged only on the condition of the purchase of the property of counterpart cannot be returned, as the latter only covers the damage. It seems that in this case it would be appropriate to consolidate in the Civil Code of Ukraine a special rule that party of the contract of exchange, whose goods have been removed by a third party, would be entitled to claim, along with compensation of his or her losses, returning the commodity which has been passed for exchange, because the application of such legal consequences will allow to protect adequately the rights of counterparties of the contract.

Civil law of Ukraine, in contrast to the of the Civil Code of the Russian Federation, rather advisable does not allow the use of rules for the preferential right of purchase of the share in common partial ownership during the alienation of a particle under the contract of barter, because in this case participants of the joint property will need to assume all obligations on granting equal property provided under the contract of exchange, and it, of course, will complicate, the preferential right of purchase shares in common property. Preferential right of buying will not be applied in case of exchange of things defined by individual characteristics, that is, if such things are endowed with unique characteristics that distinguish them from others of similar things (Prostybozhenko, 2005). Thus, if the share in common partial ownership to car is exchanged, for example, to land, in this case it is nearly impossible to implement preferential right on purchase of a particle. Because the things with individual characteristics are irreplaceable, so a co-owner cannot meet the interest of the other co-owner (seller). Thus, during the concluding a contract of exchange concerning the share in the right of common partial ownership it's necessary to pay attention to the object of exchange. If this thing is expressed by individual features, it is necessary to give possibility the other co-owner to exercise the preferential right on purchase such shares.

However, the participants of joint property (such as spouses) as subjects of civil relations may also acquire and alienate property under a contract of exchange on the right of joint ownership. Thus in accordance with Art. 65 of the Family Code of Ukraine wife, husband manage the property that is the object of joint ownership, by mutual agreement. During the conclusion of an agreement by one of the spouses it's considered that it acts with the consent of other spouse. The same rule is provided concerning disposal of property that is the object of joint ownership (p. 2, Art. 369 of the Civil Code of Ukraine).

A contract of exchange of property can be certified without the consent of the other spouse if the latter is not a resident at the location of the property and place of residence is not known, or if the property is acquired by one of the spouses during the separation of the second spouse due to actual termination of marriage. The conclusion of a contract by one of the spouses with third party concerning the exchange of his share in joint matrimonial property is possible only in case of its definition and separation in kind or determining the order of use of property. A contract of exchange which is concluded between the spouses and the subject of which is the share in right of common compatible property of one spouse may be certified by a notary without separation of a particle in kind.

A contract of lifetime maintenance is quite common in practice of contractual regulation of relations of common ownership. In the Civil Code of Ukraine this contract is placed after a contract of sale, gifting and rent. This, in our view, underscores the fact that the contract of life maintenance (care) mediates the transfer of ownership from alienator to the acquirer.

Unlike of the Civil Code of Ukraine of 1963 under which the alienator could act only person who is unworkable because of age or health status (Art. 425), according to the Civil Code of Ukraine an alienator in a lifetime maintenance contract may be an individual regardless of age and health (p. 1, Art. 746 of the Civil Code of Ukraine). The purchaser may be capable adult person or entity. In this regard it is advisable to emphasize quite controversial legal positions assigned in Art. 3. 746 CC of Ukraine that in some cases when acquirers are individuals they become co-owners of the property transferred to them under a contract of life maintenance (care) on the right of joint ownership. The expressed position causes criticism because if the acquirers want to obtain property not into joint compatible property, but into joint partial property, and alienator doesn't deny, the question appears if there may be some obstacles to the solution of this issue. It seems that for avoiding all sorts of misunderstandings in p. 3 Art. 746 of the Civil Code of Ukraine it makes sense to consolidate discretionary rule, which will provide that if the acquirers are several individuals, they become co-owners of the property transferred to them under the contract of life maintenance (care) on the right of joint compatible ownership, unless otherwise is provided in their agreement. If recipients are several individuals their duty before the alienator is solidary.

In the Civil Code of Ukraine some features are provided concerning conclusion of the contract of life maintenance in regard of the property that is in common joint property of individuals. Thus, according to Art. 747 of the Civil Code of Ukraine property belonging to the co-owners on the right of common property, including property owned by spouses also can be alienated by them under a contract of life maintenance. In the case of death of one of the co-owners of property which was alienated under a contract of life maintenance, the amount of liabilities of the acquirer shall be reduced accordingly. However, the legislator does not regulate the widespread situation when one spouse wants to enter into a contract of life maintenance (care), and another – no. In this regard it is advisable to note that if the alienator is the member in rights of joint ownership, the contract of life maintenance can be signed after determining the share of the co-owner in the common property or determining the order of using this property between owners. If the object of contract of life maintenance is a house or part of it, the allotment of the share in common partial ownership is possible if separate part of the house with independent access can be allocated for each party. Allotment may also occur when it is technically possible to convert premises into isolated apartments.

The contract of gifting also belongs to a group of agreements on the transfer of property ownership under which common ownership rights may occur. It aims to irreversible termination of ownership regarding the giver and emergence of property rights regarding gifted individuals.

Parties to the contract of gifting can be individuals, legal entities, state Ukraine, Crimea, local community. Property under this agreement can be gained by individuals both into the right of private and of common ownership. However, each co-owner according to Art. 361 of the Civil Code of manages his or her own share in common partial ownership. I. e. under the contract of gifting, a participant of the joint property is entitled to free alienation his share in the common property to others. In this case, other participants of common ownership don't have preferential right to obtain this share.

The subject of the contract of gifting can be not only moving things, including money and securities and immovable property, but property rights – both those which the giver already has and those which may occur in his future. Of course, during gifting it is also necessary to comply special rules established for acquiring the right of property by individuals regarding certain types of property (for example, objects restricted in turnover).

Analyzing a hereditary contract as the basis of emergence of the right of common ownership of individuals, it is appropriate to emphasize that it is relatively new for the Ukrainian legal system of civil contract because it was not provided nor by the Civil Code the Ukrainian SSR in 1922, nor by the Civil Code the Ukrainian SSR in 1963, or other laws in the field of regulating of hereditary relationship. We should note that a hereditary contract is a special type of binding relationship. Relations between the alienator and the acquirer of under the contract are binding in their nature. A thesis that a hereditary contract can be regarded as one of the possible types of inheritance is contentious. The very definition of hereditary contract is very similar to the definition of individual contracts (rent, life maintenance). Thus, binding nature of these relationships can be traced from a legal definition of hereditary contract. In our view that is why the issue of structural place of hereditary contract remains debatable: leaving it in the Book of inheritance of the Civil Code of Ukraine or placing it after the contract of life maintenance and rent.

To our mind, given the binding legal nature of a hereditary contract there are all reasons for allocating of this contract in a group of agreements on the transfer of property ownership. We come to this conclusion given that it's inappropriate to talk about the possibility of legal regulation of hereditary relations by this contract because it does not belong to species of inheritance. In addition, a hereditary contract in its content provides acquisition of certain rights and obligations during the life of alienator that contradicts to the legal nature of inheritance because acquisition and implementation of the hereditary rights is possible only with the prerequisite - the death of the testator (Zaika, 2007).

Under a hereditary contract purchaser undertakes to fulfill the order of the alienator and in case of his death acquires ownership to his property. An alienator may be one or more individuals – spouses, one spouse or another person. A purchaser may be individuals or entities. During the conclusion of a hereditary contract a purchaser, if he is the heir by will or by law, does not lose the right to inherit property in the same proportion that was not mentioned in the hereditary agreement.

The subject of the hereditary contract is both an acquisition of property of the alienator and acting (works, services) of the acquirer. Moral rights, property rights over another's property (perpetual lease, superficies, servitude) etc. may not be the subject of the contract.

A hereditary contract with the participation of spouses has essential features. In this case the subject of the contract may be property belonging to the spouses on the right of common property and property that is private property of any of them. Regarding the conclusion of the hereditary contract by spouses, there should be noted that at the conclusion of each contract regarding joint marital property requiring notarial form there must be written consent of the other spouse. If the contract was concluded without the consent of the other spouse, it causes an invalidity of a contract.

A hereditary contract may be certified without the consent of the other spouse, unless the legal documents, marriage certificate and other documents show that stated property is not common but private property of the other spouse, and when the latter is not residing in the location of the property and his place of residence is unknown. A copy of the court decision, which became final, should be given to confirm this fact.

However, another situation can arise when one of the spouses wants to conclude a hereditary contract, and another – no. In case when both spouses as alienator are not agree with the inclusion of joint property into a hereditary contract or the spouses did not reached agreement on this property, one spouse may judicially establish his or her share in the common property and then enter into a separate hereditary contract. Also it can be established by a hereditary contract that in case of death of one spouse inheritance is transferred to another, and in the case of death of the other spouse his property passes to the of the acquirer under the contract. However, as it is rightly pointed by S. Fursa, p. 2, Art. 1306 of the Civil Code of Ukraine should be taken on the subject of hereditary contract, and not as the concept of “heritage” that has a different meaning and has no relation to of hereditary contract (Fursa, 2007).

If there is the marriage contract, which defines the rights and responsibilities of spouses on property acquired before marriage as well as during the latter, received as a gift or inherited by one spouse, a notary during the certificate of hereditary contract is obliged to be managed by the terms defined by a marriage agreement. If at the conclusion of a hereditary contract the conditions of previously concluded marriage contract were violated by the alienator, it is a ground to declare contract invalid.

Summing it is advisable to note that a hereditary contract as a relatively new legal institution is not yet widespread in practice. And the legal nature of hereditary contract, its place in civil law with its inclusion into the Civil Code of Ukraine, has become the subject of diverse scientific debate, which should further promote the development of the institute of hereditary agreement and the positive application of the rules into court and notarial practice in Ukraine.

## CONCLUSIONS

In conclusion it is advisable to note that self-regulation of property relations of owners is an important personal right of participants of common ownership, which is realized by them at their own discretion regardless of normative regulation of these relations. Contractual regulation of relations of common ownership is significantly different from the independent regulation of such relations that occurs under the relevant rules within the discretionary regulatory of Ch. 26 of the Civil Code of Ukraine and Ch. 8 of the Family Code of Ukraine. The legal model of a civil contract as a regulator of property relations is that it is:

- legal fact (legitimate action – legal act) upon which obligations of the parties arise;
- a document containing the conditions for legal regulation of property relations of co-owners;
- the existence of a form of property relations of co-owners (obligations).

Contractual regulation of property relations of co-owners executes the following functions:

- law-making (shown in the shaping of the content of the agreement, which serves as the basis of occurrence, change and termination obligations);
- organizational (self-organizing of property relations);
- informative (containing information about the content of the contract);
- preventive (prevents conflicts of interests of participants);
- ensuring compliance with the law and the legality terms of the contract action for its implementation.

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## ARTÍCULOS

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### N.A. Nazarbayev and the Problem of Nuclear Weapons in the History of Independent Kazakhstan (1991-1995)

*N. A. Nazarbayev y el problema de las armas nucleares en la historia de Kazajstán independiente (1991-1995)*

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#### ABSTRACT

Research is devoted to the problem of nuclear weapon. Scientific literature, archive data, analyzes of international relations and events of world level related to this problem have been analyzed. The cases related to the closing of Semey nuclear test which was erected in the year 1949 in Kazakhstan, and had had the explosions until 1990s, and the entire range of nuclear weapons left from the Soviet Union were analyzed. The article is aimed at proving the importance of non-proliferation of nuclear weapons to other countries, gradual elimination of this weapon and stop the work in the test sites and use of the atom only for peaceful purposes.

**Keywords:** Atomic bomb; international relations; nuclear explosion; peace.

#### RESUMEN

La investigación está dedicada al problema de las armas nucleares. Se han analizado literatura científica, datos de archivo, análisis de relaciones internacionales y eventos a nivel mundial relacionados con este problema. Los casos relacionados con el cierre de la prueba nuclear de Semey, que fue erigida en el año 1949 en Kazajstán, y que había tenido las explosiones hasta la década de 1990, y toda la gama de armas nucleares dejadas en la Unión Soviética fueron analizados. El objetivo del artículo es demostrar la importancia de la no proliferación de las armas nucleares en otros países, la eliminación gradual de esta arma y poner fin a la labor en los lugares de ensayo y el uso del átomo sólo con fines pacíficos.

**Palabras clave:** Bomba atómica; relaciones internacionales; explosión nuclear; paz.

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## INTRODUCTION

The main focus of the activity, beginning with the days of independence of the Republic of Kazakhstan, was devoted to the future of the nuclear weapons left from the Soviet Union and the prospects of its delivery. This situation has turned out to be a serious problem of the international level. People from Europe, the United States and the Asian states started worrying about the destiny of Kazakhstan's nuclear arsenal. There have been problems with Kazakhstan's political, social, interethnic, domestic stability, and the uncertainty of the economic development of Kazakhstan, whether it is safe, non-proliferation of weapons of mass destruction and accession to this international agreement.

In fact, there was more harm than need for the Kazakh people and the first President, who had been carrying out nuclear tests all over the world since 1949. Since the 80s of the twentieth century, the territory of our republic was filled with layout, training and testing grounds of the weapon, its targeted missiles, and strategic bombing aircraft. Along with these, the main industry of Kazakhstan's industry was focused on production of uranium and nuclear weapons. In Kazakhstan, hidden cities and industries, which ordinary people do not know, have appeared. In such a situation, the damage to the nature of the republic and to the health of the population has increased dramatically, and its covering has become impossible. The further existence of the Soviet Union, which has been seeking to emerge from nuclear weapons, to its development, to the world of nations, has put an end to the future of Kazakhstan as a nation.

Kazakhstan became a sovereign state in the difficult geopolitical situation of the 1990s of the last century. Kazakhstan was the only right choice because of the great responsibility of the international community to ensure nuclear safety, and then went on to a tough step in the life itself.

The President of the Republic of Kazakhstan, N. Nazarbayev, signed the decree on the closure of the Semipalatinsk nuclear test site on August 29, 1991, that people had suffered for 40 years in Kazakhstan (Nazarbayev, 2003b).

About Polygon and its harm to people foreign scholars T.A. Bhat and S.A. Lone (2013) wrote: "During the "Cold War" On August 29, 1949, there was explosion on Semey polygon in the North-East Kazakhstan. From 1949 to 1989, there were 2400 nuclear explosions worldwide. Its 456 nuclear explosions were made in Kazakhstan.

This test site was the world's second-largest after the Marshall Island explosion. And the number of explosions was second after the Nevada test site. Subsequent research has shown that its environment and effects on humans have been exacerbated. For example, there are leukemia, cancer and psychological illnesses among the population near the polygon site".

## LITERATURE REVIEW

Information about the research work is drawn into the scientific circulation of the archives of the Russian Federation (Archive RF), the Archive of the President of the Republic of Kazakhstan (ARP RF). In addition, fundamental scientific research studies of Kazakhstani, Russian and foreign scientists were used.

Theoretical and methodological research studies on the issue of international communication were considered for writing of scientific work. For example, the scientific study of international relations in the world was initiated in 1919 at the University of Wales for the first time by the Department of History and Theory of International Relations. M.U. Zelenkov concludes that "international relations include political, economic, ideological, legal, military, diplomatic, and other relations and the relationships of key actors in the world community" (Zelenkov, 2009).

Russian researcher A.V. Shabaga (2015) writes: "The issue of international relations is considered within the framework of a realistic paradigm. The conceptual view of the political situation has been shaped by the 19th century, and politicians have evaluated international relations from a realistic viewpoint, and the



realist concept differs with the long-term prospects and political and tactical trends in future planning, covering the first diverse directions".

Ukrainian researchers M.M. Dzera and R.Y. Pasichny (2017) wrote in a research article titled "Modern methods of researching international relations". "International relations are the world-class sphere of political, economic, diplomatic, cultural and other relations in the middle of the human race. It is important to explore the relationship of such a large circle of subjects. In the study of international relations, general methodological research methods are used. World political processes have their own orientation, they differ from political processes. These processes differed in consideration of the relationships of individual states. The main difference in the world is the use of content analysis, document analysis, and political and international approach to control the political and international relations".

Russian scientists N.F. Bannikova and G.A.Trofimova (2012) wrote: "The peculiarities of cognitive methodology of the modern humanitarian sphere. For example, the main methodology is classic, non-classical and postclassical. Here are some of the main areas in which interdisciplinary research is closely related. The future of humanities in the XXI century is directly related to the rapprochement of historical science and social sciences".

In order to carry out research on this issue of international relations, it is necessary to follow the theoretical and methodological principles of research of interdisciplinary studies and works of authors considering international relations.

For example, the closure of the Semey nuclear test site by President of the Republic of Kazakhstan N.A. Nazarbayev's initiative has attracted the attention of the world and is considered to be a good thing in maintaining peace. As this is a matter of international process, it is necessary to examine the political and international relations at the international level through the analysis of content, analysis of documents, and monitoring of political and international relations. Therefore, the research was carried out by analyzing the processes of international relations and analysis of specific archival documents relating to the abandonment of complex nuclear weapons.

### ***THE WAYS OF REFUSAL OF NUCLEAR WEAPONS IN THE SECOND HALF OF THE 80'S***

Starting in the second half of the 80's of the 20th century, the nationwide protest of the start of the Semey nuclear bombs testing platform in Kazakhstan was a clear indication of its unilateral position.

The ways of refusal of nuclear weapons that located on the territory of the Republic and destructing the mass destruction of the entire world, began to be examined even during the Soviet Union.

Everyone knows that the future of Kazakhstan depends on removing the source of this tragedy from its territory, terminating the work of test sites and restoring the regions that have become an ecological disaster.

That is why the President of the Republic of Kazakhstan, N. Nazarbayev, has even begun publishing his attitude towards this weapon, even from the last days of the Soviet Union. For example, in his speech at the Royal Institute of International Affairs in London on October 29, 1991, he said, "We and the West have a great deal of Soviet nuclear weapons in our country and. In the course of several decades of existence, nuclear weapons have become the underlying phenomenon of global tensions, large contradictions, bloc policies, fear of distrust and fear. The recent changes in the "eastern world" affect the planet's geopolitics.

In this regard, the location of nuclear weapons as a stubborn force has also changed. You can be sure that it gradually diminishes, and is completely eliminated. Today, there is another problem facing believers and suspects, the most important thing is to establish a reliable control over the power of such great destruction that has accumulated in the most complex and controversial period of today.

Kazakhstan does not seek to become a nuclear state at the global and regional levels. At the same time, he does not want to remain in the "nuclear threat" of the center or Russia, when he declares himself a heir of war. In our view, the solution to this problem is to establish bilateral control of nuclear weapons, such as the two key systems of American nuclear weapons in several Western European countries.

In this case, we will implement the World Disarmament Program, at each stage, to reduce and eliminate nuclear weapons located on the territory of the Republic. To be honest, we have made a real step in removing our land from dangerous nuclear environments. Responding to the demands of the society, the republic's leadership decided to halt nuclear tests on the Semey nuclear test site. Under the agreement with the USSR Ministry of Defense, it will become a scientific center for substantiating fundamental and applied issues of nuclear disarmament. This is a clear example of the proliferation of military structures, making our militarized science and economy a civilian target.

The next model is space complex Baikonur. We are striving to reduce its military structure from the civilian sphere. Kazakhstan's space program, which will become a special organization, will only have a peaceful characteristic" (Archive of the President of the Republic of Kazakhstan, a).

Prime Minister of Great Britain Margaret Thatcher arrived in Kazakhstan and asked questions the President of Republic of Kazakhstan N. Nazarbayev (2017) about his nuclear weapons: "What do you want to do with nuclear weapons?" Even though I made a decision, I was still thinking about it. On the one hand, I liked this vertical character. On the other hand, I realized that Thatcher was putting this question on her own name, but also in the Middle East politics. The main negotiation process was still ahead. Nevertheless, I decided to talk with Thatcher as much as possible and made my point of view".

The British public figure, writer Jonathan Aitken has written about President of Kazakhstan N.A. Nazarbayev's refusal from nuclear weapons in his work "Kazakhstan. Surprise and Stereotypes: "From 1949 to 1989, there were 752 nuclear explosions: 72 of them on land, 26 in the air and the others under the earth. These explosions have not been forgotten by local people and have been tested without compromising on the safety requirements and have had a great impact on the environment and people" (Jonathan, 2011).

This view of Kazakhstan's leadership on nuclear weapons, which is located on the territory of the country, has become more apparent from the first days of the state's full sovereignty. For example, in the notes of the President of the Republic N.A. Nazarbayev from January 7 to November 5, 2007, with foreign statesmen in recognition of the independence of the Republic of Kazakhstan: "Kazakhstan takes all the relevant tasks in the field of disarmament and non-proliferation of nuclear weapons and establishes a nuclear-armed intends to join the Non-Proliferation Treaty. Together with this, the Government of the Republic of Kazakhstan strives to make its territory without a nuclear weapon and to participate in all the phenomena of strategic offensive nuclear weapons reduction. This was stated during the meeting of the heads of the states of the former Soviet Union in Almaty and Minsk, where the Agreement on Joint Measures on Nuclear Non-Proliferation was signed.

The Republic of Kazakhstan fully supports the decisions and commitments of the Treaty on Security and Co-operation in Europe (CSCE), together with the Helsinki Accord and the Charter of Paris (Archive of the President of the Republic of Kazakhstan, b) and the pessimism of their policies.

The head of the state said: "The first state decision of the Republic of Kazakhstan was a decree to close Semipalatinsk nuclear test site. In the end, the inhabitants and the environment of this region are facing a hard and hard work to determine the consequences of nuclear tests and to reimburse the damage caused.

As a young republic and its president, I hope this is a step forward for the nuclear powers to take action in this direction and to stop nuclear testing in any situation, and take steps to close all these test platforms on the planet" (Archive of the President of the Republic of Kazakhstan, c). It has become a worldwide testimony to the fact that Kazakhstan has been implementing a unilateral solution to nuclear weapons on its territory.

One-sided decision of Kazakhstan on non-proliferation and liquidation of nuclear weapons located on its territory by the President of the country N.A. Nazarbayev was published at the World Economic Forum in Davos on February 2, 1992, which states: "Significant achievements of the Almaty Agreement of December of last year in the framework of the Common Nuclear Forces Joint Arms Event ". It is our commitment to non-proliferation of nuclear weapons, our commitment not to be the first to it, our common commitment to the elimination of all nuclear weapons and our intention to strengthen international stability. Kazakhstan has become one of the first in the world to shut down one of the two largest nuclear testing in the world" (Archive of the President of the Republic of Kazakhstan, d).

However, in the first years since the collapse of the Soviet Union, Kazakhstan has also pursued a policy of suspension of nuclear disarmament in its region, taking into account the current situation in the region and in the world. Because at this time:

1. Non-granting of non-use of nuclear weapons by Kazakhstan against nuclear weapons;
2. Some nuclear states have started to exert pressure on Kazakhstan to abandon nuclear weapons;
3. The formation of opinions and suggestions in each direction on the future of nuclear weapons in Kazakhstan, etc. the situation forced the state to take full control of the decision to determine the nuclear weapons location on its territory.

From this point of view, it is stated in the report of the European Bank for Reconstruction and Development (EBRD) in November 1992: "Kazakhstan is committed to preserving and developing cooperation with its neighbors in the framework of the Commonwealth of Independent States tends to initially, despite international pressure, Kazakhstan wanted to avoid strategic nuclear missiles located on its territory. He argued that the Republic was interested in nuclear weapons in order to block the country because of nuclear non-aggressors (Russian Federation and China)" (Archive of the President of the Republic of Kazakhstan, e).

### **REPUBLIC OF KAZAKHSTAN'S ACCESSION TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS**

In this context, the Ministry of Foreign Affairs of the Russian Federation described the following: "Over the past year, Kazakhstan has taken an important step in the transitional year by joining the Nuclear Non-Proliferation Treaty as a nuclear-free country.

Responding to the question why Kazakhstan did not immediately agree with the withdrawal of USSR nuclear weapons from its territory and did not join the aforesaid agreement. Nazarbayev emphasized the importance of reaching a three-way agreement for Kazakhstan.

Firstly, the guarantees of non- nuclear states were originally in the United States, Russia, and China in May of this year.

The second is to recover the cost of enriched uranium deposited on nuclear missiles. Refund Agreement was made during the visit of Nazarbayev to the United States (Archive of the Foreign Policy of the Russian Federation, a), which states that Kazakhstan has done its best to overcome nuclear weapons.

In his interview to the Italian La Stampa newspaper, President of the Republic of Kazakhstan N. Nazarbayev in this regard said: "The attitude of Kazakhstan to nuclear weapons is a matter of concern for the public, conversations arise around it and in other cases, there are other conclusions. For example, the English-language Dailey Mail newspaper even wrote that Kazakhstan has been negotiating with Iran on selling strategic missiles to Iran, so I have twice fled to Tehran. Let's put this lie to the author's dignity.

First, I would like to emphasize that Kazakhstan has become a non-volatile nuclear state, as part of the USSR, nuclear weapons are deployed here, a test site has been constructed and worked for several decades. As for the will of Kazakhstan and its people, it is defined in the Declaration on Sovereignty adopted on October 25, 1990. It states that Kazakhstan strives to be a nuclear-free country. And this aspiration is being fulfilled: the Semey nuclear test site was closed for the first time by the presidential decree" (Archive of the President of the Republic of Kazakhstan, f). A clear step forward for the remaining nuclear weapons from the Soviet Union.

In fact, the concrete actions of the Republic of Kazakhstan on nuclear disarmament have started in 1994. "On March 28, 1994, I met with N.A. Nazarbayev and Boris Yeltsin for signing agreements with Russia for all nuclear weapons in Kazakhstan for 14 months and for the nearest three years to eliminate mine equipment for SS-18 missiles" Nazarbayev, 2003a).

This case was conducted with the participation of observers from the United States and Russia. The program "American-Kazakhstan" was adopted in the shortest possible time. Official archive documents say, "The United States and Kazakhstan have been working to reduce nuclear threat by 10 percent in accordance with the joint program. The most obvious of these are the elimination of strategic offensive weapons in Kazakhstan. Its cost is \$ 70 million.

The objective of the project is to eliminate mine shooting missiles of SS-18, as well as to clear the destruction site.

The first phase of the project (based on the Russian party's request for confidentiality) has been implemented on symbols without US presence since June lastyear. The initiative to implement the project for the destruction of the nuclear test site in the Daglen Mountains (the corresponding agreement was signed on October 3, 1995) was closed on April 2 of this year by the first nuclear test in the Dugelen mountain range. It's planned to shut down 186 holes in the year 60, which will cease work" (Archive of Foreign Policy of the Russian Federation Ministry of Health of the Russian Federation).

To get acquainted with the implementation of this program, the US Secretary of Defense concluded that Perry was in Kazakhstan on 4 April (1994) when he was a member of the Soviet Union, Western officials were successful in this area, and in 1996 he concluded that he would be a nuclear-free an official visit to the country to investigate how nuclear weapons were being dismantled. Nuclear weapons will be sent to Russia, which will ultimately be dismantled.

The United States provided Kazakhstan with \$ 170 million for nuclear weapons abandonment and for reconstruction of former military production facilities for peaceful purposes.

America is also concerned with limited military cooperation with Kazakhstan. This state is included in NATO's Partnership for Peace initiative" (Archive of the President of the Republic of Kazakhstan, g).

### ***N.A. NAZARBAYEV'S INITIATIVES AND SUGGESTIONS FOR GLOBAL NUCLEAR DISARMAMENT***

From the first days of sovereignty, the President of the Republic of Kazakhstan N.A. Nazarbayev drew attention to the establishment of a contractual relationship between the counterparts of the military alliance for the purpose of ensuring mutual peace, peace and disarmament in the region and in the world. The President of Kazakhstan said, "Taking into account the shared military-political and economic interests of Kazakhstan with Russia and other CIS countries, we together with all the NATO member states will coordinate our efforts to ensure international security".

N.A. Nazarbayev said, "We are determined to expand military co-operation with NATO, without undermining the CIS or bilateral military contacts, as we clearly define their goals and targets". Kazakhstan joined the NATO Partnership for Peace program on May 27, 1994. However, the relationship between

Kazakhstan and NATO was already established. In February 1993, N. Nazarbayev visited the headquarters of the North Atlantic Alliance in Brussels and held a meeting with NATO Secretary General Manfred Werner in that period. NATO experts and parliamentarians have repeatedly visited Kazakhstan in the period prior to its incorporation into the "Partnership for Peace" program.

During his official visit (March 1996) J. Collins (Senior Regulator of the US State Department for the Commonwealth of Independent States presented to N.A. Nazarbayev President B. Clinton's message to the independent development of Kazakhstan (Archive of the Foreign Policy of the Russian Federation, b).

While the atomic bombing of the nuclear-weapon-free zone in Kazakhstan has been a part of the joint elimination of nuclear weapons left by the Soviet Union, the work of the Semey nuclear test site devoted to nuclear weapons research has been completely closed. All nuclear weapons left by Kazakhstan after the collapse of the Soviet Union, their targeted means of transportation (missiles of various lengths, strategic bombers, etc.). The Republic of Kazakhstan is declared to the world as a nuclear-free country.

In the letter of the President of the Republic of Kazakhstan N.A. Nazarbayev to the President of the Russian Federation B. Yeltsin for the implementation of the above mentioned program for the production of nuclear weapons and their delivery facilities located in Kazakhstan: "Temporary deployment on the territory of Kazakhstan (Derzhavin settlement in Turgay region), RVS of the Armed Forces of the Russian Federation I'm addressing the completion of the space rocket launch. Last year, similar missile systems in the Semipalatinsk region (Zhalgызtobe settlement) were liquidated.

All of the RS-20 intercontinental ballistic missiles, 104 mines, two mine training units, and 16 control points were destroyed at the locations of these rockets. As a complement to the Strategic Arms Reduction and Restriction Agreement (NPT) Agreement between the Union of Soviet Socialist Republics and the United States of America, the Republic of Kazakhstan is systematically implementing the elimination of such weapons in its territory within a relatively short period of time in order to fulfill its international commitment with the Russian Federation" (Archive of the Foreign Policy of the Russian Federation, c), showed the significance and accuracy of the work being done by Kazakhstan.

And in the report of the President of the Republic of Kazakhstan N. Nazarbayev on the World Economic Forum in Davos, Switzerland, January 28, 1995: "At the end of last year, the Conference on Security and Cooperation in Europe held a roundtable discussion on the issue of non-compliance with the Memorandum on the Territorial Integrity of the Republic of Kazakhstan" (Archive of the President of the Republic of Kazakhstan, h), demonstrated a positive international outcome of the work done. Here is how "Kazakhstan has not only gained international credibility, but also renounced nuclear weapons. We have the nuclear powers - the United States, Russia, the United Kingdom, France, and China - a strong commitment to our territorial integrity and sovereignty. Kazakhstan's nuclear-free status is the basis of peace and security beyond our borders" (Nurymbetova and Kudaibergenov, 2010). In the period after Kazakhstan's gaining independence, the country has undergone political pressure on the issue of nuclear disarmament. Almaty, in its turn, has given this case consciously to get guarantees from nuclear weapons countries.

During his visit to Washington in May 1992, President Nazarbayev received a commitment to eliminate 104 US 18 nuclear missiles located on the territory of Kazakhstan. In May of this year, Kazakhstan signed the START Treaty by signing the Lisbon Protocol. In December the country's parliament ratified the Nuclear Non-Proliferation Treaty (DNA) and signed a sectoral agreement on the abolition of mine ships for SS 18 intercontinental ballistic missiles between Kazakhstan and the United States. Finally, on May 26, 1995, President N. Nazarbayev officially announced Kazakhstan's commitment to a nuclear-free zone" (Archive of the Foreign Policy of the Russian Federation, d) found that the activity of Kazakhstan on the whole territory of nuclear weapons in its entirety was an important milestone in the history of the Independent Country.

From the day of the state nuclear disarmament of the state of the President of the Republic of Kazakhstan, N. Nazarbayev will launch his concrete proposals and concrete actions to remove this source

from all over the world. For example, in his speech at the 1995 Almaty Conference on Disarmament: "In disarmament, we see the future of the world as nuclear, chemical and other weapons of mass destruction.

In light of the need to maximize non-proliferation provisions and justifying the favorable conditions for nuclear weapons liberation, Kazakhstan strongly supports the rapid completion of agreements on the full and comprehensive abolition of nuclear weapons.

We stand for the establishment of the Special Committee for the Elimination of Nuclear Tests within the framework of the conference and we are pleased to note the launch of multilateral agreements in this area.

Kazakhstan is fully prepared to take part in improving the effectiveness of control over the future nuclear test treaty. In our area, there are three modern seismic stations capable of recording thousands of kilometers of underground phenomena. Kazakhstan suggests adding a wider range of monitoring stations as an effective means of controlling these stations" (Archive of the President of the Republic of Kazakhstan, i).

In order to ensure mass disarmament, the Kazakh leader said: "At the present stage, the problem of international arms sales is also a serious problem. Kazakhstan strongly supports this trend.

Although arms sales are not the main cause of conflicts, they breathe and provoke them. It is witness to all the current regional conflicts. We believe it is necessary to establish an international mechanism for the registration of ordnance weapons, including export-import warrants, including the definitions of the states involved in the production and policy of the industry. Such a device could lead to the emergence of a weapon in any region or a weapon (Archive of the President of the Republic of Kazakhstan, j).

N.A. Nazarbayev drew attention to the fact that at the meeting with the Heads of State and Government of the OSCE in Lisbon on December 2, 1996, the nuclear weapons problem was completely solved by Kazakhstan and other nuclear powers should take concrete steps. "Kazakhstan confirms the nuclear test", he said, confirming the cease-fire agreement. Our state is the first nuclear test site in the world. Our commitment to the Nuclear Non-Proliferation Initiative is to eliminate the fourth-largest nuclear-capable nuclear power in the world" (Archive of the President of the Republic of Kazakhstan, k).

Thus, in the middle of the twentieth century, Kazakhstan has unequivocally closed the nuclear test site to the world, which has become known as a state without nuclear weapons.

And all this was due to the fact that the leader of the Kazakh Nation N.A. Nazarbayev was able to successfully solve the most difficult issue facing the Independent Motherland at the same time, as he saw the Republic as a peace-loving nation.

## **CONCLUSION**

For more than forty years, the world's largest nuclear power arsenals have become a major controversy in the competition between two world powers. At that time, achieving nuclear security would primarily be accounted for nuclear capacity building.

The world has stopped dividing the blocks. However, the problem of nuclear safety was not resolved even after a large part of the nuclear arsenal of one of the most powerful powers that had collapsed.

Unfortunately, in the millenniums, our planet has never been a safer place than usual weapons and nuclear weapons.

However, nuclear threats have switched to new species, even as it has switched to its previous two-dimensional range, and has conquered the organism.

After inheriting the Soviet weapons, Kazakhstan's Semey Test Site, was a great choice. The competition has long-term national security. At one point we had to demonstrate that our goal of surviving the nuclear potential as a resource of our military power was not proven by the fact that our goal was to glorify the whole world by choosing and abandoning a nuclear-free future for ourselves.

The Republic's leadership felt that the main advantage of Kazakhstan was not the massive stockpile of weapons of mass destruction, but on the contrary, openness, peace, conscious thought and moral authority. It could transform a nuclear-armed state into a powerful force from hundreds of thousands or even thousands of militant countries. Such a policy of rejecting the threat of weapons to strengthen long-term national security should be an example to others in all ages.

The problem of nuclear weapons abandonment is one of the most difficult issues facing the modern world. Nuclear weaponry is a common threat to humanity, nuclear testing sites have been the most severe of the 20th century. We all know that nuclear explosions threaten the environment and natural gene pool of the entire region, the human gene, and the radioactive substances and x-rays much higher than normal, and that very harmful radionuclides cause genetic changes in living cells.

President of the Republic of Kazakhstan N.A. Nazarbayev, Nazarbayev's initiatives and suggestions on the world-wide problem of "creating a world free of nuclear weapons" are well received by the nations of the world. The fact that humanity's survival and development in the 21st and the 20th century has been connected with the final and ultimate solution has become the most accurate. Therefore, we believe that the present-day nuclear weapon, the world states, and the world's population should turn the whole world away from such weapons of mass destruction into their main task.

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## ARTÍCULOS

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### State of Legal Regulation of Bankruptcy by the Legislation of Ukraine

*Estado de la regulación legal de la quiebra por la legislación de Ucrania*

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#### ABSTRACT

The authors analyzed the regulation of the main groups of Bankruptcy relations and certain aspects of this phenomenon. On the analysis basis, proposals are made to improve the provisions of the Act of Ukraine "On restoring the debtor's solvency or recognizing it as a bankrupt". It is established that the Act mentioned provides for the possibility of applying to the debtors only certain Bankruptcy procedures. The main direction of legal regulation of Bankruptcy is to satisfy the requirements of all debtors' creditors in the maximum possible extent, and only in the second place are implemented the goals of restoration of solvency and settlement of debtors' debts.

**Keywords:** Bankruptcy legislation; judicial proceedings; debtor; creditors.

#### RESUMEN

Los autores analizaron la regulación de los principales grupos de relaciones de quiebra y algunos aspectos de este fenómeno. Sobre la base del análisis, se formulan propuestas para mejorar las disposiciones de la Ley de Ucrania sobre el restablecimiento de la solvencia del deudor o su reconocimiento como quiebra. Se establece que la Ley mencionada prevé la posibilidad de aplicar a los deudores únicamente determinados procedimientos de Quiebra. La dirección principal de la regulación legal de la Quiebra es satisfacer los requisitos de todos los acreedores de los deudores en la máxima medida posible, y sólo en segundo lugar se aplican los objetivos de restauración de la solvencia y liquidación de las deudas de los deudores.

**Palabras Clave:** Legislación de quiebra; procedimientos judiciales; deudor; acreedores.

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## **INTRODUCTION**

The economic reform and the transition of Ukraine into the world's economic development includes an in-depth study of not only the processes that make up the basis of market transformations, but also the instruments by which they are implemented. Bankruptcy legislation is seen as one of the most important instruments of institutional transformation. The existence of effective legislation in this area contributes to creating conditions for stable economic growth and sustainability of the economic system of the country.

With the help of Bankruptcy procedures, insolvency, competition, the system of traditional legal measures applied within the framework of Court proceedings, minimization of the negative impact on the national economy of processes related to the insolvency of participants in the market environment of a country, and mitigation of the consequences, due to changes taking place in the economy. Because of the existence of effective norms that accumulates this legislation not only satisfies the requirements of creditors, but also restores the solvency of business entities, is settling their debts, and, consequently, the recovery of the national economy is taking place.

Based on the understanding of this in foreign countries, there is a constant reformation of the legislation in order to create a so-called "neutral", balanced legal regulation of bankruptcy, insolvency, and competitive relations.

The national legislator, on the basis of the conclusions of the theory, is also attempting to optimize the normalization of Bankruptcy relations.

Theoretical basis (scientific system for obtaining reliable knowledge) for writing an article are works: O.M. Biryukova, A.A. Butyrsky, I.O. Vechirko V.V. Junya, B.M. Polyakova, V.V. Radziwilyuk, V.V. Stepanova, M.I. Titova and others. At the same time, the work of these scholars was not specifically devoted to issues related to the state of modern Bankruptcy Act.

Partially the problem mentioned has V.V. Radzyvilyk in comprehensive study, devoted to the highlighting and solving the problems concerning the Bankruptcy preventing (2013) reviewed. In the last 5 years since the moment of these investigation conducting, were not only changes in the national legislation of Ukraine provided, but also the deficiencies in the Act about Bankruptcy became very evident in jurisprudence.

That is why the necessity of modern national scientific holistic conception formation of Bankruptcy relations' peculiarities determined the relevance of problems investigated.

Aims of newspaper formation (task setting): to identify the main problems in legislative regulation of material and procedural Bankruptcy connection, to analyze the legislation about Bankruptcy faults, which contravene the aims immanent for this legislation, formulate propositions about legislation about Bankruptcy of Ukraine improvement.

## **THE SOURCES OF LEGISLATIVE BANKRUPTCY FORMATION IN UKRAINE**

After Ukraine Independence proclamation in 1991 (On declaration of independence of Ukraine..., 1991) the process of public policy in area of Bankruptcy relation regulation was started. The first attempt of realization the policy named, was the adoption on May, 14, 1992 the Ukrainian Act "About bankruptcy" (About bankruptcy..., 1992), that "started the beginning of structural formation of new regulatory complex in Ukrainian legislation" (Radziwilyuk, 2013).

However, this Act was adopted in the complicated period of great changes and had a lot of considerable mistakes, which made this Act too complicated to apply in jurisprudence. There are: absence of proceeding peculiarities cases about Bankruptcy considering, ambiguity of legal status of creditors and other participants of proceedings in Bankruptcy case, defect of legal regulation of traditional legislative mechanisms of realization and juridical procedure etc (Radziwilyuk, 2006).

These and other drawbacks were the reason for legislation about Bankruptcy reform. In June 1999, was the second edition of Ukrainian "Act about bankruptcy" adopted (On Amendments to the Law of Ukraine..., 1999), which was named "On restoring the debtor's solvency or declaring it bankrupt". This edition was not only the new Act, but also undoubted step forward, in relationship regulation, which with took place because of debtor's insolvency, but "faults, defects, misjudgment of new Act were noticed by specialists on the preparation stage, however they failed to eliminate mistakes during the proceeding." (Junior, 2000). Failings of the Act of Ukraine second edition needed radical reformation and additions to legislation about bankruptcy, which took place after 12 years of this edition relevance.

Contemporary period of national legislation development, provisions of which regulate the relations in bankruptcy, should be connected with the acceptance in December 22, 2011, next edition of Act of Ukraine "On restoring the debtor's solvency or declaring it bankrupt" (On Amendments to the Law of Ukraine..., 2012) (than acc.to the text Act about Bankruptcy (On restoration of the debtor's solvency..., 1992)).

The third stage of legal regulation of Bankruptcy relations is the next step in reformation of national legislation about bankruptcy, the main features of which is granularity and concretization of the main provisions of legislation that was manifested in considerable expansion of regulations amount, which regulated relations of bankruptcy, and appearance of a great number of a innovations.

Owing to conceptual changes in legislative regulation of separate Bankruptcy institutions, appearance of a new, before non-regulated institutions and separate aspects of Bankruptcy relations the content of Act's Bankruptcy was enriched.

Most of innovations or the Act is aimed at addressing appeared in second edition of the Act "On restoring the debtor's solvency or declaring it bankrupt" defects in legislation regulation Bankruptcy relations. However, this direction concerned not all of the new provisions, because of some of them appeared problems in area of jurisprudence.

Unchanged in the Law Bankruptcy is the approach to the criteria definitions of bankruptcy: undeniable requirements of creditor to debtor must together represent no less than 300 minimal amount of a salary, which debtor has not paid during the 3 month after deadline. Serious legal barrier about different approaches to abuse is a standard, which contain the main provision about undisputed creditors' requirements, which are the monetary claims of creditors, confirmed with judgement that has a legislative validity and a decision about opening an executive provision (part.1 ch.1, part.3 ch.10).

### **PECULIARITIES OF LEGISLATIVE DEBTOR'S STATE**

Legal persons the same as natural person who have the status of the entrepreneurial activity subject, are covered under Bankruptcy Law.

Current Bankruptcy Act not only retained but also expanded the range of separate debtors, covered by Bankruptcy peculiarities, which provisions contain the Part VII of the Act.

The following categories of debtors are classified as debtors: in particular, dangerous enterprises, the list of which was approved by the Decree of the Cabinet of Ministers of Ukraine (On the implementation..., 2013) and city-making enterprises, which are united in Article 85 of the Bankruptcy Law under the generalized name – business entities having a special status; agricultural enterprises (Part 1, Article 2, Article 86 of the Bankruptcy Law ); insurers (Article 87; (About insurance: Law of Ukraine..., 1996)); citizens-entrepreneurs (Articles 90-92; st.128 (The Commercial Code of Ukraine..., 2003)); farms (Article 93; (On the farm: Law of Ukraine..., 2003)); professional securities market participants (Article 88; (On State Regulation of the Securities Market in Ukraine..., 1996)); the debtor, whose rehabilitation is carried out by its head (Article 94); issuers or directors of mortgage certificates (Article 89; (On Mortgage Lending..., 2003)), managers of the construction fund, managers of the real estate fund (Article 89; (On financial and credit

mechanisms..., 2003; On amendments to certain legislative acts of Ukraine..., 2005)); the debtor, which is liquidated by the owner (Article 95) and others.

Section VII of the Bankruptcy Law for the first time regulates the application specifics of the provisions named for such debtors, as: business entities engaged in activities related to state secrets (Part 6 of Article 3 of the Bankruptcy Law (On state secrets..., 1994)); joint investment institutions (Article 88 of the Bankruptcy Law , (On Joint Investment Institutions..., 2012)), state enterprises and enterprises in whose authorized capital the share of state property exceeds 50 percent (Article 96 of the Bankruptcy Law ).

Despite the fact that the Bankruptcy Law has changed and deepened the content of the legal regulation of the application specific of certain Bankruptcy categories of debtors, in particular, this applies to business entities having a social, other value or special status, agricultural enterprises, insurers and others, it is not devoid of significant defects.

The provisions of Article 85 of the Bankruptcy Law , which define the specifics of Bankruptcy of particularly dangerous enterprises and city-making enterprises, contain provisions that are perceived not only very ambiguous but also do not permit the realization of the objectives of Bankruptcy Law in practice.

In particular, to the petition of the Council of Ministers of the Autonomous Republic of Crimea or the council of the local government on the non-application to a particularly dangerous or city-forming business entity provided for by the Bankruptcy Law and closure of proceedings in Bankruptcy proceedings, guarantees should be provided to satisfy all claims of creditors for monetary obligations. (part 2 st.85), and it is not clear what the guarantees are meant by the legislator. And the requirements of parts 8 and 9 of the aforesaid article already indicate the right of the said bodies, as well as the Cabinet of Ministers of Ukraine in the person of their authorized bodies: 1) at any time before the completion of the procedure of rehabilitation of these debtors to settle with all creditors in accordance with the procedure provided for by the Bankruptcy Law; 2) to provide a guarantee in accordance with the procedure and on conditions stipulated by Law . And only in this case, in the presence of a contract of guarantee, the lenders have the right to present to the guarantor the requirement to collect the unpaid amount of debt in the manner and in cases provided for by Law (p.12 st.85).

It is evident, that the legislator, in essence, regulates only the rights of the above-mentioned bodies to provide the debtor with certain support. Moreover, in case of a guarantor violation of his obligations, with respect to creditors having one third of all claims to the debtor, the negative consequences in the form of early termination of Court procedures for the disposal of the debtor's property, rehabilitation and the opening of a liquidation proceed to the debtor (Article 13, Article 83 of the Law of Ukraine 1992).

In addition, it is for the debtor to have negative consequences if the claims of its creditors are not repaid during the current and subsequent calendar yaers. In this case, the Council of Ministers of the Autonomous Republic of Crimeaand the local government body are deprived of the right to apply again to the economic Court with the application, specified in this article, and the provisions in the Bankruptcy proceeding concerning the relevant subject of entrepreneurial activities will be carried out on general grounds (ch.3 Article 83 of the Bankruptcy Law).

The implementation of the stipulated by the Bankruptcy Law right to appeal to the authorities mentioned with a request for non-application of Court proceedings and the closure of Court order in Bankruptcy proceedings against named debtors should be directly related to the submission to the Court of a corresponding written document, the content of which must be legally determined and which must certify that the Council of Ministers of the Autonomous Republic of Crimea or the council of the relevant local government body undertakes to carry out a subsidiary liability for debts of the debtor in case of failure within the Bankruptcy proceedings to satisfy the claims of creditors on monetary obligations in the manner and term stipulated forth.

More detailed legal regulation, taking into account the significance of city-making and especially dangerous business entities, requires provisions regarding: bail and its definition; selling in cases of Bankruptcy of the integral property complex of the said debtors (in particular, the norms regarding the content of the contract of sale, the consequences of non-fulfillment of such a contract, etc.); concretization of the grounds in the presence of which sale of the property of these debtors is carried out in parts; details of the specifics of the application of the Bankruptcy procedures to the named debtors.

Given that the national legislator specifies the features of Bankruptcy for only agricultural enterprises, it would be desirable to extend the effect of the provisions of the Article 86 in the Bankruptcy Law to any organizations engaged in agricultural activities, while preserving the requirements imposed on them. Part 1,2 of this article, which in turn is due not only to the nature of such activity and its dependence to a considerable extent on the climate conditions, which in turn determines the need to foresee the possibility of occurrence of legally determined force majeure circumstances and their impact on the implementation of Bankruptcy procedures and the ability of debtors to fulfill obligations to creditors.

Mandatory correction requires legal regulation of the Bankruptcy Law of the Bankruptcy procedure of professional participants in the stock market and joint investment institutions. If it is possible to agree that the procedure for preventing Bankruptcy and conducting pre-trial procedures for restoring the solvency of the named debtors is established by the normative legal acts of Ukraine (Part 3 of Article 88), then objections to the requirements of Part 2 of Article 87, which admit that are not regulated named article of the special features of Bankruptcy procedures of professional participants in the stock market and joint investment institutions, as well as measures for the protection of the rights and interests of their clients, may be regulated by subordinate normative acts. Bankruptcy procedures that are carried out within the framework of Bankruptcy proceedings should be regulated only at the legislative level - within the limits of the Bankruptcy Law.

The analysis of the peculiarities of insurance agent insolvency bankruptcy, stipulated in Article 87 of the Bankruptcy Law, allows us to conclude that there are solid gaps in the normalization of Bankruptcy relations involving this category of debtors, in particular, they include: unjustified narrowing of the circle of participants in these relations; the unsettled peculiarities sale of the insurer's property sale, the requirements of its buyers and the features of the legal regime of the liquidation mass, and many others.

### **CHARACTERISTICS OF REGULATING THE LEGAL STATUS OF CREDITORS AND OTHER PARTICIPANTS IN THE BANKRUPTCY RELATIONS**

Regarding the legal status of creditors, with the adoption of the third edition of the Bankruptcy Law, it has undergone a change in relation to each type of lenders (competitive, secured, current), in particular, the substantially extended and detailed rights and obligations of creditors, such as in Bankruptcy proceedings, as well as in Bankruptcy procedures. This concerns the normalization of issues of consideration of claims of tender lenders to the debtor (Article 17); granting them the right: to submit an application to the Commercial Court for the invalidation of transactions (agreements) and refutation of property of the debtor within the framework of proceedings in Bankruptcy proceedings; the choice in case of invalidation of transactions (agreements) or refutation of the property of the debtor: the repayment of its debt, primarily in the procedure of Bankruptcy or performance of the obligation of the debtor in kind after the closure of proceedings in the Bankruptcy case (Part 3 of Article 20), etc. Legally expanded range of possibilities to meet all the requirements of the creditors, entered in the register of claims of creditors in certain Bankruptcy procedures, in particular: in the procedure of disposal of property by the debtor – provided that they are satisfied simultaneously and in full in accordance with the register of creditors' claims (Part 9 of Article 23 ); in the procedure of rehabilitation and the procedure for liquidation on the basis of the ruling of the economic Court

, the owner of the property (the body authorized to manage the property) of the debtor has the right to satisfy all the requirements of the creditors and to provide the debtor with sufficient funds to satisfy all the requirements of the creditors, with the exception of a penalty (fine, penalty) (Part 1 of Article 31, Part 1, Article 39), etc.

The Bankruptcy Law contains excellent rules for regulating Bankruptcy relations with secured creditors compared to previous editors.

While creating these provisions, the legislator took an advantage of the experience of regulating the legal status of secured creditors in the historical past and in most modern legal systems of the world, according to which: the subject of a pledge is not included in the property of the debtor and "is used exclusively to satisfy the creditor's obligations which it provides" (Part 4 of Article 42); the requirements of these lenders are met outside the established queue (Part 9, Article 45), while the realization of the pledged property is carried out solely with the consent of the creditor, the requirements of which it provides, or the Court (Part 4 of Article 42); the secured claims of this category of creditors can not be the reason for the Bankruptcy proceedings; they are entitled to refuse to request claims on mortgaged property in favor of all other (unsecured) creditors; the latter is a recent version of the Bankruptcy Law (Part 2, Article 23); in the work of the committee of creditors, they have the right to participate only with the right of an advisory vote (ch. 1, 8 st.26).

Moreover, the legal status of secured creditors in the Bankruptcy Law is characterized, in particular, by the fact that this type of creditors has very significant powers that allow them to drastically influence on: the implementation of a procedure for the debtor to reorganize the proceedings in a Bankruptcy proceeding and a review proceeding procedure the presence of imperative legislative requirements on the mandatory approval of the plan of rehabilitation, all secured by creditors (Part 2 of Article 6, paragraph 2 of Part 3 of Article 27, Article 30); making a decision on the conclusion of the world (Part 3 of Article 77, Article 80).

It appeared that secured lenders with the right to block the introduction of these Bankruptcy procedures are in a privileged position. The legal consequences of the adoption by secured creditors of such decisions may be the use of the right granted to them for the provision of secured things from the debtor's property, their sale at auction or the repayment of debt in accordance with the information of the register of claims of creditors (Part 2 of Article 30 and Part 2, Article 80 of the Bankruptcy Law ) and thus repayment of the debt of the named creditors.

However, in practice, secured lenders, which are, as a rule, represented by the banks almost do not apply to the rights' implementation mentioned in the norms of Part 2 of Article 30 and Part 2 of Article 80 of the Bankruptcy Law . In this case, competitive lenders, in the event of disagreement by secured lenders of the plan of reorganization and the settlement agreement, use the opportunities provided for in Part 3 of Article 30 and Part 3 of Article 80 of the Bankruptcy Law , which are reduced in the prevailing majority of cases prior to the introduction of the liquidation procedure, as mainly subject matter support is the integral property complex of the debtor or real estate. In order to overcome such a situation, Articles 30 and 80 of the Bankruptcy Law should include a provision on the right of the Court to approve a reorganization plan or a settlement agreement for the purpose of applying these procedures.

Sale of the property that serves as the object of provision, is carried out in accordance with the provisions of the new Section IV "Sale of property in proceedings on bankruptcy" Bankruptcy Law. There are enough problems in this sphere that arise in practice, including: the lack of regulatory regulations for obtaining an agreement on the sale of property of the mortgagee (which leads to the recognition of auction results invalid); insufficient regulation of the issues regarding the availability of information on the websites where electronic tenders are conducted; absence of a duty in the cases provided for in Article 66 of the Bankruptcy Law in granting consent for the sale of property to establish the terms of its sale, the price and cost of the services of the organizer of the auction, taking into account the interests of secured creditors and

other participants in the proceeding. The lack of a specified Court duty leads to the sale of the subject of security for the price and payment of the cost of the services of the auction organizer at unreasonably high prices, etc.

As practice shows, abuse may also occur on the part of banks – creditors, whose claims are secured by the debtor's property, when the lack or imperfection of the legal requirements allows them do not give consent to the realization of the property at all, or to impose certain unacceptable conditions for the arbitration manager, or to withdraw already granted for the sale of property of consent, etc., which ultimately leads to delays in Bankruptcy proceedings, violation of the rights and interests of the debtor or other participants in the Bankruptcy case.

The legal status of many other participants in the Bankruptcy relationship has also undergone changes. In particular, the expansion of the normative array, the situation, which is regulated by the rights and obligations of the arbitration manager, qualification requirements to him, the responsibility of the arbitration manager, etc., deserves special attention. The main provisions on the regulation of these issues are accumulated in a separate Chapter VIII, which is the latest in the Law on Bankruptcy. Also, for the first time within the limits of the mentioned Section, the legal status of self-regulating all-Ukrainian public organization of arbitration managers is regulated, its functions and powers are determined, these legislative requirements are supplemented by the norms of the by-Laws (On Approval of the Procedure for Recognition..., 2012; On Approval of the Procedure for the Control..., 2013). Revised powers of the state body on bankruptcy. Concerning the provisions, that define the powers of representative bodies of creditors, for example, long-awaited stories contained in part 2, 3 of Article 27 of the Bankruptcy Law and regulate the competence of creditors' fees for their adoption of decisions on the introduction of procedures for the remediation, liquidation, etc., are offset by others the provisions of the said Law regarding the determination of the committee creditors competence, the presence of which is a matter of confusion, since, in essence, the given legal requirements do not differentiate, but confuse the competence of the representative org the gains of creditors (Part 8 of Article 26, Part 1 of Article 28, Part 4, Article 5, Article 27, Part 6, Article 7, Article 29, Part 2, Article 37, Part 6 of the Constitution .86 and others). Such a situation requires a clear definition in the Bankruptcy Law of the exclusive competence of creditors' fees, which should include: the adoption of decisions regarding the introduction of Bankruptcy proceedings, the change of their term; determination of the procedure for conducting Bankruptcy procedures, removal of the arbitration manager from the performance of duties assigned to him and the appointment of a new, etc.

### **PECULIARITIES OF JUDICIAL PROCESSES OF BANKRUPTCY**

Legislation defines four juridicial procedures, which may be applied for debtor: disposal of debtor's property, debtor's rehabilitation, peaceful conclusion, bankrupt liquidation (art. 7 Bankruptcy Law, p.1 art.212 CC of Ukraine (The Commercial Code of Ukraine..., 2003).

Legal regulation of juridical processes of Bankruptcy Law about disposal of debtor's rehabilitation and sanitation was not changed significantly. Nevertheless the implementation of wider spectrum of different actions that may be applied within the procedure of rehabilitation deserves attention. In addition to measures about solvency renewal, which may contain the rehabilitation plan, namely: enterprise restructuring, reassignment of production; closure of unprofitable productions; liquidation of accounts receivable; asset restructuring; sale of part of the debtor's property; fulfillment of obligations of the debtor by the owner of the debtor's property and his responsibility for non-fulfillment of obligations assumed by him; alienation of property and repayment of obligations of the debtor by substituting assets and others (Article 29), special attention should be paid to the restoration of solvency of the debtor, who received legal regulation in the new – separate articles of the Bankruptcy Law.



In particular, the provisions of Article 32 of the Bankruptcy Law are regulated by such a measure of solvency renewal as an increase in the authorized capital of the debtor, but the provisions of this article are clearly insufficient for the application of the said measure. The legislator should determine: what types of debtor business associations are subject to the requirements of this article - according to the logic of things, the specified requirements should apply only to joint-stock companies; the issue of which type of shares is possible in case of application of this measure; who remains the right to make a final decision on the application of this measure. It is entirely natural that such a decision should be made by the highest representative body of creditors. The legislator will determine which authority should initially decide to apply for such an event. We believe that in this matter we should take advantage of the positive experience of the right regulation of a similar measure in the legislation of foreign countries, for example, Belarus (Article 126 (On economic insolvency (bankruptcy))), Russia (st.114 (About insolvency (bankruptcy)..., 2002)), France (Article L. 626-3 (Zakhovtaye and Volters, 2008)) and other countries where it is determined that such a body should be the supreme body of the debtor society.

The issue of the ratio of competence of higher collegial bodies of economic societies – debtors, collegiate bodies of creditors and arbitration manager is very relevant, in particular, the appeal to the Constitutional Court of Ukraine of subjects of the right to a constitutional petition for clarification of the situation connected with ambiguous application courts of general jurisdiction of the norms mentioned in the application of laws, in deciding the case of bankruptcy of debtors – joint stock companies in relation to the competence of the general meeting of shares in these companies when entering a court rehabilitation procedure debtor. Given that the exclusive powers of the general meeting of shareholders are determined by law, and the fact of introducing the procedure for the reorganization of the debtor involves the appointment of a reorganization manager and the presence of a committee / meeting of creditors, the authors of the request were asked to clarify how the issues of the reorganization plan, which by law are classified as exclusive competence of the general meeting of shareholders, while the courts in bankruptcy cases of joint stock companies, in some cases, came to the conclusion that it is necessary to resolve issues that are set by the plan sanation and in accordance with the Law belong to the exclusive competence of the general shareholders' meeting, and only the latter shall decide on the possibility of their solution by the reorganization manager together with the committee / collections of creditors without convening a general meeting of shareholders (The decision of the Constitutional Court of Ukraine..., 2009).

Articles of the Bankruptcy Law include Article 34, which deals with such a sanction measure as the sale of debtor's property by substituting assets. The mechanism of alienation in the procedure for the reorganization of the debtor's property by replacement of assets is also established by the norms of the Cabinet of Ministers of Ukraine from 01.04.2013, No. 244 (On approval of the Alienation Procedure..., 2013). The use of this measure has its main goal of accumulation of funds to meet the requirements of, first and foremost, competitive creditors. When applying for this measure, an economic partnership is created on the basis of the debtor's property, but what kind of a company it is economically expedient to create is not indicated. Adequate implementation of the above goal will only be obtained when creating a joint-stock company. Only a joint-stock company, dependent and controlled (in this situation), but formally independent, is able to accumulate capital in a short time for the implementation of economically profitable business and the realization of this goal.

Unobjective is the content of the provisions of Part 3 of Article 34 of the Law of Ukraine of 1992 which determined the size of the authorized capital of the newly formed economic partnership as the difference between the value of property assets and the value of debts on the requirements of competitive creditors. In this case, formation of the authorized capital, when creating, in particular, a joint-stock company, may be made impossible by the existence of the burden of the aggregate amount of claims of competitive creditors, the same can be said about the formation of the property base of such a company, necessary for its full

functioning and creating its attractiveness for future buyers. Consequently, the following and other provisions of these articles require significant revision.

With regard to such bankruptcy proceedings as a peace agreement, the legislative provisions devoted to it are almost not applicable in practice. Moreover, in some of the bills it is not a judicial procedure at all. This situation is connected with insufficient and imperfect regulation of it by national legislation. It is necessary to change the concept of the normalization of the settlement agreement by the Bankruptcy Law. Improvement of its legal regulation should take place in the following main directions: definition of legal consequences of the approval of a peace agreement by a court, which should include: the appointment by a court of special persons (persons) elected by a court or a meeting of creditors and approved by the court to monitor the fulfillment of the terms of the agreement, which must be reported to the economic court in a certain periodic manner; the presence in the terms of a court agreement of the provisions that would restrict the debtor's right to manage and dispose of his property by the time he fulfills the terms of this agreement, etc. Moreover, there are shortcomings in the legal regulation of the bankruptcy law of the liquidation procedure. In principle, from the point of view of the implementation of this procedure, in practice, the short term of its implementation, which is equal to 12 months (part 1 st.37). Within the said deadline, if the debtor is a large enterprise, a business entity with a significant number of creditors, a significant amount of assets and the presence of liquid assets in it, the measures defining the content of this procedure can not be implemented to the extent necessary.

The Bankruptcy Law has expanded and detailed the legal regulation of measures to prevent the debtor's bankruptcy and extrajudicial procedures, as well as the procedure for reorganization which has become the nature of the procedure that can be carried out before the bankruptcy proceeding, in connection with the necessity of approval of the plan of reorganization by the court 5, 6).

It can not be overlooked that the Law on Bankruptcy significantly increased the volume and enriched the content of the regulations governing issues related to the procedural aspects of bankruptcy: in particular, it provides for the possibility of appealing judicial decisions in bankruptcy procedures, the jurisdiction of all cases in disputes over participation of the debtor of the court considering the bankruptcy case, etc.

The new Law on Bankruptcy is the regulation of issues related to bankruptcy procedures related to a foreign bankruptcy procedure in the new chapter IX.

Consequently, the reform of bankruptcy law must continue and it continues, as evidenced not only by amendments and additions to it but also by the creation of a whole range of draft laws, which is extremely necessary both in terms of improving the normalization of bankruptcy relations and the compliance of such regulation with modern trends in legal regulation in most leading foreign countries.

## **CONCLUSION**

The dynamism of the development of Bankruptcy legislation is inherent not only in the national legislation of Ukraine. It serves as a characteristic feature of the genesis of national legislation of the dominant majority of countries in the world, including the European legal area. This is due to the existence of a number of external economic and political factors that constantly and directly affect the state of legal regulation of bankruptcy, insolvency, and competitive relations in one or another country.

In the national theory of Bankruptcy Law, in the practice of Law enforcement, there are a number of unresolved issues that affect the effectiveness of the implementation of the rules of Bankruptcy Law: the imperfection of legal regulation of measures and Bankruptcy proceedings that can be applied to certain categories of goddesses, in particular: business entities, having a public, other value or special status; professional stock market participants and joint investment institutions, etc.; defects in the normalization of the legal status of secured creditors, which lead to the practice of preventing them from meeting their

requirements; the existence of an urgent need to review the provisions governing the sale of property in the Bankruptcy proceeding; uncertainty, in the sense of not delimitation of the competence of the meeting of creditors and committee of creditors; significant gaps in the legal regulation of such remedial measures, such as an increase in the debtor's authorized capital and the sale of debtor's assets by substituting assets; the need to change the concept of normalizing the agreement, etc.

These points in the context of the issue under study require further scientific research with a view to creating a new conceptual approach to reforming the legislation of Ukraine on bankruptcy.

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# Aspects of Social Management in Sport of High School and Youth Activity Development

*Aspectos de la gestión social en el deporte de secundaria y desarrollo de actividades juveniles*

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### ABSTRACT

The relevance of the study is determined by the need to resolve the contradiction between the public need to create a modern model of youth policy and social work with young people and the insufficiently developed methodological, managerial bases of this activity. Therefore, the main objective of the work is to identify aspects of social management in the field of sports and youth development activities. The study was conducted among the students of Perm region. The authors reveal the value of sports in the university that might be considered as a function of the implementation of applied activities with a correlation in the success of the professional environment.

**Keywords:** development of the physical culture and sport; sound lifestyle; students; studies of the fortification of health.

### RESUMEN

La pertinencia del trabajo se determina por la necesidad de resolver la contradicción entre la necesidad pública de crear un modelo moderno de política juvenil y el trabajo social con la juventud y los fundamentos metodológicos y de gestión insuficientemente desarrollados de esta actividad. Por lo tanto, el objetivo principal del trabajo es definir los aspectos de la gestión social en el campo de deportes y el desarrollo de las actividades de los jóvenes. El estudio se realizó entre los estudiantes de la región de Perm. Los autores han determinado que el valor del deporte en la Universidad puede considerarse una función de la implementación de actividades con correlación en el éxito del entorno profesional.

**Palabras Clave:** desarrollo de la cultura física y el deporte; estilo de vida sano; estudiantes; estudios de la fortificación de la salud.

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## INTRODUCTION

Student's life is very various. After ending studies, the student has a free time, which is used for development of intellectual and physical abilities (Vilensky, 2007). A chair of physical culture of Perm Polytechnic University together with sports club "Polytechnic" carry out the large sports-improving and mass work in our high school. The founders of the chair were the Honored worker of physical culture of Russia I.V. Pugachyov and the excellent worker of physical culture and sports N.N. Orlov. Now the chair has 34 highly skilled teachers, among which 7 senior lecturers, 2 Honored trainers of Russia. The effective work of the stuff is marked by assignment to 8 best teachers of a rank "Excellent of physical culture and sports"; 20 teachers have ranks of the judges of a national category on various kinds of sports. Sports club has deep traditions since 1960 (Bondin, 2004; Kozyrev, 2016).

The elite of student's sports is made by the champions of Olympic games deserved foremen of sports Vladimir Alikin (biathlon), Michael Devetyarov (ski races), participants of Olympic games, foreman of sports of the international class Yrii Velikorodnii (marathon race, Munich and Montreal), Alexander Nosov (ski combination, Capporo).

On celebrating 65th anniversary of PSPU there have arrived the former graduates of high school becoming the chiefs of the enterprises, organizations (Zhitnickaya, 1991; Buley *et al.*, 2016). So, for example, the former governor of the Perm area, the minister of natural resources of Russia development of intellectual and physical abilities. A chair of physical culture of Perm Polytechnic University together with sports club "Polytechnic" carry out the large sports-improving and mass work in our high school. The founders of the chair were the Honored worker of physical culture of Russia I.V. Pugachyov and the excellent worker of physical culture and sports N.N. Orlov. Now the chair has 44 highly skilled teachers, among which 13 senior lecturers, 4 Honored trainers of Russia. The effective work of the stuff is marked by assignment to 12 best teachers of a rank "Excellent of physical culture and sports" (Aghajanian, 1997); 24 teachers have ranks of the judges of a national category on various kinds of sports (Lukiyanova *et al.*, 2017). Sports club has deep traditions since 1960.

## METHODOLOGY

The technique of questionnaire as a sort of sociological research included two parts: interview and questionnaire, carried out in parallel. 1686 students of various faculties of high schools of the Perm area and cadets of military institutes were interrogated. As a list of questions the developed questionnaire was used (Iseman, 1997).

The results of questionnaire have shown, that the majority 85% of the students were engaged or are engaged in sports (87% of the young men and 82% of the girl). 95% of the respondents positively concern to sports (96% of the young men and 93% of the girl). And many – 35% (27% of the young men and 48% of the girl) would like to be engaged in swimming, if there were suitable conditions (Kazin and Kasatkin, 2004). The popularity of swimming is explained by the increased interest of the majority of the students to this kind of sports, as there are a lot of rivers, lakes and ponds in the Perm region, and it is not enough of swimming pools, especially in high schools (Aleshina, 1998). The popularity of such kinds of sports, as aerobics, the sports games, tourism is very high. Having entered the high school, the young people usually stop to be engaged in sports actively. Only 16% (20% of the young men and 11% of the girl) respondents are engaged in sports "of maximum achievement" at the international, regional and city levels. Now for improving of health the students are engaged in physical culture and sports actively enough. (Bezrykhih, 2006; Vasilyeva, 2001). The negative attitude to drugs – 68%, and to smoking – 63% is observed. Occasionally use spirits drinks 58% of the students. Probably, it is necessary in this age in high schools to strengthen propagation of sports style, healthy image of life (Apanasenko, 2001; Valiulina, 2006; Ovchinnikov, 2006; Salov, 2001).

During the carried out research was revealed, that the majority interrogated 46% (49% and 41% accordingly) positively appreciate the quality of training on physical culture (Punzet, 2001). They are satisfied on the whole with the form of training, the contents, except for discrepancy of sports base of high schools to the modern requirements. The financial position of the students practically completely depends on the parents and relatives – 87% (Obodyński and Cynarski, 2003; Cynarski and Litwiniuk, 2001). On one grant manage to survive in our difficult time 12% of the respondents. The part of the students earns additionally – 24%. The future occupation for the majority of the students is connected with highly paid work – 65%. Only 6% (7% and 4%) of respondents could be trainers (Cynarski, 2009; Cynarski, 2000). In the future occupation the most students consider different factors: high earnings, pleasure from work, opportunity to travel, high prestige, opportunity to open the business – 45%.

## **RESULTS AND DISCUSSION**

The sociological analysis has shown, that the students of high schools of Perm area mainly conduct a healthy image of life, are engaged in sports, try to improve their health, do not use the drugs, but do not have enough rest and, irrationally use the leisure (Krutsevych, 2000). Chairs of physical culture, sociology and politology of Perm Polytechnic University during 1998-2016 have carried out a common sociological research. (Pristinsky and Pristincka, 2008). The urgency of the given research approves that more than 20% of the students of humanitarian faculty is released from training in the basic group on physical culture. In special medical group are engaged the majority of the economists, politologists of faculty (Hapacheva, 2014).

According to the data of sociological research the students before entering Perm Polytechnic University were engaged in sports; 85% and now would like to be engaged in swimming; 35% – in aerobics, tourism, sports games (Kubashicheva, 2014). Unfortunately, in educational time it cannot be made, it is a pity but there is no a swimming pool at the university and the coming years its construction is not planned. For increase of motivation of the students on chair of physical culture is developed a pedagogical methodical complex on discipline “Physical culture” (Marchuk, 2014). More perfect working educational program for special medical group was prepared considering individual program on each group of diseases, condition of health of the students.

The complex tests on special physical preparation are developed. They enable to develop the correct recommendations to the students on correction of a functional condition and development of the professionally important qualities during study and to form a healthy image and style of life (Aleshina, 2014; Mihailova, 2014). These measures allowed increasing motivation to be engaged by physical culture, which is objectively expressed by the data of sociological research (Karelina, 2014).

Raising beside student physical and psychological stability we pawn and innovation foundation in improvement their physical preparedness (Krafcik and Gomer, 2013) and motor activity for future periods of the whole lives, hereunder occurs formation and fortification of health through the whole life.

## **CONCLUSION**

Change social-economic base of the development of the country, settling have brought about arising the problems, concluding ecological problems, commercialization, cause the social conflicts, worsen the quality to lifes, particularly young generation, unhealthy lifestyle, of all layers' society, active occupation by physical culture and sport, particularly after triumphal victories our olympies and paraolympies on Olympiad in Sochi.



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# Strategic Planning of the Agribusiness Development in the Conditions of Import Substitution

*Planificación estratégica del desarrollo del complejo agroindustrial en términos de sustitución de importaciones*

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### ABSTRACT

For many years, the national agribusiness was not in good shape. Over the last years, the conditions of its functioning have changed drastically, which caused the tendency towards the growth of the entire agribusiness. The agricultural sector has become advanced in the import substitution policy. The paper contains the analysis of the agricultural output dynamics as part of the import substitution policy. The authors emphasize that the success of the implemented policy is connected with the consequential integration of the food security criteria into the strategy of social-economic growth of the country and its agribusiness.

**Keywords:** agribusiness; export; import substitution; strategic planning.

### RESUMEN

Durante muchos años, el sector agrícola nacional no estaba en las mejores condiciones. En los últimos años, las condiciones de su operación han cambiado radicalmente, y, por lo tanto, ha habido tendencias hacia un aumento en todo el AIC. El sector agrícola ha avanzado en la política de sustitución de importaciones. El artículo analiza la dinámica de la producción agrícola en el marco de la política de sustitución de importaciones. Los autores enfatizan que el éxito de la política implementada está relacionado con la integración constante de los criterios de seguridad alimentaria en la estrategia del desarrollo socioeconómico del país y el complejo agroindustrial.

**Palabras Clave:** complejo agroindustrial; exportación; planificación estratégica; sustitución de importaciones.

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## **INTRODUCTION**

The methods for strategic planning imply the presence of the system of the long-, middle- and short-term forecasts and the choice of the priorities in the economic development, as well as the instruments and mechanisms of their implementation. The implementation of the import substitution strategy implies the change in the priorities of the Russian agribusiness development. At the same time, one may highlight the short-term and long-term priorities. The short-term priorities in the conditions of the modern challenges and threats in the food sphere include: increase in the level of self-sufficiency, provision of the equilibrium state due to the balancing of the market capacity and the production capacities, finding the rational balance between the import and the import substitution of the agricultural products complying with the modern stage of development, compensation of the additional inflationary costs to the most vulnerable categories of the citizens, provision of the economic availability of food, and prevention of the decrease in the consumption below the threshold values.

The long-term priorities include as follows: elimination of the structural disproportions (import substituting modernization) due to the additional investments to the scientific-educational sphere, production and infrastructure, ensuring the competitiveness of the agribusiness based on its long-term competitive advantages, which will cause the increase in the contribution to the provision of the global food security based on the participation in the global value chains; the increase in the production of goods with high share of added value competing by the expenditures and prices on the basis of using the innovative strategies of development of the branches and enterprises, investment activities, and the stimulation of the internal aggregate demand (Dorofeeva *et al.*, 2016).

The practice of implementing the import substitution strategy was also undertaken earlier after the USSR dissolution (Russian agriculture..., 2017). So, during the default 1998, the import volume to Russia decreased by 20% (down to \$74 billion), in 1999 – by another 28% (down to \$53 billion), the population was forced to buy more national goods instead of the foreign ones, however this strategy was not supported by the Government. During the world financial crisis 2008-2009, the import substitution was mostly aimed at the agriculture (animal breeding, production of sunflower oil, and sugar) and automobile production (the import was replaced by the assembly of the same automobiles in the territory of Russia). This period resulted in the partial decrease in the import and the increase in the localization in automobile production and agribusiness, as well as the attraction of the investment resources. Since 2014 up to now, the Government emphasizes that, the most important instrument for the food security provision is the agribusiness of the Russian Federation, the competitiveness of which affects the well-being and stability of the national economy (Anderson *et al.*, 2013; Bokusheva *et al.*, 2012). The products manufactured in it amount to up to 4/5 of all the fast moving consumer goods. By the way, it unites a large economic potential and multiple labor resources, which over the past 5 years have been able to ensure the increase in the agricultural output by 20.6%, grain harvest – 1.9 times, while its export – 2.06 times, the increase in the import in agribusiness – 29.1%, and vice versa the increase in the export by 23.5%.

## **MATERIALS AND METHODS**

The paper applies the methodical approach to the development of the recommendations on the improvement of the control over the development of the national system of food security, which showed its inconsistency, which may be reduced based on the forecasting the parameters of the agricultural market struggling sectors. The objects of the research are large struggling sectors of the food market (Iqbal *et al.*, 2017).

The materials of the research are the statistical data of the investigated struggling sectors put into the open sources and on the official websites, as well as the materials of these sectors presented to the authors

by the official requests performed as part of the implementation of the state task. In the conducted research, the authors used such methods as analysis and comparison, the method of induction and deduction, the method of graphical analysis and generalization.

## RESULTS AND DISCUSSION

Today, due to the economic sanctions of the USA and the European Union, Russia has imposed the embargo, closed almost the entire market of foodstuffs imported from the other countries. These are the following foodstuffs, according to the Decree of the Government No. 778 dated 08/07/2014 (): fresh, cooled and frozen cattle meat, pork and poultry, cattle meat and poultry offal, fish and crustaceans, mollusks and other water invertebrates, milk and dairy products, vegetables, edible roots and tuber crops; fruits and nuts; sausages and similar products of meat, offal and blood, as well as the products based on them; food items and finished products and their mixes, food supplements; food items, prepared using the cheese producing technology and containing 1.5% weight fraction (and more) of the milk fat. Today, one may be sure to state that despite the economic crisis, the branches of our food industry and the agriculture rapidly grow and develop.

After the import substitution policy had been adopted, the RF Government created Decree No. 1936-p dated 09/30/2014 'Schedule of the Support for the Import Substitution in the Industry', describing the main activities to launch this policy in the form of the branch-related programmes up to 2018. As part of these programmes, they planned to generally implement about 2.5 thousand projects. These schedules had been developed and approved by the orders of the Ministry of Industry and Trade of the Russian Federation by mid-2015 (Farhadi and Moosavi, 2016; Trujillo-Barrera *et al.*, 2016).

The main activities on the launch of the import substitution policy were defined by the Decree of the Government of the Russian Federation dated October 2, 2014 No. 1948-p 'Concerning the Approval of the Activities Plan regarding the Support for the Import Substitution in the Agriculture for the period of 2014 – 2015' (it is a roadmap) and Decree No. 214 dated March 1, 2018 'Concerning the Amending the State-run Programme of the Agricultural Development and Regulation of the Markets of the Agriculture Products, Primary Products and Food for the Period of 2013 – 2020' (Edenbrandt *et al.*, 2018). In accordance with the roadmap, the other documents supporting the import substitution policy were amended. The second document has the following goals: provision of food security; development of the lands for the agricultural needs; development of the agricultural enterprises, increase in the competitiveness of their produce; increase in the efficiency of use of the agricultural resources.

Next, the Import Substitution Commission was formed (Decree of the Government of the Russian Federation No. 785 dated August 4, 2015 'Concerning the Establishment of the Governmental Commission on the Import Substitution'), which dealt with the issues of the civil branches of economy and defense industry complex. The Commission defined the strategical list of the branches, which to a greater extent depend on the import. The first positions are taken by the products of such branches as agriculture, machinery producing industry and IT, where the import share reaches 90% in the production of specific goods. They are in the focus of the Government according to the Programme up to 2010 providing the green light to the national business.

Earlier it was said about the Decree of the President of the Russian Federation No. 120 dated January 30, 2010 'Concerning the Approval of the Food Security Doctrine of the Russian Federation'. The main strategic goal of the Doctrine is the provision of the population with the safe and high-quality agricultural products, fish, and food in general. The relevant level of the food self-sufficiency in Russia is presented below (Table 1).

**Table 1: Level of the agricultural products self-sufficiency in Russia, %**

Parameters	2016	Planned for 2020
Grain	99.2%	95%
Potatoes	97.1%	95%
Milk and Dairy Products	79%	90%
Meat and Meat Products	87.4%	85%
White Salt	66.9%	85%
Fish Produce	80.4%	80%
Sugar	75%	80%
Vegetable oil	82.5%	80%

Source: Composed by the authors by using the information from Federal State Statistics Service

We may conclude that in the subsequent 2018-2020, the focus should be laid on the production of milk and dairies, meat and meat product, especially production of the cattle meat because generally this level is set due to the increment in the production of poultry. Also one needs to pay attention to the production of white salt, sugar cane, and sugar, as well as fish products (Pishukhin, 2017).

In the Global Food Security Index, Russia took the 43<sup>rd</sup> position (63.8 points) (The Global Food Security Index, 2015) in 2016. While the USA takes the leading position and has 89 points, Singapore – 88.2, Germany – 83.9, and Brazil – 67.4. The index measures the policy of the states and the performance of their institutions in the sphere of food security. The research contains the analysis of three main groups of the food security parameters for the world countries:

1. Level of availability and consumption of the food products.
2. Presence and sufficiency of the food products.
3. Level of quality and security of the food products.

The data presented in Annex 3 provide an opportunity of analyzing the dynamics of production of the main kinds of the agricultural products affected by the import substitution. We can state that one may observe the decrease in the outputs almost in all kinds of products in the agricultural primary products processing, so, e.g. the production of sausages in 2017 decreased by 6.2% compared to 2016, while the production of cheese – by 23.7% (Altukhov *et al.*, 2015; Potapov, 2015; Borodin, 2015). These are intimidating tendencies, which evidence the fundamental inconsistency of the implemented economic policy regarding the encouragement of the advanced processing of the primary products. We have concluded this because in the direct production of the agricultural primary products, there is a positive tendency – the production of pork has grown by 8.3%, cattle meat – by 3.2%, poultry – by 6.7%, while in the production of fruits, berries and nuts one may observe the growth by 54.2%.

According to Decree of the RF Government No. 717 dated July 14, 2012 'Concerning the State-run Programme of the Agricultural Development and Regulation of the Markets of the Agricultural Produce, Primary Products and Food for the period of 2013-2020', the federal budget allocated in total ₱1696481362.3 thousand, including: in 2013 – ₱158.9 billion, 2014 – ₱162 billion, 2015 – ₱175.4 billion, 2016 – ₱237.0 billion, 2017 – ₱215.9 billion, and in 2018 – ₱241.9 billion.

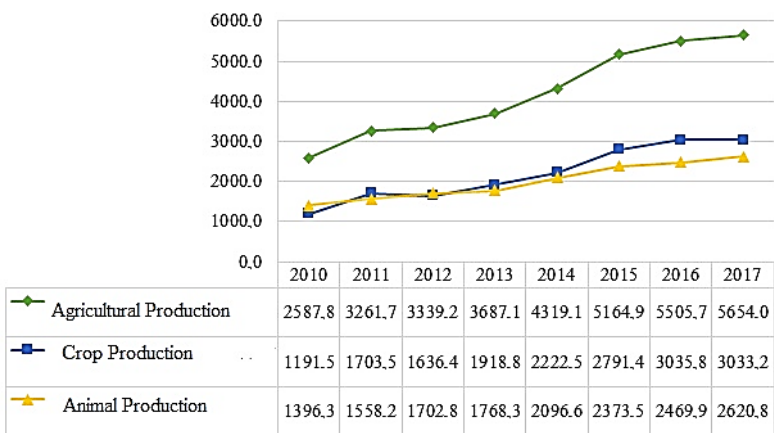
The allocation of the budgetary funds will allow ensuring the increase in the production by the following categories by 2020:

- cattle meat and poultry – about 10 million tonnes, which will decrease the supplies of the imported products by 67.8%;

- milk – up to 33.5 million tonnes, which will decrease the supplies of the imported products by 29.9%;
- vegetables – up to 16.5 million tonnes, which will decrease the supplies of the imported products by 70.3%;
- fruit and berry products (except for grapes) – up to 3.8 million tonnes, which will decrease the supplies of the imported products by 20.0%;
- grapes – up to 0.7 million tonnes, which will decrease the supplies of the imported products by 54.6 %.
- The programme contains a series of sub-programmes with the following purposes:
- At this funding by the forecasted values, the output of the crop production by 2020 should increase by 14.3% compared to the level of 2015, animal breeding – by 10.2%. These values should be achieved for the period of 2018-2020.
- Also, the funds are targeted to the technical modernization of the agribusiness and the rate of the renewal of the trucks in the farms in 2020 will amount to 2.9%, harvester-threshers – 4.7%, and forage harvesters – 4.3%.
- The increase in the volume of export in agribusiness up to \$21.4 billion in 2020.

Figure 1 presents the dynamics of the agricultural products manufacturing from the beginning of the implementation of the import substitution policy in agriculture.

**Figure 1: Dynamics of the agricultural products manufacturing (₽ billion).**



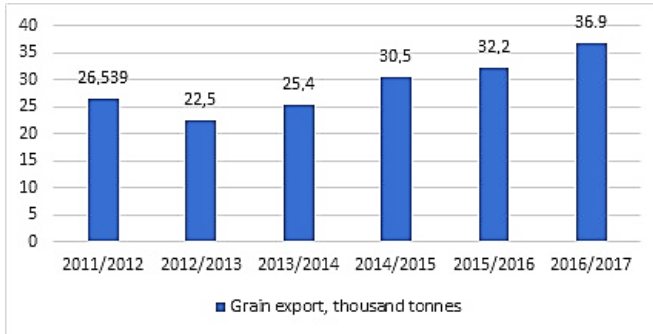
Source: Composed by the authors by using the information of Federal State Statistics Service

So, we can see that in 2017, all the categories of farms manufacture by 9.5% of the agricultural production more than in 2015: crop production – by 8.7%, while animal production – by 10.5%.

In value terms, it cut the record 2014, having exceeded \$7.5 billion, despite the low level of the global grain prices (Russian Agriculture..., 2017).



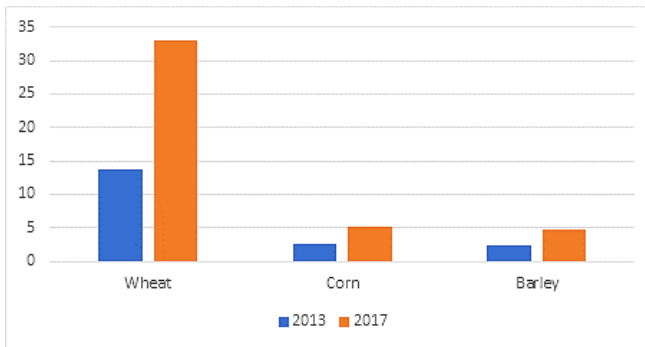
Figure 2: Grain Export from the RF, thousand tonnes



Source: Russian Statistical Yearbook, 2017

The main share in the grain export, the same as at its bulk yield, belongs to wheat. This year, the wheat export volumes cut the record the same as the previous year. 27 million tonnes were sent abroad, which should ensure the Russian leadership in the global wheat export. Unfortunately, the previous year, the top position was taken by the USA. The corn export slightly dropped to 5.18 million tonnes. However, our country for the first time entered the top five countries by this parameter, having outpaced France with its poor crop yields for the second consecutive year (Figure 2). The growth is observed in the barley export (4.63 million tonnes). It was surpassed only in 2015. Russia takes the fourth position (Figure 3).

Figure 3: Grain Export from the RF 2013/2017, million tonnes



Source: Russian Statistical Yearbook, 2017

We would like to note the success of the national agribusiness in the sunflower oil export. Russia is currently taking the second position on the global market after Ukraine and has implemented the supplies in 2016-2017 amounted to 2.2 million tonnes of the oil, at the same time having expanded its market outlets. The potato export cuts the records for the second consecutive year. In 2017, the export is equal to 187 thousand tonnes, and in 2016 – 222 thousand tonnes.

Despite the positive results of the production of the agricultural goods, poultry, and milk, there is a series of problems discussed in the previous point to be focused on and provided with the considered ways of their solution (SelkhozPortal).

The Ministry of the Agriculture by using the additional subsidies (Table 2) plans to achieve the following performances by 2020:

- cattle meat and poultry – up to 10 million tonnes (will decrease the supplies of the imported products by 67.8%);
- milk – up to 33.5 million tonnes (decrease in the import by 30%);
- fruit and berry products (without grapes) – up to 3.8 million tonnes (decrease in the import by 20.0%);
- vegetables – up to 16.5 million tonnes (decrease in the import by 70.3%);
- potatoes – up to 32 million tonnes (termination of the import supplies);
- grapes – up to 0.7 million tonnes (decrease in the import up to 54.6%).

**Table 2: Distribution of the subsidies to support the achievement of the targeted indicators of implementation of the regional programs of agribusiness development by the budgets of the entities of the Russian Federation for 2018 and scheduled period of 2019-2020 (₽ thousand)**

2018	2019	2020
39 004 635.9	39 004 635.9	39 004 635.9

Today, the majority of the threshold values of the food security have been achieved, but in the subsequent 2018-2020, the focus should be laid on the production of the milk and dairy products, meat and meat products, especially cattle meat production, as generally this level is set due to the increment in the poultry production. One should also pay attention to the production of white salt, sugar cane, sugar, as well as fish products.

## CONCLUSION

As part of nonfinancial actions of the agribusiness support in the framework of the implemented import substitution strategy, one should lay the emphasis on a series of measures. It is necessary to analyze the investment attractiveness of the agribusiness branches and to make them more available for the investors by means of the internet platforms and websites. It is necessary to assess the effectiveness of the investments and to understand to what extent they are interconnected with the results of the implemented policy. Also, it is reasonable to develop the concept of rational use of the farmlands and to present the peculiarities of their strategic introduction into the farming business. Also, it is reasonable to increase the technical provision of the crop seeds, to stimulate the expansion on the renewal and replacement of the seeds and animal population by more efficient and climate-resistant ones. In early 2018, it became known that the Ministry of the Agriculture of the Russian Federation is establishing the Agribusiness Innovations Development Foundation.

As part of this program, they plan to cultivate new species and breeds, as well as to develop new agricultural production means. The Foundation is planned to be established within 2-3 years, the state investments will amount to ₺30 billion, and it may be considered as one of the ways for the solution of the set problems in the selection and the growing technological import. Also, in the animal breeding branch, it is necessary to ensure the timeliness of the funds' receipt, to allocate additional funds for the development of the pedigree stock. Fourth, it is necessary to solve one of the logistic problems of agribusiness, to analyze the presence of the necessary number of the warehouses, production and storage facilities by the kind of products and the entities of the Russian Federation, and to develop the plan on the reduction of the deficiency of some or other capacities. Also, it is necessary to ensure the speed of construction of the winter greenhouse complexes, expansion of the existing and the modernization of the outdated ones for the purposes of the

import substitution and the year-round provision of the population with the greenhouse vegetables, to consider the possibility of expanding the cooperation between the Russian Federation and the Asian states (China, Vietnam, and Korea).

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## ARTÍCULOS

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### Aspects of Crypto Currency's Legislative Regulation

*Aspectos de la regulación legislativa de la moneda criptográfica*

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#### ABSTRACT

The issues of legal and regulatory governance of a new type of electronic money crypto currency are considered in the article. It has been proved that there is no uniform understanding of the forms and methods of the crypto currency regulation in the world. The existing formulations of the concept of "crypto-currency" are analyzed in the article, on which bases the necessity of crypto currency's adequate scientific understanding is identified and justified. As a result, of the study the main prerequisites for the legal regulation of the appearance and use of crypto-currency in payment systems are formulated by the authors.

**Keywords:** Bitcoin; crypto currency; digital technologies; legal regulation.

#### RESUMEN

Las cuestiones de la gobernanza legal y regulatoria de un nuevo tipo de moneda criptográfica de dinero electrónico se consideran en el artículo. Se ha demostrado que no hay una comprensión uniforme de las formas y métodos de la regulación de la moneda criptográfica en el mundo. Las formulaciones existentes del concepto de "criptomoneda" son analizadas en el artículo, en el cual se basa la necesidad de la comprensión científica adecuada de la criptomoneda. Como resultado del estudio, los autores formulan los principales requisitos previos para la regulación legal de la aparición y el uso de la criptomoneda en los sistemas de pago.

**Palabras Clave:** bitcoin; moneda criptográfica; tecnologías digitales; regulación legal.

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## **INTRODUCTION**

Nowadays digital technologies are firmly embedded in our everyday reality. Changing approaches to many traditional things and money is not an exception. Various virtual currencies called crypto-currencies have emerged. The most widely spread of them are Bitcoin, Ripple, Ethereum, Dogecoin, Litecoin. Today 500 kinds of crypto-currencies have come into being.

Crypto currency can be defined as digital currency created on the basis of blockchain technology. It stands to reason that it is not issued by central banks of states and is not attached to official currencies. Crypto currencies are voluntarily accepted by market participants as a means of payment (exchange) transmitted and stored electronically. The problems and opportunities of digital currencies have become in the fore point. Their economic component was discussed at the meetings of the World Bank, the European Central Bank, the Ministry of Finance and the Central Bank of Russia, Switzerland, Germany, Japan, the United States and a dozen other countries. The course of researchers of electronic money and crypto-currencies has formed among scholars of Western schools whose representatives are J. Mathonis, a member of the Bitcoin Foundation board, as well as the former chief economist of the IMF, a professor at the Sloan School of Management at the Massachusetts Institute of Technology S. Jones.

Regulation "as it is" is not welcomed among people using crypto-currencies including Bitcoin users. There is an opinion that any regulator is a bureaucratic machine that is incompetent in the issues of digital currencies and it hinders the development of this direction as a whole. This is partially true since any regulation is intended to ensure mutual trust between the parties to the transaction by a third party that is the guarantor of its conduct. Note that when creating the Bitcoin system there is no need for a third party to participate as a guarantor since the entire block system is built on a reliable protocol that cannot be compromised or in any way deceived.

Most countries do not attempt to prohibit digital money on their territory but rather seek opportunities for the existence of two parallel systems together. Nevertheless, the legal regulation of digital currencies including Bitcoin is very different (Bonneau *et al.*, 2015; Demidov, 2015).

## **WORLD EXPERIENCE AND TENDENCIES IN CRYPTO-CURRENCIES MARKET LEGAL REGULATION**

The European Court on October 22, 2015 issued a decree according to which exchanges of Bitcoins and other digital money are exempt from VAT. Similarly, the European Court of Justice recommended the exclusion of crypto-currencies from assets subject to taxation. Unfortunately, not all countries treat Bitcoin and other crypto-currencies as progressively, as the European Union does (Hayek, 2013). Table 1 provides a list of states that have already expressed their position regarding the Bitcoins and their regulation.

There is a unique experience of the State of New York on the creation of a special legal framework for the regulation of Bitcoin. It is shaped as The New York Bitlicense. This document was issued by the Department of State of New York for financial services in July 2014 and then it underwent significant changes. The license is a set of laws, regulations and rules that govern the issues of virtual currency. The document includes information on how to obtain such a license (Fomin, 2013). Business activity in the field of virtual currency means engaging in any of the processes carried out in New York or by a resident of New York. It encompasses obtaining a virtual currency for forwarding or forwarding it except when the transaction is not for financial purposes and carries more than a nominal amount in a virtual currency; storage, maintenance, management or control over virtual currency on behalf of another person; purchase and sale of virtual currency in the framework of customer service; the execution of exchange services within the framework of customer service; control, dispose or issue of a digital currency. The development and distribution of software is not a business activity in the field of virtual currency that provides financial benefits of mining and the growth of bitcoins and other digital currencies.

Table 1: Legal status of Bitcoin in different countries

Country	Legal status
Germany	Legal status of Bitcoin as private money is established and non-cash payments are allowed in this crypto currency on the territory of Germany.
Croatia	According to the National Bank of Croatia, crypto-currencies can be legally used in the country but cannot be considered a legal tender.
Japan	The Central Bank of Japan has recognized crypto-currencies as a means of payment and exempted them from VAT.
Thailand	All operations with crypto-currencies are prohibited except their exchange into the national currency.
China	Any operations with crypto-currencies for banking institutions and their employees are prohibited; there is no prohibition for ordinary citizens.
USA	Crypto-currencies are considered as property and subject to corresponding taxation. Bitilicense was introduced for Bitcoin companies in the state of New York. The issue of recognizing Bitcoin as a currency is being considered.
Switzerland	The Parliament of the country decided to consider crypto-currencies as a foreign currency.
Singapore	All operations with crypto-currencies are regulated and monitored by the state.
Bulgaria	All transactions with crypto-currencies are taxed at a rate of 10%.
Russia	According to the statement of the Bank of Russia, crypto-currencies are speculative due to the lack of security and legally binding subjects of operations on them. There is no direct ban on the issue.
Norway	Crypto-currencies are recognized as exchange-traded assets rather than as a currency.
Bolivia	According to the Central Bank of Bolivia, it is illegal to use any currency that is not issued or controlled by the government or an authorized body.
Ecuador	The use of crypto- currencies is strictly prohibited. It can be attributed by the creation of a national electronic money system. Thus, the authorities feel the need to protect their product from something that has an obvious competitive advantage.

There is a unique experience of the State of New York on the creation of a special legal framework for the regulation of Bitcoin. It is shaped as The New York Bitilicense. This document was issued by the Department of State of New York for financial services in July 2014 and then it underwent significant changes. The license is a set of laws, regulations and rules that govern the issues of virtual currency. The document includes information on how to obtain such a license (Fomin, 2013). Business activity in the field of virtual currency means engaging in any of the processes carried out in New York or by a resident of New York. It encompasses obtaining a virtual currency for forwarding or forwarding it except when the transaction is not for financial purposes and carries more than a nominal amount in a virtual currency; storage, maintenance, management or control over virtual currency on behalf of another person; purchase and sale of virtual currency in the framework of customer service; the execution of exchange services within the framework of customer service; control, dispose or issue of a digital currency. The development and distribution of software is not a business activity in the field of virtual currency that provides financial benefits of mining and the growth of bitcoins and other digital currencies.

Organizations that received "bit license" are required to file financial statements, form a financial reserve established by the Department, maintain accounting records and provide this information to the Department and inform clients about the risks associated with such financial activity. Yet the practice shows that the



attempts to regulate Bitcoin legislatively do not bring the desired results. Throughout the existence of this, normative legal act only two-bit licenses have been received and 30 companies specializing in operations with Bitcoins have announced their departure from the state. Also note that no state has dared to follow the path of regulation of Bitcoins and other digital currencies as the New York State government did.

### ***REGULATION AND PROSPECTS FOR THE DEVELOPMENT OF DIGITAL FUNDS IN RUSSIA***

The approach to the use of digital money in Russian Federation, including Bitcoins, is developing in a restrictive manner. At the same time, a semi-legal business related to Bitcoin operations and mining is developing. Russian investors are not the only ones who are interested in such currencies, but also the country's largest banks are.

Taking into account the risks of ML/FT the Central Bank for the first time voiced its attitude to the regulation of virtual currencies in January 2014. With reference to the Federal Law "On the Central Bank of the Russian Federation", it was reported about a complete ban on "money surrogates" on the territory of the Russian Federation. The services for exchange of virtual currencies for rubles and foreign currency were required to be classified as potential activity in ML/FT. However, during the joint meeting between Central Bank and the Prosecutor General's Office it was concluded that Bitcoin was a speculative and high-risk instrument. In July 2014, First Deputy Chairman of the Central Bank Georgy Luntovskiy announced that such currencies should be treated with the utmost care because: "...they may have a future"...

Such position of the restrictive initiatives was sounded alongside with other government agencies in charge of this item. In October 2014, the first draft law introducing a number of amendments to the list of normative legal acts was published. The draft law did not mention directly the prohibition or restriction on transactions in Bitcoins and other digital currencies on the territory of the Russian Federation but it was indicated that these currencies should be attributed to "money surrogates" (Rothbard, 2013). It was proposed to introduce responsibility for illegal activities related to the issue of money surrogates, the creation of software for their issuance, the implementation of transactions with money substitutes and the dissemination of information that allows issuing. There was a penalty for committing the abovementioned offenses from 500 thousand to 1 million rubles for citizens, from 50 to 100 thousand rubles for officials.

This bill arose a lot of indignation among the users of digital currencies and largest companies. In their responses to this bill MTS and Megaphone highlighted that it would make it impossible to conduct various campaigns related to the use of bonuses, prepaid cards. Later a new bill was submitted for consideration. Various bonuses, miles and other surrogates stimulating the acquisition of goods and services were excluded from the bill.

The prohibition against the dissemination of information related to the issue of digital currencies was another controversial issue. Proposing amendments to the Federal Law "On the Central Bank of the Russian Federation" and 149-FZ "On Information Technologies and Information Protection" the Ministry of Finance expands the list of resources that are prohibited in the Russian Internet segment at the account of agencies specializing in working with crypto-currencies. Shortly after the publication of this bill, a number of websites (Bitcoin.org, Bitcoin.it, BTCsec.com, etc.) began blocking including the blocking of the Bitcoin Stock Exchange Indacoin referring to the decision of the Nevyansk City Court of the Sverdlovsk Region.

It is necessary to create a new legislative framework for a more successful government regulation of these transactions. This is essential not only for the state but for entrepreneurs since the latter cannot accept payments in digital currencies in the absence of established rules. In January 2014, the "Killfish" bar was fined for failing to comply with the rules for using cash registers while receiving Bitcoins as a means of payment. The company immediately ceased to accept them. This circumstance can be attributed to the category of main

risks associated with the use of digital funds. Entrepreneurs do not want to be penalized and do not take any risk.

Qiwi and Sberbank are the main supporters of digital currencies on the territory of the Russian Federation, especially the technology of blockchain (Taylor, 2016). Qiwi was the first to announce the launch of its own crypto currency "bitrubl" in 2015 and the head of Sberbank called for not exaggerating the dangers of crypto currency. The head of the company also claims that the multibillion-dollar firm's IT system is obsolete and the Russian Federation is obliged not to miss the new technological revolution (Gryaznova, 2002).

The Ministry of Communications of the Russian Federation and the head of the Central Bank are also monitoring the technology of blockchain. The head of the Central Bank asserts that it is necessary to concentrate on studying a particular system and not the currency functioning in it. Nabiullina E.S. believes that it is necessary to distinguish such correlating concepts as "crypto-currencies" and "blockchain" since in the long term the latter technology can be used in almost any sphere related to entrepreneurship. It should be noted that if this technology is finalized and approved by the world's largest banks the Russian Federation will have a chance to get rid of such restrictions as imposed sanctions. Since the political factors do not affect the technology of distributed data Russia is not likely suffer large losses and financial costs in the event of disconnection from the SWIFT.

Unfortunately, Russian attitude towards advantageous digital currencies remains restrictive. At the same time, the state began to consider more seriously the technology of distributed data. That technology provides a significant costs reduction in various operations involving third parties such as auditing, holding tenders for state contracts, and others. It also allows saving the time necessary to conduct a transaction since all operations are performed by the system excluding the human factor.

### ***ESTIMATION OF PROSPECTS AND THE FORECAST OF THE BLOCKCHAIN TECHNOLOGY DEVELOPMENT IN THE RUSSIAN FEDERATION***

Nowadays due to the prohibitive tendencies, prevailing in the governmental regulation Russia does not play a significant role in the blockchain industry and is weakly represented in a number of key segments of the bitcoin system or not represented at all. Therefore, there are no largest Russian mining pools in the world list; there are no Bitcoin terminals on the territory of the country while there are more than forty thousand of them in the world. In the segment of crypto-currency virtual exchanges, Russian sites also do not rank among the largest, although some large exchanges support Russian-language interfaces. As the result of the prohibitive innovations a number of companies (InterMoneyExchange, ALFAcoins, etc.) dealing with crypto-currencies chose to immigrate to other countries in order to register their activities. The only niche in the Bitcoin system that is actively developing in Russia is the Internet resources on crypto-currencies and digital money. Moreover, seminars, symposiums, thematic conferences are also held on this topic (Molchanova and Solodkovsky, 2015).

The government does not impose a ban on crypto-currencies and all transactions with them on the territory of the Russian Federation since there is a potential in the technology of block-chain that can be realized in various state programs. Currently, the working group of the Central Bank of the Russian Federation holds the discussion on the possible use of this technology for a register of depositors. Data from the block system cannot be deleted which makes it the most trustworthy. For example, many citizens cannot receive compensation that they have been given in accordance with the law when a bank's license is revoked. In order to reduce the contributions to the DIA fund banks do not enter many depositors into the lists. Keeping a register of depositors in the system of blockchain will reduce the number of crimes related to fraudulent activity. For example, there is a scheme according to which individuals who have entered the register of depositors of a particular bank apply for insurance compensation by using criminal means.

More intensive development of plans and projects for the use of blockade technology is already underway in the private sector. International Company Life. SREDA engaged in activities with Chris Skinner in the field of venture financial and technical capital is creating a fund to support the development of blockchain startups in the banking sector on the territory of the Russian Federation. It was planned to attract \$ 50 million by the end of 2017. Life.SREDA will provide advisory services to investors in the implementation of this technology.

The Russian brand "Raketa" engaged in the manufacture of watches and "Blockchain Engine" began the introduction of blockchain technology to the watches manufacturing. Thanks to this technology, it will be easier for the end user to check the clock for authenticity and practically exclude the possibility of forgery of the product certificate. It will be possible to enter information about the date of production, the producer, and the cases of maintenance. It is planned to expand the scope of the blockchain to other products – decorations, paintings, exclusive garments, mobile phones, cars. The technology, which is planned to be introduced at the company "Rocket" is called EMC DPO (proof of ownership). It can be used to verify the rights to any types of property behind which individual identifiers are assigned – VIN car numbers, IMEI mobile phones, cadastral lot numbers, and serial numbers of expensive watches and so on. When selling a thing that owns this kind of individual identifier, a record is entered in the lock record and the previous owner automatically ceases to be the owner of the goods.

"Russian Post" announced the use of blockchain technology to track parcels. During the recent presentation of PJSC "Sberbank" a new digital system "EVOTOR" primarily intended for small businesses was introduced. This system uses some elements of the blockchain ecosystem to transmit data on online purchases to the Federal Tax Service.

One of the largest in the CIS payment operators QIWI in 2016 announced the introduction of blockchain technology in its payment processing system. This technology will help the company replace the central payment-processing database, which will in turn reduce the transaction costs. This pattern of using blockchain technology is a kind of "private" blockchain. Prospects for the development of blockchain technology in Russia depend on the position of the state that, as said above, is dual to this innovation. On the one hand, this technology helps to reduce the costs and increase the reliability of operations. On the other hand, it makes all operations as transparent as possible which virtually eliminates the corruption component.

## **CONCLUSION**

The regulation and uniformization of practices regarding the use of crypto-currencies pose a great challenge to the states and international institutions given the new paradigms generated by this technology. The unique characteristics of cryptocurrencies, such as the independence of any state, agility in performing operations, issuance of units of value in mathematical form, among others, were never observed on such a scale in the capitalist system. The very union of a means of payment, custody and creation of value, roles that were previously fulfilled individually by different legal entities, in a sole instrument generated and still generates discussion. With this, in the absence of state regulation, the market has to organize and implement a self-regulation of the use of cryptocurrencies so that this promising market is not negatively affected by the state omission.

This kind of market organization can be achieved locally, through the issuance of state regulation, or internationally, through the issuance of recommendations by international entities. These recommendations must consider the specific aspects of this new technology, but also must be careful so that the possibilities presented by crypto-currencies are not smothered by excessive regulation. Given that the use of cryptocurrencies shares many similarities with banking activities, since it achieves the same effects, banking regulation could be used as a basis for the verification of how companies and people should use cryptocurrencies in international trade, such as the implementation of compliance policies, client background

checking and other measures. However, since the understandings regarding cryptocurrencies are not uniform throughout the world, the treatment of this instrument in all applicable jurisdictions should be verified.

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## ARTÍCULOS

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# The Problems of Social and Information Support of the Population of the Arctic Zone of Russia in the Cut of the Industrialization of the Development of the Region

*Los problemas del apoyo social y de información a la población de la zona ártica de Rusia en la reducción de la industrialización del desarrollo de la región*

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### ABSTRACT

Interest in the Arctic zone was determined mainly due to the political and economic situation, the use of its rich resource potential, national security, and increased international political influence. But, in the studied region there are social problems that were investigated by the authors. It has been established that the strength side of the Arctic region is its qualitative composition of the population. The weak side is poor development of the social environment. But in the region there are opportunities for its development, which consist in the creation of new jobs. The author suggests that more attention should be paid to medicine, education, environmental aspects.

**Keywords:** A quality of life; neo-industrial development; population outflow; social processes.

### RESUMEN

El interés en la zona Ártica se ha determinado principalmente por la situación política y económica, el uso de su rica capacidad de recursos, la seguridad nacional, el fortalecimiento de la influencia política internacional. Pero, en la región investigada también hay problemas sociales que han sido investigados por los autores. Se ha determinado que la composición cualitativa de la población es el punto fuerte de la región del Ártico. Desarrollo social débil. Pero en la región hay oportunidades para su desarrollo, que son la creación de nuevos puestos de trabajo. Los autores sugieren que se debe prestar más atención a la medicina, la educación y los aspectos ambientales.

**Palabras Clave:** Procesos sociales; desarrollo no industrial; salida de la población; calidad de vida.

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## **INTRODUCTION**

At the end of the 20th and the beginning of the 21st centuries, the Arctic and everything connected with it became an extremely popular theme in the world community. The reasons for the increased attention to this region are lying mainly in the economic field: high world prices for energy carriers led many to look at the Arctic, where, according to expert estimates, considerable oil and gas reserves are hidden. Vigorous activity here, in turn, gives new impulses to projects in the field of security, transport, logistics and the environment that are unfolding in the region (Agranat, 2014; Gorshkov and Sheregi, 2012). As a result, along with the development of natural resources and their further processing, such problems as the development of transport corridors infrastructure, safety aspects and sustainable development of the region have become a particular importance. Considering the fact that in the Arctic, the economic and political interests of both Russia and other Arctic states – the USA, Canada, Denmark, Norway, as well as a number of countries of the European Union and the Pacific – are closely intertwined, their resolution will be largely determined by further dynamics international cooperation (Belonozhko and Krysin, 2002).

The Arctic is one of the most resource-rich regions of the planet. Arctic subsoils stores up to a third of the world's hydrocarbon reserves (Saxinger, 2014). The presence of large reserves of mineral raw materials on the Arctic shelf is confirmed by almost all, without exception, expert estimates. The profitability of their mastering is quite achievable – even when using existing technologies. All this helps to attract more qualified specialists.

The development of the Arctic region actualizes the need to solve a large number of complex economic, social, engineering and other problems that require serious scientific support. A significant place among them should be taken by sociological studies, which allow, on the one hand, to evaluate all the interrelations and consequences of already identified and still latent problems, on the other – possible alternative ways and technologies for solving them, their systematic evaluation within the confines of different regional development scenarios (Buscherm, 2009; Dregalo, 2012).

Statistics cannot provide reliable information on most of the required parameters. Their measurements should be carried out using sociological tools (Kibenko, 2014; Kolesnikov, 2015). Wherein it should be considered that oil and gas companies, to a greater extent than the state that determines the development strategy of the Arctic region, are not only not oriented in the social-humanistic sector of development of this territory, but also limit here the manifestation of their social responsibility.

## **METHODOLOGY**

To determine the effectiveness of the socio-economic development of the Arctic region, it is necessary to identify a set of problems faced by the participants in mastering, to evaluate them, to identify interrelations, alternative solutions and possible consequences. Having a certain graph of problems, it becomes possible to conduct detailed interdisciplinary studies of its elements.

The study was conducted in two stages. First, settlements were selected, and then respondents. Analysis of the survey results was recorded according to such social groups of northerners: old-timers, of which the representatives of aboriginal ethnos separately; settlers (who lived in the north for less than 5 years); look-out workers. The survey took place at workplaces – drilling rigs and installations, training combines, at the look-out personnel gathering points and at the helipads, as well as in the national villages. The collection of information was based on the self-completion of the questionnaires by the respondents.

Faintly-structured problems have specifics of solutions: there is a wide range of alternatives, solutions depend on technological solutions, there are elements of risk when making decisions, a large investments of resources are required, cost and time to solve a problem are not determined, the solution of the problem requires combining various resources. In order to solve such problems on a computer, the machine control

systems with such creative intellectual functions as distributed computing, multi-level decision making, etc. will be required. This can be avoided by using pattern recognition technology, heuristic methods in the theory of knowledge.

The upcoming neo-industrial development of the Arctic, associated with the implementation of large investment mega-projects, actualizes the need to diagnose the socio-economic situation in this territory and to develop innovative mechanisms and technologies for regulating social processes.

Realization of this goal will require both an analysis of the experience of the organization of life activity of northerners in foreign Arctic states, and conducting field and expeditionary research in the regions of the Russian Arctic and, above all, in the West Siberian North (Yamal-Nenets Autonomous Region) and East Siberian (Chukotka Autonomous Region). Comparative sociological research in the listed areas will allow to figure out the factors that determine the level of human (quality of life, educational opportunities and health) and social potential (consolidation of regional and local communities, trust in power structures and social environment, the level of civil society and ethnic conflict). Will be proposed and justified innovative approaches to the spatial organization and transformation of the territory of circumpolar regions in the process of neo-industrial development, new effective trajectories of socio-economic development, low suitable for permanent residence of the incoming population of the Arctic territories, which are the basis of the traditional economic activity of aboriginal ethnos groups (Karpov, 2015). The scientific novelty of the proposed project will be determined by diagnosing and forecasting the social situation in the Arctic, the role and technologies of regulation of social processes in the upcoming development of this territory are identified, management mechanisms have been developed that will significantly improve the quality of life of the people living here.

The technology of pattern recognition in solving the problems of the surrounding world makes it possible to implement the setting of management tasks at the created economic and sociological test landfills each time when solving management tasks. The bases of such landfills are databases and knowledge, with the help of which the identification, justification and solution of surrounding problems are carried out.

The process of organizing an information-sociological landfill takes place in several stages. Problems are identified by analyzing information from statistical and scientific sources, and the results of sociological research conducted, including copyright ones. Further, the goals within the framework of solving the identified problems are determined; the tasks that need to be solved in order to achieve the goals are concretized (Kuramin, 2011). The necessary initial information in the existing data bank and the collection of additional information, its formalization and input into the data bank are determined. Then an information-sociological training landfill is created, at which carried out the placing of management task. Using the mathematical apparatus of pattern recognition technology (Belonozhko et al., 2016), the computer creates the options of solutions to the tasks and, depending on the surrounding conditions of the functioning process, selects the most effective way to achieve the goals. The acceptance of management decision is automated; it performed by choosing an effective option of solution to the problem.

There may be a situation where none of the options from the database satisfies the accuracy of the goal. Then the expert enters into the process of solving problems, the goals are more concretizing, non-standard ways of solving problems are finding and are entered into the base of alternative options. The expert constantly monitors the creation of a base of alternative solutions for solving managerial tasks, defines goals for solving the identified problems.



## RESULTS AND DISCUSSION

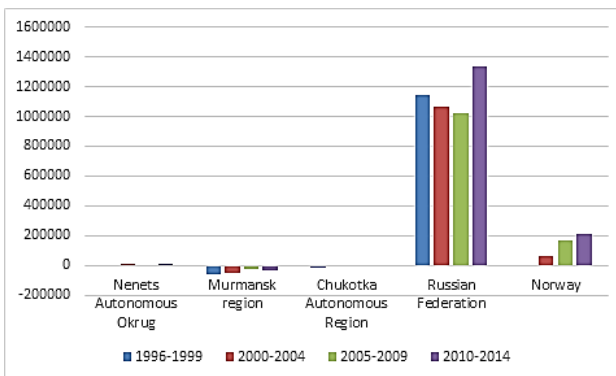
Judging by the human development index calculated annually by the United Nations Development Program, the Yamal-Nenets Autonomous Region has been fairly prosperous over the past two decades (Silin and Tkacheva, 2015; Silin, 2015).

Here, the country's highest GDP and per capita income indicators. Structure of GDP by the kinds of economic activity (% , 2016): mineral extraction 50.2, construction 14.8, wholesale and retail trade, various household services 10.5, transport and communications 8.7, immovable property operations, rent and services 6.4, production and distribution of electricity, gas and water 2.1, public administration and military security, compulsory social security 2.1, other types of activity 5.2. The ratio of enterprises by the kinds of ownership (by the number of organizations, %, 2015): private 79.7, municipal 8.6, public and religious organizations (associations) 5.0, state 3.9, pr. forms of ownership 2.8 (Levashov, 2001; Report about anthropic development... 2013).

The authors measured also the relative poverty: the inability to maintain a standard of living and to satisfy the needs which are typical for others. We have defined this indicator as the share of the population with average per capita cash incomes below 60% of the median income (Bobkov and Chulyugina, 2012). For the Yamal-Nenets Autonomous Region, it was 25.8 in 2016, i.e. every fourth resident of this rich region is poor.

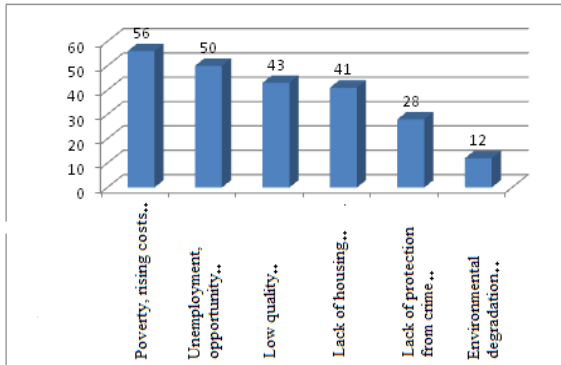
The authors investigated the issues of migration in the Arctic zones of the Russian Federation. It was established that only in the Nenets Autonomous Region the number of inhabitants increases (Novoselov and Silin, 2015). If to compare with other Arctic countries, the largest increase in population due to migration is observed in the Swedish Iain Norbotten: over the past 15 years – more than 15 thousand people. In general, positive migration of the population is also characteristic of Iceland, with the exception of the period 2009-2012, when there was a significant outflow of population from the country. Figure 1 shows the migration in the arctic regions as a whole in Russia in comparison with Norway over a five-year period.

Figure 1: Migration in the arctic regions and countries over five years, people



According to the results of the mass polls we conducted, this problem seems to be the most significant to the northerners. Given that, according to state statistics, the standard of living in the Yamal-Nenets Autonomous Region is much higher, their residents, as it turned out, are concerned about the same problems as other Russians (Figure 2). Wherein, there is also a peculiarity of the Arctic region, which distinguishes it from others: northerners earn money here and spend all, mostly in the south: in recreation areas, in cities where their children study.

Figure 2: The percentage ratio of social problems of the population of Yamal, %



During a mass survey of residents, conducted by us in 2015, self-assessment of the standard of living of northerners was revealed. At the same time, 16.3% of respondents answered that “they have enough for everyday expenses, but buying of a new clothes is already difficult”, 12.1% – “almost the entire salary goes for everyday expenses”, 7% – “there is not enough money for everyday costs”.

So, the reasons for the deterioration of the health of the people who came to the North are the geographical and climatic, socio-psychological, environmental. The combination of disturbances in the geomagnetic field and gravitational anomalies increases the number of exacerbations of cardiovascular diseases (Dorshakova and Karapetyan, 2004).

The northern natural conditions affecting the health of people who came from other regions are quite diverse and have not yet been completely studied. These are not only low temperatures, as well as the absence of a normal daylight hours, leading to seasonal depressions, swings in atmospheric pressure, particular qualities of water, etc.

Global warming is a serious potential threat to natural systems and human security in the Arctic, which is almost 10 times more pronounced in the Polar Regions than on average on the planet. Thawing of frozen rocks can lead to an increase in the number of man-made emergencies due to the collapse of structures and damage to communications (Storey, 2010; Tkacheva, 2010). Sources of emergency situations in the Arctic due to radiation contamination are underwater potentially dangerous objects. Hazards can arise from the flooding, which were happens in the 1950s and 1960s in the Barents and Kara Seas with the radioactive waste, nuclear weapons testing in Novaya Zemlya, the operation of the Kola and Bilibino NPPs, as well as a large number of emergency radioisotope thermoelectric generators used to power the coastal autonomous navigation systems.

During the polls of northerners, we found out the level of their satisfaction with medical services in general, and for individual elements. These figures turned out to be worse than the all-Russian ones identified by sociological centers of the Russian Academy of Sciences.

Table 1 shows the answers to the questionnaire: “What does not suit you in the medical care system in your settlement?” in dynamics. At the same time, there are no obvious trends of changing in the situation over the years.

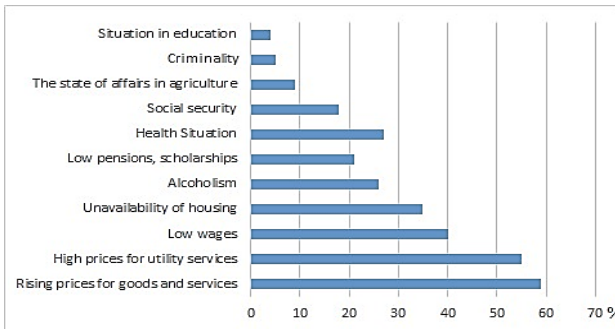
**Table 1: Deficiencies in the health care system in settlements of the Yamal-Nenets Autonomous Region, % of respondents (several reasons of dissatisfaction were allowed)**

A problem	Years of the survey holding		
	2005	2010	2015
Long queues to the doctor	57	50	68
I do not see the effect from the proposed treatment	27	26	24
Prescribed medications are not available at the pharmacy or are very expensive	25	24	33
The ambulance arrives too late	6	7	9
I am satisfied with medical services	27	23	23
I don't know	10	12	8

As our studies have shown, social problems that worry the northerners are closely interrelated (Volosnikova, 2010). This also applies to the last in the list of social problems – the deterioration of the environmental situation in the Arctic territories.

It is known that in the circumpolar region special methods of preserving the natural environment are needed. Wherein, it is necessary to take into account the interaction of the oil and gas cluster with the environment, changes in the hydrosphere as a result of pollution by oil products and drains; lithospheres associated with soil pollution; atmospheres due to emissions of toxic substances, gas combustion products in flares, etc. (Kupershtokh, 2012).

**Figure 3: Social and economic problems in the Arctic region**



At the same time, the ecological situation, in addition to the impact on the health of the people living here and the quality of their vital activity, largely determines the conditions of the traditional management of aborigines. Our surveys show that more than a third of respondents believe that the predatory attitude of visitors to the nature of the North is the main cause of tension between the northern ethnic groups and the newcomer populations.

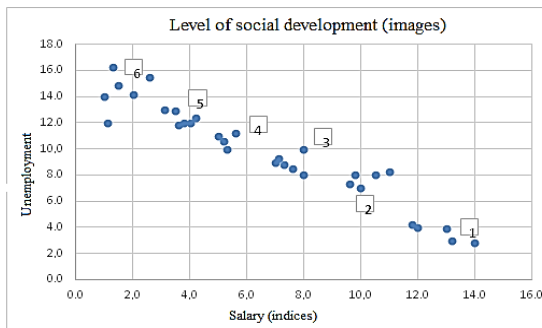
The results obtained in the form of arrays of different criteria and indicators served as the basis for creating information and sociological test sites and modeling the processes of social life in the Arctic in order to increase the efficiency of the development of oil and gas resources in the Arctic zone, which is possible if social well-being of its people is achieved.

There are indicators that characterize the level of social development of the object. We will call such indicators indirect properties. They are selected by experts at the stage of setting the management task in the formation of a training ground. For this purpose, interviews with experts were conducted: theoretical

specialists and practitioners in economics and sociology in order to determine the indicators characterizing the object of research that is sufficiently optimal to reflect the various sides of the object and to gain additional knowledge about the object, which will help formulate the hypothesis of the research. About 30 specialists on these issues were involved in the interview. Respondents could choose a maximum of 4 indicators that most important to them (Figure 3).

Figure 4 shows the dependence of indicators on each other, how in the subspaces of indirect properties, images are formed on a direct property.

**Figure 4: Graph of formation of images (of direct property) on a set of (two-dimensional) indirect properties**



The first image is characterized by a low meaning of indirect property – of unemployment and a high – of the wages, the sixth – on the contrary: a high meaning of unemployment and a low – wages. It is clear that the first image is the image of a higher level of social development of the Arctic territories than the second, third, etc.

Naturally, in the subspace of two indicators it is very difficult to distinguish objects according to a direct property. Thus, for example, points in the two-dimensional space of the fifth and sixth images of the level of social development practically merge into one image. It would be much easier to do this in the space of three and so on (in our case, six) indirect properties. But it was in a multidimensional space that six images were revealed – the levels of social development of the Arctic territories (Veselin and Levinova, 2012).

Thus, after analyzing the demographic and social situation in the Arctic territory of the Russian Federation, the following key characteristics can be distinguished:

**1. Strengths:**

- Preservation of the cultural population and of the traditional lifestyle of indigenous people
- Large, in comparison with other practical countries, the number of population of the AZ RF, its qualitative composition

**2. Weaknesses:**

- Small number and density of the population of the AZ RF
- Weak development of the social environment, low level and quality of life of the population

**3. Opportunities**

- Solving social problems, improving the quality of life of the population
- Creating new jobs, creating conditions for self-realization of the population

**4. Threats:**

- Population outflow
- Poverty, unemployment, social diseases

We believe that attention should be paid to the physiological, biomedical and environmental aspects of preserving the health of people who came to the Arctic from other regions. This research block should include and the justification of acceptable work and rest (AWR) regimes for look-out personnel.

Despite the existing problems in the Arctic region, the level of material well-being is higher than the average for Russia. If we compare with other Arctic regions of the world, then the highest coefficient of disposable income in 2012 is in the Northwestern territories of Canada (2.7) and in the Nenets Autonomous Region of the Russian Federation (2.68); the smallest is in Greenland (0.88) and Lapland (0.91). Increased risks to the health of the population living in the Arctic zone should at least be compensated by the increased level of material well-being of the population of the northern territories.

Another equally important subject of interdisciplinary scientific study is the social situation. But so far are known only some ethnological studies (Tsymbalistenko and Parshukov, 2015).

The obtained indicators, aggregated into the indices, will form the basis for the formation of information and sociological testing grounds, where in the virtual space it is possible the increasing the level of social development of the Arctic zones, where producing the mastered of oil and gas resources.

## **CONCLUSION**

The increased attention to the Arctic zone was historically determined mainly by the political and economic interests of using its rich resource potential, ensuring national security, and enhancing international political influence. Over the past twenty years, on the background of development of mining and navigation technologies, the accents have only slightly changed: the main focus of attention on the Arctic has changed to the mastering of hydrocarbon reserves and opportunities to increase transportation along the Northern Sea Route. The consequences of "global warming" make the ecologically vulnerable Arctic even more "advantageous" in terms of increasing the availability of resources.

There is a special socio-ethnic lifestyle of the northern peoples. The industrialization of the northern territories had a huge impact on the lives of the indigenous peoples of the North, whose well-being directly depends on the ecological situation in the region, the fishing potential of the territory, as well as the impact on their social lifestyle, customs and traditions. Today, scientists face the institutional problems related to the legal support and regulation of the social and humanitarian aspects of the integrated development of the Arctic in the medium and long term, which concern the small indigenous peoples of the North.

The increased environmental risks of the Arctic zone cause special attention to it by international environmental organizations and the public, however, the priorities of sustainable socio-economic development of the Arctic region in practice are often implemented formally. So far, no clear position has been defined regarding the development strategy of the Arctic; an important question remains open of the social value of the natural resources of the Arctic and their rational use.

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# Legal Regulation of the Synergetic effect of Innovation in the Structure of National Economies of the Union State

*Regulación jurídica del efecto sinérgico de la innovación en la estructura de las economías nacionales del Estado de la Unión*

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### ABSTRACT

Assess of the constitutions of Russia and Belarus, to determine the degree of allowable discrepancy, to compare their laws, the realities of their application will be the science of constitutional law. The relevance of the research topic is that only in 2006 international treaties and agreements were concluded aimed at the settlement of the most pressing issues of ensuring equal rights of citizens of the Russian Federation and the Republic of Belarus in the field of social security, medical care, freedom of movement, choice of place of stay, as well as the regulation of property issues of the Union state.

**Keywords:** EAEC; integration; legal regulation; state.

### RESUMEN

Se evalúan las Constituciones de Rusia y Belarús, para determinar el grado de discrepancia admisible, para comparar sus leyes, se aplicará a la realidad la ciencia del derecho constitucional. La importancia del tema de la investigación es que sólo en 2006 se celebraron tratados y acuerdos internacionales destinados a resolver las cuestiones más apremiantes de garantizar la igualdad de derechos de los ciudadanos de la Federación de Rusia y la República de Belarús en el ámbito de la seguridad social, la atención médica, la libertad de circulación, la elección del lugar de residencia, así como la regulación de las cuestiones de propiedad del estado de la Unión.

**Palabras Clave:** EAEC; integración; regulación legal; estado.

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## INTRODUCTION

The most important segment of the development of innovation is the national innovation system. Building a national innovation system in the country begins with the development of the concept and adoption at the political level of appropriate decisions, according to which intellectual and financial resources are concentrated, innovative organizations are rapidly developing. Such a system involves the implementation of the process, from the production of knowledge and ending with their implementation in specific innovative products, services and technologies (Ginsburgs, 1999).

The main subjects of the innovation process are the primary links of the economic system – enterprises, organizations, the prospects for development of which are largely determined by the effectiveness of innovation. Innovative activity of the enterprise or organization is conditioned by the objective necessity of the development of science and technology, the regularities of market relations associated with the orientation of economic entities operating on the demand and the growing needs of the market, increasing competition, increasing complexity of economic relations (Müller, 2012). Competitive advantages and competitiveness of knowledge-based organizations are provided by intellectual resources, corporate culture, innovative technologies, level of training, their ability to develop and implement competitive strategies (Balcerowicz, 2009).

The Russian Federation and the Republic of Belarus are still at the stage of forming an integral innovation system. Great and increasing efforts to achieve this goal are made by domestic scientists and practitioners of the two countries. In particular, a common understanding of the need to develop an innovative economy based on knowledge embodied in intellectual work and adequate relations has already been reached. The countries are faced with the task of further intellectualization of labor, a serious change on this basis of labor relations, accompanied by radical changes in the entire system of life of organizations, the restoration of controllability of economic development. All of these development policies should ultimately determine a more effective formation of the budget, foreign trade and industrial policy (Petrenko *et al.*, 2016).

From the scientific and technical point of view, the selected priorities should correspond to the promising directions of the formation of the modern technological structure and the timely creation of the foundations for the formation of the next. From the economic point of view, state support for priority areas should be characterized by two important features: to have a significant external effect, improving the overall economic environment and conditions for the development of business activity; to initiate the growth of business activity in a wide range of industries associated with priority production. From the production point of view, government incentives should lead to further growth of the competitiveness of the products. From the production point of view, government incentives should lead to further growth of the competitiveness of the products.

## LITERATURE REVIEW

The Treaty between the Russian Federation and the Republic of Belarus of 21 February 1995 on friendship, good-neighbourliness and cooperation, which was subsequently ratified by parliaments, was of fundamental importance for the solution of issues of interstate integration. Currently this Contract is valid for the second ten-year period. This Agreement defines the prospects for cooperation between Russia and Belarus in almost all the most important areas, and lays a solid legal basis for their rapprochement in the state legal sphere. A little more than a year later, the provisions of the said act were developed in the Treaty of 2 April 1996 on the formation of the Community of Russia and Belarus (Wiegand and Schulz, 2015). This Treaty for the first time defined the contours of the future General statehood of the Russian Federation and the Republic of Belarus. In pursuance of the above-mentioned Agreement, the Community's authorities were formed—the Supreme Council, the Parliamentary Assembly, the Executive Committee and sectoral authorities.

The following year, the Community was transformed into the Union of Belarus and Russia. This Interstate Association was based on the Agreement of April 2, 1997 on the Union of Belarus and Russia, as well as the Charter of the Union of Belarus and Russia adopted on May 23 of the same year (Estrin, 2008). The above-mentioned Community bodies have been transformed into the relevant bodies of the Union. At the same time, their status increased, their competence expanded. It is noteworthy that the Charter of the Union introduced the citizenship of the Union, which predetermined the legal status of its citizens (Kireeva and Robert, 2014).

The Declaration on the further unity of the Republic of Belarus and the Russian Federation, adopted on 25 December 1998, was a kind of prelude to the creation of the Union state (Scharaw, 2018). This international legal act noted that the unification of Belarus and Russia into a Union state should be carried out on the principles of voluntariness and preservation of national sovereignty of the States-members of the Union of Russia and Belarus. These principles were enshrined directly in the Treaty of 8 December 1999 establishing the Union state. Thus, it took about fifteen years to solve the issue of the Union state of the Russian Federation and the Republic of Belarus. During this period the dissertation characterizes such activity as the contractual stage of the integration process in the state sphere. This stage of integration activities of Russia and Belarus is currently ongoing (Vashkevich, 2012).

The bilateral treaties between the Republic of Belarus and the Russian Federation of 1995-1999 are among the constituent ones. Each of these agreements was designed to regulate relations that arose in connection with the formation of a new form of joint statehood, the creation of power bodies, the definition of the legal status of citizens. Therefore, there are grounds for referring them to the sources of constitutional law. The following features are typical for such: reference to the sphere of constitutional regulation, the normative nature of the orders, the obligation of execution. All the abovementioned treaties possess these attributes. The recognition of international treaties as sources of national law is enshrined in the Constitutions of Russia and Belarus (Sadurski, 2014a).

An important feature of the above-mentioned Russian-Belarusian agreements is that they regulate the activities of not only the member States, but also the interstate associations created at the appropriate stages of their development – the Community, the Union and the Union state of Russia and Belarus. In this regard, these Agreements should be characterized as supranational normative legal acts, which are the sources of the emerging constitutional law of the Union state. The peculiarity of the formation of this branch of supranational law is that it is formed in the absence of the Constitution of the Union state. To some extent, it is replaced by the above-mentioned agreements, as each of them has a constituent component, the rules containing elements of constitutional regulation (power relations, the legal status of citizens).

## **METHODOLOGY**

Over the years of its existence, the bodies of the Union state have adopted more than a hundred normative legal acts, including resolutions of the Parliamentary Assembly on the budgets of the Union state and decrees of the Supreme state Council on their approval. In the presence of such acts, the initial period of the legal stage of regulation of the activities of the Union state and its bodies is seen. After the adoption of the constitutional Act, the content of the regulation of the Union state will change. The Treaty form will be replaced by a more stable constitutional and legal one. At the same time, the constitutional Act will become the main source of supranational constitutional law and will create conditions for the development and adoption of the Constitution of the Union state (Seibert-Fohr, 2012). It seems that the formation of the Union's Parliament will contribute to the activation of its own standard-setting activities of the Union state.

## RESULTS AND DISCUSSION

By January 1, 2015, it is planned to prepare a program that provides for a phased creation of a common electric power market, a common oil market, oil products and access to gas infrastructure (Sadurski, 2014b).

As goals of energy integration, the following points should be emitted:

- expanding the reproduction of energy potential;
- sustainable energy development;
- energy security;
- scientific and energy cooperation;
- protection of the environment.

The functioning of the common energy market of the Eurasian Union should be based on five basic principles.

A single institutional environment as a set of general rules for the functioning of the market on the basis of the principle of equal conditions and the absence of discrimination of particles, the existence of a unified system of market institutions, and customs policy, a unified legislative framework and general legal rules for production, exchange and distribution (Nußberger, 2012).

Energy infrastructure as a system of interconnected infrastructure capacities for the purpose of rational use of resources, equal access and use.

Foreign policy as a set of joint projects in the field of foreign trade activities, the harmonization of a common foreign policy, the inclusion in the international process of scientific exchange and cooperation in the field of energy.

Science and innovations as a set of joint scientific fundamental and applied research in the field of energy, training of personnel, development of perspectives of directions in the field of renewable energy sources.

Sustainable development as a set of joint actions for the rational use of natural resources, environmental protection, the elimination of the consequences of environmental pollution in the energy sector, the formation and promotion of environmental culture in society.

To achieve the set goal for the formation of a common energy market in the short term (2014-2015), it is necessary to harmonize the legislative base of countries in the field of energy, carry out a common agreed energy policy, remove barriers and restrictions for access to natural monopolies, purpose a transport policy without exceptions and restrictions (Seibert-Fohr, 2012).

The experience of the European Union shows that the main emotion should be made on the creation of a pan-European energy infrastructure. For the effective functioning of the infrastructure, it is necessary to have a common legislative framework, unified rules for the operation of the market on the basis of the principle of equal conditions, fully functioning market mechanisms, etc. At the stage of building a common energy market, countries are at different levels of society-economic development. On the one hand, fully functioning market relations in Russia and Kazakhstan, on the other hand – the domination of the state and the directional economy in Belarus. It is to be expected that in the process of creating a common energy market, market transformations will take place in the Belarusian economy and full-fledged market institutions will be created. At the same time, delaying market reforms in Belarus or projecting them will be one of the objects to building a common energy market (Nies, 2011).

According to the concept of the "Eurasian Energy Doctrine" concept, one of the principles of energy policy is the division of powers to supranational bodies and observation of equal rights and sovereign of countries. This approach seems justified, because minimizes the risks of any of the parties to the agreement solely to supervise supranational management bodies, and, like multilateral agreements regulating mutual obligations of participants, allows for more effective implementation of agreements. An important condition for successful integration is the equality of the parties and the lack of pressure on relatively weak partners. When building

the Eurasian Union, it is important for the participants not to allow the policy of the integration process to be exceptionally political, as well as to avoid mistakes made within the Union State of Belarus and Russia, whose operational experience shown that non-observation of the principle of equality of partners and a different vision of the integration process caused the actual freezing of this project (Khrushcheva, 2015).

It is important to consider that the future Eurasian Union is open to access by other participants. Experience of the second half of the twentieth century. shows that in order to increase the competitiveness of national economies and increase prosperity, countries should pursue an open policy aimed at close cooperation with other states and integration entities. It should be expected that the project of a single Eurasian energy union will be of interest to the countries of the post-Soviet space, the EU, China, and the countries of Central Asia.

The structure of the general electric power market of the EAEC provides for such major segments as wholesale purchase and sale of electricity, the market for centralized electricity trade, the market for system and support services and a balancing market (Esakova, 2012).

In fact, the proposals of the Eurasian Economic Commission on the creation of a common electricity market of Belarus, Kazakhstan and Russia were set out in the concept of the formation of the CIS common electric power market in 2005 and took into account all the best practices of European countries. Within the framework of the Eurasian Union, the countries will once again try to achieve success in this matter, and Russia will play the main role in shaping the market (Kembayev, 2009a).

Within the framework of the agreement on the creation of the Eurasian Economic Union (EAEC), signed in May 2014, it is planned to form a customs union without restrictions in the movement of goods. However, the parties differently see their participation in the new union. A big problem is the hydrocarbon market. At the initiative of Russia and Kazakhstan, the issue of creating a common market for oil, gas and electricity was postponed until 2025. Given the special import of this issue for Belarus, it was decided to settle this issue on a bilateral basis. At the end of May 2014, two protocols were signed that regulate Russian-Belarusian relations in the oil and oil products market.

In accordance with the Protocol "On entertainment to the Agreement between the Government of the Russian Federation and the Republic of Belarus on Measures to Settle Trade and Economic Cooperation in the Field of Oil and Oil Products Export of January 12, 2007", it is provided that the volume of oil supply from Russia to Belarus in 2015 will amount to 23 million tons of o, and in 2016-2024. the annual volume will be 24 million tons per year. At the same time, 96% of deliveries will be carried out by pipeline transport. In accordance with the agreement, Belarus undertakes in the period 2015-2017. to supply oil products to the Russian market, including at least 1 million tons of gasoline. Pricing should be carried out on a market basis at prices formed at the Russian exchange trades, and in the case of direct contracts – at negotiated prices taking into account exchange quotes (Kembayev, 2009b).

Foreign trade, as is known, is the most developed type of foreign economic relations between the Russian Federation and the Republic of Belarus. Its dynamics, commodity, country and subject structures are determined both by the state of the national economy, foreign economic policy of the state, and external factors (the nature and intensity of international competition, international political situation, membership in international political and economic unions and organizations, etc.). Therefore, the foreign trade policy of States should be derived from the General national socio-economic development strategy, although it has an active reverse effect on the latter. Currently, the most important areas of development of foreign trade policy of the Russian Federation and the Republic of Belarus should be export diversification and import rationalization. The subject structure of exports may include: innovative goods and services, innovative works, intellectual activity results, information of different nature and purpose and other.

For each of the above types of international exchange characterized by its legal, organizational, economic features. In industrialized countries, an information society is being created, where information itself has long been a massive and expensive commodity. The Russian Federation and the Republic of Belarus are still at

the stage of development of this process, and should gradually become more fully involved in the world trade in information (Sadurski, 2014c).

Although many experts believe that the service sector does not "produce" its own innovations by borrowing them from industry, one can hardly agree with this point of view, insisting on the availability of innovations in the service sector and emphasizing their specific nature. Unlike innovations in industry, which are divided into innovations in the development of goods, processes and management of innovation and where the development process is separated from production and commercialization, in the service sector, there are no boundaries between different types of innovation.

Since the content of the service is directly related to its implementation, the division between its essence and the process is meaningless; when the content of the service is changed, the processes of its provision, tasks, coordination procedures, and, consequently, organizational structures are deeply modified. At the same time, the satisfaction of the demand not fully formulated by the consumer, which is formed in the course of interaction between the consumer and the producer, gives the development of the service the appearance of a collective nature. Therefore, innovations in the service sector are impossible without strictly formal procedures, the use of information technology to implement all stages of the process, from the first contact with the client until the end of the service (Tsybulenko and Pakhomenko, 2016).

As the experience of the last decades shows, the global economic system has seen the expansion of the zones of influence of socially responsible corporations on partners in corporate interaction. This can be achieved through the use of corporate social reporting materials, the spread of social attitudes of business to partners. For example, monitoring of working conditions at the enterprises of suppliers of products in order to choose partners based on ethical criteria, taking into account the loyalty of consumers to the brand of the enterprise structure and the country-manufacturer, the presence of implemented and promising social programs. One of the areas of influence is the use of materials of social reporting of global corporations. Social reports demonstrate the success of corporations in the development of social responsibility, show real results that can increase confidence in business structures, have a positive impact on investors and the population.

It should be noted that the modern developed market economy is characterized by the presence of a market of competing innovations, future innovations. Very precisely in their research defined the role of innovation D. Preswood and P. Schumann: "the Purpose of business-innovation, which, being properly aimed, create well-being in the broad sense of the word." These words emphasized the relationship of innovation, business, market and the existence of market selective selection of innovations in the market of innovations (innovation), as well as the priority role of innovation in the production of competitive products, works, services to improve the living standards of the population of individual countries and the world community as a whole (Tuianu, 2013).

It is no accident that the industrialized countries that have made innovation a priority area of development occupy leading positions in the world in many indicators of economic development, and are part of the group of countries that make up the technological core of the world community. It is quite obvious that priority should be given to the development of countries not on the basis of factors of production and investment, but to the development on the basis of the intensification of innovative activities in the field of the most priority basic knowledge-intensive and high-tech sectors of the national economy, which are the most significant and progressive engines of economic development.

## CONCLUSION

1. The Union state, created as a result of the integration activities of the Russian Federation and the Republic of Belarus in accordance with the will of their peoples and the Treaty of 8 December 1999, represents a new type of interstate enterprises, combining the characteristics of the international organizations (e.g. the Union state's budget is formed from contributions of Russia and Belarus), the Federation (for example, between the Federal government and its founders delineates areas of responsibility, the territory of the Union state includes the territorial space of Russia and Belarus) and the Confederation (in particular, the Union state does not have state sovereignty). At the same time, the Union state is a higher level of interstate Association compared to the previously existing Community of Russia and Belarus and the Union of Belarus and Russia.

2. The activities of Russia and Belarus to create a new interstate Association correspond to the fundamentals of the constitutional system of these States and the norms of their national legislation. The real embodiment of the most important principle of the constitutional system on the recognition of the highest value (art. 2 of the Constitution of the Russian Federation and article 2 of the Constitution of the Republic of Belarus) will contribute to the legislative consolidation of equal economic conditions for Russian and Belarusian producers, the establishment of equal legal status of Belarusian citizens during their stay in Russia and Russian citizens during their stay in Belarus, as well as the completion of the unification of tax, financial, investment, civil and social legislation of the States parties to the Treaty of December 8, 1999 (Kembayev, 2009b).

3. In the regulation of the processes of formation and development of the Union state, the contractual and constitutional-legal stages are singled out. The Treaty of 8 December 1999 is now the principal international legal instrument by which the subjects and bodies of the Union state are governed. In the development of this Treaty, Russia and Belarus on 24 January 2006 adopted the Agreement on cooperation in the field of social security, the Agreement on regulation of property issues of the Union state and the Agreement on medical care citizens of the Russian Federation at health care institutions of the Republic of Belarus and citizens of the Republic of Belarus in healthcare institutions of the Russian Federation. However, as the activity of the authorities of the Union state increases, the contractual form of regulation of their activities will be minimized (Vernygora *et al.*, 2016).

At the initial stage is the constitutional and legal stage of the Union state. It is characterized by the adoption of normative legal acts by its authorities. The most important acts include, for example, the resolution Of the Supreme state Council of the Union state of 12 April 2002 on the approval of the procedure for the formation and execution of the budget of the Union state, which is described in its introductory part as a normative legal act of the Union state. It seems that after the adoption of the constitutional Act, the law-making activity of the authorities of the Union state becomes more active.

4. In order to follow more precisely the idea of the Treaty of 8 December 1999 and taking into account the purpose of the constitutional Act, the adoption of which is provided for in article 62 of the Treaty, it is appropriate:

- to limit the subject of the constitutional Act to questions state structure and legal system of the Union state;

- to change the established procedure for submitting the draft constitutional Act to referendums of the participating States, as the national legislation, in particular, the Federal constitutional law of 28 June 2004 No. 5-FKZ "on the referendum of the Russian Federation" does not allow for the submission to the referendum of issues contrary to the Constitution of the Russian Federation (article 62 of the Treaty of 8 December 1999 provides that only after the approval of the constitutional Act in referendums the state parties shall make the necessary additions and changes to their constitutions, i.e., to the Constitution). Its non-compliance with the national constitutions of the States parties to the Treaty is programmed). According to the dissertation,

additions and changes to the Constitution of Russia and Belarus should be made before the introduction of this Act to national referendums.

5. It is necessary to intensify the legislative activity of the Union state and, first of all, to adopt the Law "on the property of the Union state". The adoption of the Said law of the Union state would significantly strengthen the material base of the Union state, to form its budget from its own sources. In order to ensure the Implementation of the law "on the property of the Union state", it would be necessary to create a special body – the Committee on the management of Union property under the Council of Ministers of the Union state, giving it the right, in particular, to maintain the register of Union property and to manage Union property (Muravska and Berlin, 2016).

6. Article 2 of the Treaty of 8 December 1999 States that, as the Union state becomes established, it will consider the adoption of its Constitution. The question is relevant, because with the adoption of the constitutional Act, the issues of constitutional and legal registration of the Union state will be resolved only partially. According to article 62 of the said Treaty, the purpose of this Act is limited to the definition of the state structure of the Union state and its legal system. The adoption of the Constitution of the Union state will allow to solve a wider range of issues at the constitutional level, including to determine the basis of the constitutional system of the Union state and the constitutional status of the citizens of the Union state. The article of the constitutional Act providing for the adoption of the Constitution of the Union state could be a guarantee of its development and adoption.

7. The formation of the Union state determined the need for the formation of the constitutional law of the Union state. Currently, there are a number of normative legal acts, which are sources of supranational constitutional law. These include bilateral agreements between the Russian Federation and the Republic of Belarus aimed at the establishment and development of the Union state, decrees of the Supreme state Council and resolutions of the government of the Union state on fundamental issues of the organization of the Union power and the legal status of the citizens of the Union state. The constitutional law of the Union state will be fully formed after the adoption of the Constitution of the Union state and the status laws of the Union state on the Supreme state Council, Parliament, Council of Ministers and The court of the Union state.

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# Legal Basis for the Development of Social Capital in the Conditions of the State Transition to an Innovative Economy

*Base jurídica para el desarrollo del Capital Social en las condiciones de la Transición del Estado a una Economía Innovadora*

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### ABSTRACT

The Union state-the Union of Russia and Belarus – is the most significant integration project in the CIS space, which marked the change of centrifugal tendencies in the post-Soviet space by centripetal ones. Russia and Belarus were among the first CIS member States to realize the need for close integration. Almost immediately after the collapse of the Soviet Union, Russia and Belarus signed bilateral trade and economic agreements, which recognized the right of the parties to pursue an independent foreign economic policy. Thus, Russia and Belarus were the pioneers of integration processes in the region.

**Keywords:** Integration; legislative activity; regulation; unemployment.

### RESUMEN

El estado de la Unión - la Unión de Rusia y Belarús - es el proyecto de integración más importante en el espacio de la CEI, que marcó el cambio de las tendencias centrífugas en el espacio postsoviético por las centripetas. Rusia y Belarús fueron los primeros miembros de los estados de CEI en darse cuenta de la necesidad de una estrecha integración. Casi inmediatamente después del colapso de la Unión Soviética, Rusia y Bielorrusia firmaron acuerdos comerciales y económicos bilaterales, que reconocían el derecho de las partes a perseguir una política económica extranjera independiente. Así, Rusia y Belarús fueron los pioneros de los procesos de integración en la región.

**Palabras Clave:** Integración; actividad legislativa; regulación; desempleo.

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## INTRODUCTION

On April 2, 1996 the Agreement on the formation of the Community of Russia and Belarus was signed. In accordance with the Treaty, it was decided to create a politically and economically integrated community in order to unite the material and intellectual potential of the two States (Antons and Thampapillai, 2015).

On April 2, 1997 in Moscow the presidents of the two countries signed The Treaty on the Union of Russia and Belarus. In 1997-1998, the formation of the Executive bodies of the Union took place, the first Union programs were developed and implemented. On December 25, 1998 the Declaration On further unity of Belarus and Russia, the Agreement on creation of equal conditions for business entities and the agreement on equal rights of citizens were signed (Petrenko *et al.*, 2016).

On December 8, 1999, the Treaty on the establishment of the Union state was signed in Moscow and a program of action was adopted to implement the provisions of the Treaty. On 26 January 2000, after ratification of the Treaty by the parliaments of the two countries, it entered into force. Thus, the Treaty fulfilled its role: it legitimized the creation of the Union state at the international level. The draft of the Union Constitution was developed, and the next step was to be internal legitimation – the adoption of the constitutional act. However, this did not happen (Symeonides, 2012).

The formed Union state (hereinafter referred to as "SG") is one of the forms of integration in the post-Soviet space, and operates along with other integration entities: the collective security Treaty Organization, the Eurasian economic community, the Customs Union and the Common economic space (Symeonides, 2012).

The Union Treaty covers all spheres of state-building, establishes the basic principles of the division of powers between the Union state and the member States, regulates in detail the powers of the Union bodies, the order of their formation, as well as the main functions and structure of state bodies of the SG. And what is especially important is that the Treaty confirmed the status of Belarusians and Russians as citizens of the United Union state.

## LITERATURE REVIEW

At the same time, based on various formats, it is possible to address those issues that are a stumbling block for a long time. So the format of the "Troika" allowed to solve some complex issues that were not solved within the Union state. In particular, it concerned common rates of customs duties, distribution of customs payments between the budgets of the States (Wiegand and Schulz, 2015). As the Ambassador extraordinary and Plenipotentiary of Belarus to Russia Andrei Kobyakov expressed hope, "it is possible that the problems existing for a long time in the Union state related to the adoption of the constitutional act or the introduction of a single currency can be further solved within the framework of the "Troika" of Belarus, Russia, Kazakhstan"(Kozyrin and Yalbulganov, 2015).

In the future, the CIS member States will start implementing the second stage of the CIS economic development Strategy for the period up to 2020, activating the work on the creation of the interstate innovation space (Muravska and Berlin, 2016).

Labour migration is an important area of economic cooperation. Moreover, given the demographic situation in various CIS countries, the importance of the formation of a common labor market in the future will only increase. At the same time, the process of forming the labor market within the framework of the Common economic space will require the development and adoption of documents on equal access to higher education institutions, equal social guarantees in the field of labor protection, and pensions (Cremona, 2010).

Russia and Belarus are largely in the same position: facing the challenges of the XXI century, Both countries in the context of global competition needs to make the transition to the post-industrial era. Both

countries have many common problems-demographic, migration, fertility, mortality of the able-bodied population.

In these circumstances, the need for mutually beneficial cooperation between the two States in the economic sphere is even more increasing. As, in particular, practice has confirmed, close economic cooperation between Russia and Belarus within the Union state has significantly reduced the impact of the global financial crisis on them (Scharaw, 2018).

At the same time, the cooperation of the two States goes beyond the purely economic perimeter and covers a wider range of issues. The Agreement between the Russian Federation and the Republic of Belarus on cooperation in the field of social security dated 24.01.2006 has been in force on the territories of Russia and Belarus since 2006. In accordance with this Agreement, the procedure for the appointment and payment of benefits for temporary disability and maternity, unemployment and in the case of work injuries, as well as labor and social pensions for citizens of one state working or moving to another state. In addition, the Contract provides for mandatory pension insurance and solves a number of other issues in the field of labor protection (Alavi, 2016).

The development of bilateral relations in the field of education is dynamic. Citizens of the Union state have equal rights to education in our countries. The governments of Russia and Belarus have an Agreement on the mutual recognition and equivalence of education documents, academic degrees and titles of February 27, 1996.the provision of equal rights to higher education contributed to the fact that 20 thousand Belarusians study in higher educational institutions of Russia and 2,000 Russians study in Belarusian universities.

In the last decade, funding for joint scientific research has increased significantly in the SG. If in 2002 17% of the Union budget funds were allocated for research projects, in 2012 – more than 35 %, with an annual budget of 4.8 billion rubles (Vashkevich, 2012).

One of the goals of the Union state is to implement a coordinated social policy. An important reference point in the mutually agreed social policy of Russia and Belarus is the Concept of social development of the Union state.The concept for 2011-2015, approved by the Resolution of the Supreme state Council of the Union state dated 25.11.11 №7, includes fundamentally new sections – environmental and demographic policy, tourism policy, measures to attract young people of both countries to the Union building.

## **METHODOLOGY**

Currently, within the framework of the SG, work is continuing to build a single migration space. The implementation of the Agreement between the Republic of Belarus and the Russian Federation on ensuring equal rights of citizens of the Republic of Belarus and the Russian Federation to freedom of movement, the choice of place of stay and residence in the territories of the member States of the Union state of January 24, 2006 is constantly being analyzed, and the possibility of making changes taking.

This Agreement mutually excludes Russians and Belarusians from the list of foreign citizens and allows citizens of Russia and Belarus to stay in the territory of the Union state for 30 days without performing registration procedures.

A separate unit within the Federal Concept for 2011-2015 included the category of "Migration policy". Taking into account the importance of this topic, the leadership of the SG and the Union parliamentarians supported the proposal to create a new program aimed at the further development of the common migration space, the formation of common approaches in ensuring the protection of the rights and freedoms of citizens of both States.

The Regulations of the parliamentary Assembly of the SG were amended to allow parliamentary requests to be sent, to hold "government hour" and to invite members of the Council Of Ministers of the SG

and heads of state institutions. Thus, for the first time at the 39th session of the Parliamentary Assembly of the Union of Belarus and Russia, reports of the heads of relevant ministries of Russia and Belarus on the implementation of agreements in the field of social policy and in the field of migration legislation were heard (Kembayev, 2009a).

The peculiarity of the geopolitical position of the Union state determines the need to carry out activities and to combat illegal migration. The Ministry of internal Affairs of the Republic of Belarus and the FMS of Russia actively cooperate in this direction and carry out the necessary measures. Russia and Belarus are also part of international structures to combat transnational crime, drug trafficking and illegal migration.

A procedure for the exchange of information on persons temporarily entering the two countries has been developed (Kembayev, 2009b). However, the completeness of the account of the migration movement of the population is rather problematic. Thus, the comparison of statistical data on migration of the state statistics bodies of Russia and Belarus shows the presence of quite significant differences in data on the same migration flows, which indicates the presence of errors in accounting (Settem, 2016).

In this regard, we are currently working on the creation of a unified automated system of registration of foreign citizens who leave, stay, temporarily and permanently residing in the territories of our countries.

Summing up, it can be concluded that within the Union state a number of international agreements have been concluded, which establish that the citizens of SG have equal rights both in Russia and in Belarus (Tsybulenko and Pakhomenko, 2016). These agreements guarantee citizens of both countries a whole set of rights and preferences: without visas and migration cards to move freely on the territory of these countries on an internal passport; without restrictions provided for foreign citizens, to issue a residence permit; to receive free education; to get a job; in a simplified procedure to obtain citizenship. Belarusians and Russians should also be provided with equal conditions in obtaining medical care, in access to the services of medical institutions (Ginsburgs, 1999).

However, as the state Secretary of the SG Grigory Rapota has to admit, "when it comes to law enforcement practice, there are a lot of problems. It is enough to read the letters that come to the address of the Union state, and it will become clear that with the pension provision, and with the admission to universities, not everything is smooth."

More recently, the Russian legislation has been amended to allow labor migrants from Belarus who temporarily stay and enter into labor relations in the territory of the Russian Federation to exercise their pension rights.

## **RESULTS AND DISCUSSION**

However, despite the significant achievements in the field of ensuring equal rights of citizens of the SG, some issues of social insurance remain unresolved. Thus, according to the Russian legislation, the employer does not pay social insurance contributions for citizens of the Republic of Belarus, temporarily staying and working in the Russian Federation. Accordingly, they are not paid temporary disability benefits, child benefits and a number of others.

For these categories of Belarusian citizens, the issue of payment of pensions for the periods of work in Russia from 2001 to 2011 inclusive, when they were not registered in the pension insurance system of the Russian Federation, is also not fully resolved.

At the meeting of the permanent seminar at the parliamentary Assembly of the SG, held in Petrozavodsk in March 2012, recommendations for the legislative activity of the Union Parliament in terms of improving the social security of citizens of the two countries were adopted. It was about medical care and equal access to medicine for all citizens of the Union state, about the real rights to freedom of movement, employment, to receive pensions, which earned no matter where in Russia or Belarus.

The issue of pensions has become a hot topic of discussion. It was noted that law enforcement practice was now and then "stumbled" on the inconsistency of national legislation in this area.

According to G. S. Skachkova, " many provisions of the Program for the implementation of the Provisions of the Treaty on the establishment of the Union state of December 8, 1999 (development of unified laws of the member States in the social and labor sphere, common minimum standards in the field of wages, etc.) have not yet received, unfortunately, their completion."

As the Deputy Secretary of state Of SG I. Bambiza noted, " The agreements within the Union state on the social rights and guarantees of citizens are much ahead of our national legislation and force them to "catch up". He also recommended that the Union deputies carry out an examination of national legislation, so that they are adopted in the member States in the interests of all citizens and do not worsen their situation.

Currently, one of the key areas of work in addition to economic integration is improving the equal rights of Belarusians and Russians. To this end, a base is being built up through which additions to existing agreements will be made. The permanent Committee of the Union state and the relevant ministries and departments of the two countries will have to deal with this seriously (Müller, 2012).

The standing Committee of the Union state monitors the rights of citizens in various areas. In particular, the monitoring revealed that out of 86 Russian regions only 36 gave a positive conclusion about the situation in ensuring equal rights in the field of medical care for Russians and Belarusians.

A number of problems related to the activities of the Union state itself have not been fully resolved. As it was noted at the meeting of deputies and experts of the two countries in the framework of the standing Committee of the SG, these are, in particular, issues related to the property of the Union state, the discipline of execution of Union programs and improvement of the legal framework. According to the participants, the legal system of the Union state should be the key level of Union decisions of direct action, having legal force. The issues of how to build a supranational legal system, how it should develop and relate to national legal systems should be the subject of a new public discourse, the theme of parliamentary and inter-parliamentary discussions. It seems that it would be useful in this regard to refer to the experience of the European Union.

Unfortunately, the Union Constitution was not adopted, i.e. the Union state remained institutionally unfinished. Recently, the designation/terms "Union state" is slowly disappearing from the rhetoric of Russian politicians. Instead, it is pronounced, for example, "our integration Association".

The Belarusian side has concerns that the construction of the Troika's governing and representative bodies may suspend or even absorb the projects already started or planned within the framework of the "two", that new formats and trends will become an excuse for slowing down or curtailing down a number of joint programs. A number of Russian parliamentarians share these concerns.

At the same time, the fact that the first foreign visit of V. Putin after his election as the President of Russia was Minsk, testifies to the special importance of relations for Russia with the closest ally on many integration projects, and first of all, on the Union state. The main result of cooperation in the political sphere, according to the presidents, was the creation of the Union state, in the development of which progress is obvious in all directions. "We do not have a border between the two countries, we have people who move quietly, have equal rights, and the Russians in Belarus, and the Belarusians in Russia, we have a single defense space, common air defense forces, an allied group in the West and much more."

The Union state is not only international treaties and agreements, not only territories, industrial facilities, financial flows and investments. It is, first of all, people. And when the citizens of the two countries will feel fully protected both in labor, social and other spheres, then it will be possible to assert with full justification that the Union state took place.



The state policy of the Russian Federation and the Republic of Belarus in the field of MINES is aimed at stimulating the attraction of foreign firms and foreign investors for the commercialization of civil technologies in the world market of technologies, high-tech goods and services. The potential of domestic science allows countries to participate in international innovation and technological cooperation through the creation of free economic zones or zones of commercialization of their national technologies. The most important aspects from the point of view of the participation of the Russian Federation and the Republic of Belarus in international innovative cooperation include the following:

- export and import of scientific and technical results changes the balance of power between countries and groups, new rapidly developing countries appear on the world stage;
- international innovative cooperation is now becoming a factor for industrialized countries, determining the level of development of science and technology, and ultimately-the overall economic development;
- development, production of components and Assembly is carried out in several States, in this regard, a large number of types of high-tech products lose their belonging to a certain "country-manufacturer";
- assistance is being provided to countries that, for whatever reason, are lagging behind in their development, increasingly in the nature of the technological assistance provided to them;
- globalization of innovation leads to increased social orientation of scientific and technological progress;
- opportunities for mutual access to innovative achievements are being expanded, and collective security is being strengthened;
- science and technology issues occupy an increasingly important place in the activities of international organizations, while new coordinating and national bodies are emerging to ensure the processes of innovative cooperation;
- much more flexible and dynamic are the organizational structures, a significant share of research and development in which is carried out by teams with the participation of experts from different countries.

However, as practice shows, international innovation has some negative consequences, in particular, the tightening of competition in the economy, the increase in the harmful burden on the environment, the growing gap between the leading scientific and technical countries and the rest of the world.

The main strategy of international innovative cooperation between the Russian Federation and the Republic of Belarus should be the growth of global competitiveness of economies, which is now the main factor determining the country's position in the world community.

The aim of innovative development of national economies of the Russian Federation and the Republic of Belarus in 2011-2015 is to create a new technological base, providing a high level of competitiveness of national economies in foreign markets, based on the introduction of new and high technologies with the highest added value, low energy- and the material intensity, contributing to the creation of new types of goods and services, the latest environmentally friendly (clean) materials and products, as well as ensuring the production of traditional goods and services with new properties and parameters, unattainable within the previous technological structures.

The interstate innovative space of the Russian Federation and the Republic of Belarus is primarily a socio-cultural, economic and information environment in which States carry out joint actions for the development of science and technology; the introduction of new technologies in the production, ensuring the production of competitive goods and services in the world market; to combine scientific and technological potential, efforts and resources in new breakthrough areas of research for the sustainable development of

the national economy. Second, it is the community institutions, principles and mechanisms of realization of state scientific-technical and innovation policy, harmonization of public policies, standards and requirements for the formation and implementation of innovative projects, the consistency of the legislation governing the functioning and development of national innovation systems, combined with equal opportunities of use of results of scientific and technological activities in the interests of the States parties and their citizens.

## **CONCLUSION**

The national innovation activity of the two countries includes a set of legislative, structural and functional components that ensure the development of innovation. Structural components are the private and public sector that are in interaction with each other within the framework of legal and informal norms of behaviour provide and innovate at the scale of States. These organizations operate in all areas related to the innovation process in research and development, education, production, marketing and service of innovations, financing of this process and its legal support.

International innovative cooperation of the Russian Federation and the Republic of Belarus is a modern reproductive activity in the field of innovative research, production and marketing, which is carried out on a contractual basis by organizations and other subjects of law of the two States, designed for a long period and in order to achieve a common economic result.

In the innovation field, there are national tasks, which are worked on by the government authorities, business structures and public organizations. They are engaged in the creation and improvement of mechanisms of organizational, scientific, methodological and financial development and transfer of high technologies at all stages of the innovation cycle, combining the associated innovative production. National authorities are called upon to seek:

- priority development of the high-tech complex as a decisive factor in improving the competitiveness of the national economy, which allows to significantly increase the country's share in the world market of high-tech products, to update the fixed capital on a qualitatively new, truly innovative technological basis;
- formation of scientific and technical complexes (centers), including technological chains that allow to reproduce mainly system products-innovations that can form (expand) their own niches in the world market of high-tech products.
- The main principles of international innovation cooperation include the following:
- equality of interests of the parties, freedom of action and responsibility for the implementation of the conditions of international innovative cooperation;
- respect for national interests, compliance with the legislation of the member States, interstate, intergovernmental and international agreements and treaties;
- harmonization of tools and infrastructure with national and international programmes;
- scientific and technological novelty, usefulness and validity of projects, complexity and system solutions;
- linking activities and projects with existing national programmes to support and develop innovation;
- effective use of financial resources, coordination of financial, material and labor resources for their most effective use;
- the unity of the process of developing an innovative product, its commercialization and bringing high-tech products to foreign markets;
- observance and mutually beneficial coordination of interests of enterprises and organizations,

other legal entities and individuals-participants of international innovative cooperation.

Activities and projects of international innovation cooperation are planned and implemented taking into account consultation and coordination with the existing national programs for support and development of innovative activities and with other programs implemented by intergovernmental and international organizations, which provides the necessary conditions for the development of the Union state of Russia and Belarus, but also for the creation of Single innovative space of the three countries, the Russian Federation, Belarus and Kazakhstan.

Over the years, the most significant achievements have been achieved in the formation of the institutional framework of integration between the Russian Federation and the Republic of Belarus. The main governing institutions have been formed and are functioning: the Supreme state Council, the Council of Ministers and the standing Committee of the Union state, the Parliamentary Assembly of the Union of Russia and Belarus, the Border and Customs committees, the broadcasting organization of the Union state. Russia and Belarus act from a common position in the international arena, jointly strengthen the defense and security of the Union state. The partnership in the field of science, culture, sports and tourism is actively developing. Today, issues related to ensuring equal rights of Russians and Belarusians in the sphere of employment and wages, education, medicine, choice of place of stay and residence have been practically resolved.

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### Legal Regimes for State Property Management

*Regímenes legales para la gestión estatal de la propiedad*

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#### ABSTRACT

Article deals with administrative-legal mechanism of state property management on example of the Russian Federation and the Republic of Belarus. Modern science is interested in comparative analysis of approaches to the management of state property in the States under consideration. The criteria of inclusion of objects in the state property formulated based on the existing legal relations allow the author to conclude that the subject of state property management is interested in the possibility of exercising the right of management, which will be the basis for determining such property as the object of such management.

**Keywords:** Legislation; modernization; regulation; technology.

#### RESUMEN

El artículo trata sobre el mecanismo administrativo-legal de la administración de bienes estatales, por ejemplo, la Federación de Rusia y la República de Belarus. La ciencia moderna está interesada en el análisis comparativo de los enfoques para la administración de la propiedad estatal. Los criterios de inclusión de objetos en la propiedad estatal formulados en base a las relaciones legales existentes permiten a los autores concluir que el sujeto de la administración de la propiedad estatal está interesado en la posibilidad de ejercer el derecho de administración, que será la base para determinar dicha propiedad como objeto de dicha gestión.

**Palabras clave:** Legislación; modernización; regulación; tecnología.

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## **INTRODUCTION**

It is necessary to create for the purposes of administrative law and management mechanism the concept of "state property group" and it is possible to give it the following definition: "state property group" – a set of state property and non-property objects that are subject to monetary valuation and have property characteristics (regardless of their materiality), allowing them to individualize and implement in respect of them state management functions (De Man, 2016).

It seems that the use of the term "state property group" in the legal system makes sense if it is included in the existing legal acts. A similar act in the field of state property management is The decree of the Government of the Russian Federation of July 16, 2007 № 447, which approved the Regulations on the accounting of Federal property (hereinafter – the Regulations on the accounting of Federal property). So, it is offered to bring in point 2 of this Provision concept" the state property group "in the edition formulated by the author and to add the paragraph 1 of point 3 of the called regulatory act after words" the following Federal property located in the territory of the Russian Federation or abroad "with words" making the state property group". In addition, for uniform legal regulation of accounting and management of state property, it is advisable to make similar changes to the relevant legislative acts of the Russian Federation (Damsa, 2016).

In the Republic of Belarus, the proposed amendments should be made to the Resolution of the Council of Ministers of the Republic of Belarus, which determines the procedure for accounting and maintenance of the register of state property (Huffman, 2013).

The composition of the "state property group" should be defined for administrative and legal purposes of the office. The definition of the composition of state-owned property is necessary, first of all, because the mechanisms of management of its assets (available state property) directly or indirectly determine the limits of the real possibility of the state's participation in the management of its property.

## **LITERATURE REVIEW**

The legal basis for the management of state property form part 2 of article 8 of the Constitution of the Russian Federation, according to which the Russian Federation establishes the right of state ownership, the norms of the Civil code of the Russian Federation in the part regulating the right of ownership and protection of civil rights, and other acts, in particular, the provisions of the Federal act of 21 December 2001 № 178-FZ "On privatization of state and municipal property" and the Decree of the Supreme Soviet of the Russian Federation of 17 December 1991 № 3020-1 "On the division of state property in the Russian Federation into Federal property, state property of republics within the Russian Federation, edges, areas, Autonomous region, Autonomous districts, cities of Moscow and St. Petersburg and municipal property" (hereinafter – Decree of the armed forces of the Russian Federation No. 3020-1) (Huffman, 2013).

In the Republic of Belarus, such a legal basis is article 13 of the Constitution of the Republic of Belarus, which establishes the right of state ownership, the Civil code of the Republic of Belarus, which lists the subjects, objects and defines the content of the right of state ownership, the decree Of the President of the Republic of Belarus dated July 4, 2012 № 294 "on the order of state property", which defines the concept of" state property", as well as regulates the main types of management, other legal acts, regulatory features of state property management in the Republic of Belarus (Huffman, 2013).

In accordance with the current legislation of the Russian Federation, state property is divided into Federal (Russian Federation) and subjects (Huffman, 2013). Thus, state property is divided into the following types: 1) property, which is managed at the Federal level; 2) property, the authority to manage which is transferred to the subjects of the Russian Federation.

### **DATA AND METHODOLOGY**

The comprehensive nature of state property management is reflected in the fact that it is not subject to the limits of managerial authority. The state combines the functions of the holder of power, determining the content, form and procedure for the implementation of powers, and the owner of the property.

This statement requires clarification, since the comprehensive nature of management rights to state property is manifested in the classification of its separate categories to the exclusive property of the state, necessary for the implementation of its most important functions. And that is why only certain types of state property are also increased and preferential protection. Other categories of property are privatized or leased to private individuals, operational management – to public institutions or on the right of economic management are assigned to state enterprises. Such state property is used to perform the main state tasks and can be the object of civil relations and economic turnover in the manner prescribed by law.

### **RESULTS AND DISCUSSION**

The implementation of the legal regime of state property is governed by a set of legal rules governing the process of its management in the Russian Federation and the Republic of Belarus (Katzarov, 1964).

In the Russian Federation, as a negative example of outdated regulatory norms of Federal property management, as well as a systemless approach to the relationship of Executive authorities with property powers, we can cite the decision of the Director of the Pulkovo Observatory of St. Petersburg on the provision of Federal property-land on the territory of the Pulkovo Observatory, for the construction of a housing complex. The necessary documents on construction, regulating the height of the building and other standards, have been agreed with the authorized bodies of St. Petersburg. However, within the framework of his powers, the Director of the institution, guided by the decree of the Council of people's Commissars of 1945, allowed the construction of the housing complex. Only after the conversion of the Federal property Agency to the Prosecutor's office of St. Petersburg, FANO demanded from the head of the institution to withdraw this permission. Fano had no authority to cancel the Director's decision on granting THE land plot on its own. It should be noted that, according to experts, in the case of using the land for other purposes, the operation of the Pulkovo Observatory would be impossible (Riccardi, 2013).

This example confirms that the diversity of state property management bodies, the lack of a unified approach to the implementation of the powers under consideration, as well as the use of a large number of administrative acts of Executive bodies of industry competence (Rosimushchestvo, Federal Agency of scientific organizations and others) – all this makes it impossible to develop a single vector of state property management and the implementation of the State program of the Government of the Russian Federation, reliable protection of state property and effective management.

The specified analysis of system of subjects of management of the state property allows to divide the Executive authorities allocated with the state property powers on:

- bodies of General competence to which the Government and the Ministry of economic development of the Russian Federation, and also the Government of the Republic of Belarus belongs;
- bodies of special competence, including the Federal property management Agency and the State property Committee of the Republic of Belarus includes industry controls;
- functional, that is performing certain functions, the Federal Agency of scientific organizations of the Russian Federation, the Ministry of defence of the Russian Federation and other, and in the Republic of Belarus – national Academy of Sciences (Damsa, 2016).



The organization of management in this area is the main for the implementation of its administrative and legal management mechanism, as it determines the main activities of the Executive authority (subject of management). Executive authorities, organizations and other associations together form a system of subjects of public administration, which provides both the managerial relationship between the subject of management and the object, and the relationship within the management system. The functions of the subject of management are the determining criterion for the establishment of types of management actions directly related to the scope of the relevant subject of their powers. State Association (body, organization), performing managerial functions transferred to it by virtue of administrative legal personality, is one of the organizational mechanisms of the administrative body (Executive body) of the subordinate level (Lai, 2014).

You can propose the following approach to solving the problem. State bodies and organizations authorized to manage state property should act in the relationship and interaction, United by a common goal – the effective management of state property. This power may be a direct duty (as in Rosimushchestvo) or a functional duty of the second level (concomitant), but, nevertheless, is a single power (Kono, 2012).

State bodies and organizations can be combined into a four-tier institutional mechanism of the subject public administration:

- the first level of management is the highest state authorities (President and Government (Council of Ministers of the Republic of Belarus);
- the second level – the Executive bodies exercising administrative intersectoral coordination and implementation of state policy in the sphere of property relations (Ministry of economic development of the Russian Federation and the Ministry of economy of the Republic of Belarus);
- at the third level there are sectoral management bodies, the property powers of which are their main function – Rosimushchestvo and the State Committee on property of the Republic of Belarus;
- at the fourth – the Executive bodies that form the organizational mechanism and implement their property powers through derived functions (functional property powers), which include the Ministry of defense of the Russian Federation, the Federal Agency of scientific organizations, state corporations and others (Guins, 1957).

The proposed system of subjects of state property management will allow them to interact with each other through direct structural and functional links of subordination, and with objects and other subjects of management – depending on their individual characteristics. All this will help to organize the system of subjects of state property management in accordance with the principles of integrity and efficiency (Katzarov, 1964).

The analysis of the powers and functions of subjects of legal realization of administrative and legal mechanism of state property management in the Russian Federation and the Republic of Belarus allows the author to conclude that the main subjects of management are the bodies and organizations that implement their property powers as their main function and accompanying, namely: Rosimushchestvo and The state property Committee of the Republic of Belarus; the Ministry of defense of the Russian Federation, the Federal Agency of scientific organizations, state corporations and others (Brokelind, 2016).

To build organizational relations between the subjects of management, and also taking into account the lack of "super-administrative property powers" of Rosimushchestvo, the impossibility of influencing management processes in other bodies and organizations that implement property powers, it is proposed to create a management state Corporation, whose powers would include functions for the implementation of management activities, as well as ensuring the interaction of management entities with the state Executive authorities through the provision of consulting and information services. In the Republic of Belarus, it is proposed to give such powers to the newly created Agency (Kuprecht, 2014).

The creation of the state Corporation for state property management is aimed at solving the urgent problem – the formation of a single Institute of state property management, the objectives of which is to

improve the efficiency of state property management, create conditions for the investment attractiveness of such objects, increase the availability of state property for involvement in economic activities. In the management of state property, the state Corporation will act as an agent of the Russian Federation. The property of the state Corporation will be formed at the expense of the property contribution of the Russian Federation in the form of the objects of state property which are in Federal property. Also, for the formation of a single body, I consider it appropriate to transfer the functions of holding auctions for the sale of state property of this state Corporation (Liang, 2007).

In the Russian Federation, a Single development institution has similar functions, but the authority of this body is limited only by the objectives of its creation – the development of the housing sector (Kono, 2012).

Federal property and property of subjects of the Russian Federation consists of the state property assigned to the state enterprises and organizations on the right of economic maintaining and operational management (articles 294, 296 of the civil code of the Russian Federation), and also making the state Treasury.

The Federal law of 6 October 1999 No. 184-FZ "on General principles of the organization of legislative (representative) and Executive bodies of state power of the constituent entities of the Russian Federation" defines an exhaustive list of grounds on which state property may be in Federal ownership. The analysis of this list has shown that the criterion for classifying state property as Federal property is the state tasks, the implementation of which in accordance with article 71 of the Constitution of the Russian Federation is the exclusive responsibility of the Russian Federation.

The state property is owned by the subject of the Russian Federation, which provides the activity of public authorities of the subject of the Russian Federation, necessary for the exercise of powers granted to them by Federal laws (Tasdelen, 2016).

Analysis of the provisions of the above Federal law allows us to divide the state property of the subject into the following types (Damsa, 2016):

- state property necessary to resolve issues related to the exclusive jurisdiction of the Russian Federation and the joint management of the Russian Federation and its subjects;
- state property necessary for the implementation of Federal powers transferred by the Russian Federation to the subjects of the Russian Federation;
- the state property necessary for use in the activity by public authorities of the subject of the Russian Federation, public civil servants, employees of the state unitary enterprises and public institutions of the subject of the Russian Federation according to regional laws.

In the Republic of Belarus, unlike the Russian Federation, the Constitution does not enshrine the principle of differentiation of state property.

There are two levels of state property management in the Republic of Belarus:

1. National (Republican), that is, state property assigned to the Republican legal entities or constituting the Treasury of the Republic of Belarus;
2. Local (municipal), that is, state property constituting the Treasury of the local administrative-territorial unit, as well as assigned to municipal legal entities.

The local level is divided into three sub-levels:

1. Regional (regional state property, Minsk city property);
2. Basic (regional state property and property of cities of regional subordination);
3. Primary (public property and village territorial formations, and cities of regional subordination and the local administration in cities with district division).

Another type of state property that has not received its scientific consolidation and research is the property created in the process of international economic and political activity of the state, which includes the property of the Union state of the Russian Federation and the Republic of Belarus. The peculiarity of this type of property is its management and the creation of two States at the expense of a joint budget, necessary to ensure the activities of this economic entity. The agreement between the Republic of Belarus and the Russian Federation on the regulation of property issues of the Union state entered into force on 2 February 2009 and determines the procedure for the management of property created and acquired at the expense of the budget of the Union state.

Given that the basis of the activities of the Union state of the Russian Federation and the Republic of Belarus is the economic and political component, and the primary division of the property of the Union state into types, according to the author, should be based on those functions for which this property is used:

- property created for the implementation of economic functions of the Union state (development of joint programs, property obtained in the performance of activities and sub-programs);
- property, providing the activities of the Union state;
- property related to the implementation of political objectives (defense, security, and so on).

At the same time, international norms do not define the concept and composition of the category of "property". The position of the participants of the working group on improving the legislation of the Union state, as well as researchers who propose to define the term through the law of the Russian Federation and the Republic of Belarus, deserves attention (Kono, 2012).

It is difficult to agree with this position due to the fact that neither the Russian Federation nor the Republic of Belarus legislatively defined the scope and content of the concept of "state property". Therefore, it seems appropriate to define the concept of property of the Union state of the Russian Federation and the Republic of Belarus by analogy with the definition of "state property group" developed by the author.

In accordance with the resolution of the Council of Ministers of the Union state № 31 "on property created and (or) acquired at the expense of the budget of the Union state, and on the suspension of certain Resolutions of the Council of Ministers of the Union state", which entered into force on October 21, 2014, each state shall carry out a separate account of this property in accordance with national legislation. In the Republic of Belarus in 2012 the Resolution of the Council of Ministers of the Republic of Belarus regulating the order of accounting of the property created and acquired at the expense of means of the budget of the Union state, the property transferred to the property of the Union state by state participants and other property which came to property of the Union state which is in the territory. At the same time, the property created and acquired at the expense of the budget of the Union state of the Russian Federation and the Republic of Belarus, in fact, is the property of the Treasury of these States. However, at present this issue has not been sufficiently investigated, and the property owned by the Union state is accounted for in the state property located abroad. In addition, it should be noted that the powers to manage the property of the Union state of the Russian Federation and the Republic of Belarus differ from similar powers to manage the property of the Russian Federation located abroad, since there is no sign of unity of command in the management mechanism. In addition, as of 2016, the Russian Federation has not adopted a Resolution of the Government of the Russian Federation regulating the accounting procedure for the considered category of property. Thus, it is now necessary to develop in the Russian Federation the procedure for accounting for the property of the Union state (Garde, 2009).

The Russian Federation and the Republic of Belarus, where it is necessary to determine not only the types and composition of the property of the Union state, but also its exclusive status associated with the peculiarities of management.

Thus, in the Russian Federation and the Republic of Belarus, it is proposed to determine the division of state property into types for its intended purpose: 1) provision of state (Republican) functions, 2) functions of the Federation subjects (municipal), 3) created in the process of international activity.

## **CONCLUSION**

The analysis of these rules of constituent documents of the territorial Executive authorities of the Republic of Belarus, carrying out the management of state property, leads to the conclusion that there is unity in the organization of public administration at different levels of administrative-territorial entities, which can not affect the efficiency of the structure of subjects of public administration at the national and regional levels.

The multiplicity and different combination of state bodies that form the organizational structure of the subjects of state property management determines the need for its correct construction, improvement of its levels and the order of their interaction through the relevant elements of the administrative and legal mechanism of management, since their main goal is to develop a systematic approach to the existing diversity of structures.

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# Legal Aspects of Municipal Service in Territory Development Programs

*Aspectos legales del Servicio municipal en programas de desarrollo territorial*

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### ABSTRACT

Municipal service in the Russian Federation has twenty years of existence. At the current stage of development of the Institute of municipal service, municipal employees are subjects of labor law, and the municipal service is one of the types of labor activity. However, the essence of the legal status of a municipal employee remains insufficiently studied. The proposed conclusions can contribute to the deepening of scientific developments in the field of labor law. The practical significance of the work is due to the relevance of the issues under consideration, the possibility of applying the proposed conclusions in practice.

**Keywords:** Legislation; modernization; regulation; technology.

### RESUMEN

El Servicio municipal en la Federación de Rusia tiene veinte años de existencia. En la etapa actual de desarrollo del Instituto de servicios municipales, los empleados municipales son sujetos de derecho laboral, y el Servicio municipal es uno de los tipos de actividad laboral. Sin embargo, la esencia del estatuto jurídico de un empleado municipal se estudia insuficientemente. Las conclusiones propuestas pueden contribuir a la profundización de los avances científicos en el ámbito del derecho laboral. La importancia práctica del trabajo se debe a la pertinencia de las cuestiones que se examinan, la posibilidad de aplicar las conclusiones propuestas en la práctica.

**Palabras Clave:** Legislación; modernización; regulación; tecnología.

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## INTRODUCTION

Article 23 of the law on municipal service defines the list of guarantees provided to municipal employees. This list is open, as evidenced by part 3 of this article, providing that the laws of the subject of the Russian Federation and the Charter of the municipality municipal employees may be provided with additional guarantees (Gane, 1982).

Among the researchers of the municipal service, the idea of the appointment and functions of guarantees provided to municipal employees is the same: according to most scientists, they are compensations for the restrictions that a municipal employee has to comply with in the performance of his / her work. So, S.Yu. Kabashov notes that "guarantees, compensating for certain infringements of the constitutional rights of municipal employees, are designed not only to ensure the stability of the financial position of the municipal employee, but also to protect it from external subjective influence, thereby facilitating the exercise of their official duties." L.V. Kurevina believes that guarantees are provided for municipal employees "in order to compensate for some restrictions related to the status of a municipal employee, and the need to ensure the interests of local government". L.T. Chikhladze and D.O. Jerzewski as the primary task of providing guarantees to municipal employees, considers ensuring the implementation of the principle of legal and social protection of municipal employees. According to S.Yu. Fabrichny, guarantees "... are a compensation mechanism in relation to the restrictions imposed by the conditions of service" (Walby *et al.*, 2014). Finally, according to O.A. Borzunova's point of view, guarantees of the rights of municipal employees are "... practical provision and protection of the position of a municipal employee" (Visas..., 2006).

In contrast to the concept of the purpose of guarantees in the municipal service, the views on the content of the concept and the classification of guarantees vary considerably. S.Yu. Kabashov considers guarantees in the municipal service "established in the legislation by means of indirect administrative and legal impact on the behavior of the municipal employee". S.V. Mikhnevo makes the following point (Ibanga and Archibong, 2018): "Guarantee municipal employees arise from the principle of municipal service – principle of legal and social protection of municipal employees, which ensures the sustainability of the municipal service... the Principle of social protection of municipal employees involves the provision of opportunities for successful service, meeting the needs of the municipal service and their interests, stimulating the effective solution of official tasks and consolidation of the municipal service" (Kunda and Mutabžija, 2017). The most complete, in our opinion, the definition of guarantees in the municipal service offers I.A. Smagina: "Guarantees of the state and municipal employee – these are the means of indirect administrative and legal influence on the behavior of the state and municipal employee established in the legislation, which are intended, on the one hand, to ensure the material well-being of the state (municipal) employee, and on the other hand, to protect him from external attacks and arbitrariness of the leadership of the state (municipal) body, thereby facilitating the implementation of state (municipal) employees of their official rights and duties, as well as his rights and duties as a person and a citizen" (Wehlander, 2016a).

Guarantees are classified according to a variety of different features, with from 2 to 3 groups of guarantees (Lioe, 2011). For example, E. Kireeva divides all guarantees in the municipal service into three groups: 1) social guarantees, including: a) the monetary maintenance of employees; b) the provision of leave; c) pension; d) medical care; e) social insurance; 2) material guarantees: a) ensuring the conditions of work for the performance of their duties in accordance with the job description; b) compensation in case of death (death); 3) organizational guarantees providing protection of the employee and his family members from illegal actions of third parties in connection with the performance of their duties.

According to O.A. Borzunova, traditionally guarantees are divided into legal and organizational ones. At the same time, the guarantees listed in the law on municipal service "... are legal guarantees, since they have a legal basis and legal mechanisms for their implementation. But at the same time, these guarantees are



organizational guarantees, since they do not arise by themselves, but require special organizational actions of authorized persons and bodies" (Kunda and Mutabzija, 2017).

Common among researchers of the municipal service is the division of guarantees for basic and additional. For example, V.V. Danilov points out that the main guarantees for municipal employees are provided in article 23 of the law on municipal service, while additional guarantees are established by the laws of the Russian Federation and the statutes of municipal entities. This approach criticizes L.V. Kulikova, drawing attention to the fact that "the division of guarantees provided to municipal employees into two groups is made by analogy with the norms of the Federal law of July 27, 2004 No. 79-FZ" on the state civil service of the Russian Federation", where articles 52 and 53 are fixed respectively the basic and additional state guarantees of civil servants" (Reif, 2004).

Let us not agree with the opinion of L.V. Kulikova. It seems that the authors who divide the guarantees into basic and additional ones are primarily guided by the wording used by the legislator directly in the text of article 23 of the law on municipal service, in accordance with which the laws of the subjects of the Russian Federation and the Charter of the municipality may provide additional guarantees to municipal employees. In addition, in our opinion, the analogy with the rules of the Law on public civil service is not surprising, moreover – organically, given the historical relationship of municipal and state civil services (Wehlander, 2016b).

In addition to the basic and additional guarantees provided to municipal employees, V. V. Danilov classifies them into social, economic and legal ones. The same division offers and A. O. Makarov (Humes, 1959).

S.V. Mikhneva substantiates the 177th point of view, according to which the guarantees of the legal status of a municipal employee can be divided into three groups: 1) socio-economic and political guarantees of the legal status of a municipal employee; 2) ideological guarantees of the effective implementation of the rights and duties of a municipal employee; 3) legal guarantees of the rights and obligations of a municipal employee. While socio-economic safeguards, according to S.V. Mikhnevo are the guarantees listed in the Law on municipal service. This type of guarantee, in turn, can be combined into two groups. The first group of guarantees is aimed at providing the employee with appropriate conditions for the performance of official powers on the post, and the second – at ensuring social conditions.

## LITERATURE REVIEW

The authors of the comment to the Law on municipal service, edited by S.E. Channov, in contrast, noted that "...not all of the guarantee named in this article have practical content. Some of them have a declarative nature and require for their practical implementation the adoption of special normative legal acts" (Doeker, 1966).

Indeed, article 23 of the law on municipal service provides nine guarantees (eight guarantees in part 1 of article 23 and one guarantee in part 2 of article 23). In accordance with this article, the municipal employee is guaranteed:

- 1) working conditions ensuring the performance of their duties in accordance with the job description;
- 2) the right to receive timely and in full monies;
- 3) rest provided by the establishment of normal working (service) time, the provision of weekends and non-working holidays, as well as annual paid leave;
- 4) medical care of the municipal employee and his family members, including after the retirement of the municipal employee;

- 5) pension provision for the service of years and in connection with disability, as well as pension provision of family members of a municipal employee in the event of his death, which occurred in connection with the performance of his official duties;
- 6) compulsory state insurance in case of damage to health and property of a municipal employee in connection with the performance of his duties;
- 7) compulsory state social insurance in case of illness or disability during the period of municipal employees of the municipal service or after its termination, but occurred in connection with the performance of their duties;
- 8) protection of the municipal employee and his family members from violence, threats and other illegal actions in connection with execution of official duties by him in cases, the order and on the conditions established by Federal laws (Suleiman, 2016).

In accordance with part 2 of article 23 of the Law on municipal service, upon termination of the labor contract with municipal employees in connection with the liquidation of local self-government body, election Commission of municipal formation, or a reduction in staff of the local government, the office of the election Commission of municipal formation municipal clerk provided the guarantees established by labour legislation for workers in case of dismissal in connection with liquidation of the organization or reduction in staff of the organization (Weber, 2018).

#### **DATA AND METHODOLOGY**

The legal framework of the thesis, first of all, was the Constitution of the Russian Federation, Labour code of the Russian Federation, Federal law of 02.03.2007 No. 25-FZ "On municipal service in the Russian Federation", Federal law of 27 May 2003 No. 58FZ "About system of state service of the Russian Federation", Federal law of 6 October 2003 No. 131-FZ "On General principles of organization of local self-government in the Russian Federation", Federal law dated 27 July 2004 No. 79-FZ "On state civil service of the Russian Federation" (Suleiman, 2016).

The complexity of the subject of research has necessitated the use of General scientific methods (analysis, synthesis, analogy, generalization), and special – legal (legal-technical, dogmatic methods).

#### **RESULTS AND DISCUSSION**

In our opinion, the existence in the scientific literature of the variety of classifications of guarantees provided to municipal employees, indicates the imperfection of article 23 Of the law on municipal service (Individual, 1972). On the one hand, the article contains a fairly wide range of social and labor guarantees. In this connection, the question arises: if the legislator implemented a broad approach to the content of guarantees in the municipal service, why is the list of guarantees is not complete and it is similar to, for example, the right to rest are not included and other rights? On the other hand, are certain guarantees declarative and limited in practice (e.g. protection against violence or compulsory state health and property insurance), and what is the reason for their inclusion in the list? (Deener, 1957).

The answer to these questions, we believe, is one: given the complex legal status of a municipal employee (which is the subject of administrative, municipal, labor law, as well as social security law), the legislator showed inconsistency in the formulation of the list of guarantees contained in article 23 Of the law on municipal service, including guarantees from various branches of law, without distinguishing them (Bachilo, 2018).

There is one more point that needs to be addressed. All the above points of view regarding the content of the concept of "guarantee" differ significantly from the definition used by the legislator in the TC. In

accordance with part 1 of article 164 of the labor code, guarantees-means, methods and conditions by which the implementation of the rights granted to employees in the field of social and labor relations. The difference between the definitions put forward by the researchers of the municipal service from the legal definition presented in the TC of the Russian Federation is to give "municipal" guarantees a special compensation role, a "counterbalance" of restrictions on the municipal service, the existence of which is due to the specific nature of the service relationship.

However, having analyzed the list of guarantees established in the law on municipal service, we cannot agree with these arguments. In fact, the guarantees provided to municipal employees do not have features that significantly distinguish the latter from ordinary employees (guarantees of proper working conditions, receiving cash, rest, etc.). It can be argued that the legislator has given the subjects and municipalities the right to expand the Federal list of guarantees established in the law on municipal service. This is true. However, it is obvious that not all subjects and municipalities have used this right, and if they did, in most cases it concerned social issues (pensions, medical care) outside the scope of labor law (Sterns and Tennen, 2010).

In connection with the above, we propose the following classification of guarantees provided to municipal employees in article 23 of the law on municipal service:

- 1) special guarantees that do not establish the features of legal regulation of the work of municipal employees in comparison with General (labor) guarantees:
  - a) conditions of work, ensuring the performance of municipal employees' duties in accordance with the job description; the right to timely and fully receive cash;
  - b) rest provided by the establishment of normal working (working) time, the provision of weekends and non-working holidays, as well as annual paid leave; the guarantees established by labour legislation for workers in case of dismissal in connection with liquidation of the organization or reduction in staff of the organization, upon termination of the labor contract with municipal employees in connection with the liquidation of local self-government body, election Commission of municipal formation, or a reduction in staff of the local government, the office of the election Commission of municipal formation municipal employee guarantees;
- 2) social guarantees: medical care of the municipal employee and his family members, including after the municipal employee's retirement:
  - a) pension for the service of years and in connection with disability, as well as pension provision of the family members of the municipal employee in the event of his death, which occurred in connection with the performance of his duties; mandatory state insurance in case of damage to health and property of the municipal employee in connection with the performance of his official duties;
  - b) compulsory state social insurance in case of illness or disability during the period of municipal employees of the municipal service or after its termination, but occurred in connection with the performance of their duties;
- 3) unique special guarantees due to the specifics of the professional activities of municipal employees: protection of a municipal employee and his family members from violence, threats and other illegal actions in connection with the performance of his duties in the cases, procedure and under the conditions established by Federal laws (Wei, 2014a).

Taking into account the subject matter of the presented dissertation, devoted to the peculiarities of the work legal status of municipal employees, we are interested in the first and third group of guarantees. Social guarantees beyond the boundaries of our study.

By analogy with the previous paragraphs of this dissertation, to justify the conclusion about the work-legal nature of the first group of guarantees, we need to analyze their content and identify the features that distinguish the special work-legal status of municipal employees from the General work-legal status of other categories of workers.

## CONCLUSIONS

The content of these rights and their comparison with similar rights enshrined in the TC of the Russian Federation, we have analyzed in detail in the previous Chapter of this study. This guarantee is essentially declarative, duplicating the provisions of the law on municipal service, and the labor code.

Guarantee the right to timely and full receipt of salaries directly tied to eligible municipal employees (clause 3 part 1 article 11 of the Law on municipal service), qualified by us as the special law, establishing the minor peculiarities of legal regulation of work of municipal employees compared to the total (labor) rights. In addition, this guarantee corresponds to the right to timely and full payment of wages in accordance with their qualifications, complexity of labor, the number and quality of work performed (article 21 of the labor code).

At the same time, municipal employees, as well as other categories of workers, are subject to the General rules of the labor code on wages (section VI of the labor code). In particular, in accordance with article 142 of the labor code, the employer and (or) his authorized representatives of the employer, who allowed the delay in payment of wages and other violations of wages, are responsible in accordance with the labor code and other Federal laws.

In this regard, it is necessary to pay attention to the possibility of applying part 2 of article 142 of the customs code in the municipal service. In accordance with this rule, in case of delay in payment of wages for a period of more than 15 days, the employee has the right, notifying the employer in writing, to suspend work for the entire period until the payment of the delayed amount. At the same time, the TC of the Russian Federation clarified that in certain cases the suspension of work is not allowed (part 2 of article 142 of the LC RF).

The possibility of suspension of work by municipal employees is widely discussed in the literature. S.Yu. Kabashov notes that the suspension of work in the municipal service is not allowed, given p. 14, part 1 of article 14 of the law on municipal service, which establishes a ban on the termination of the municipal employee's performance of duties in order to resolve the labor dispute. In this case, the employer is criminally liable in accordance with article 145.1 of the criminal code for non-payment of wages. The authors of the Commentary to the law on municipal service disagree with this opinion, rightly specifying that the said case (suspension of work due to non-payment of wages) does not apply to labor disputes (Wei, 2014b).

S.N. Bratanovsky, A.E. Epifanov and V.A. Saneev consider this situation as "shortcomings of the legislator", because "the Suspension of the functioning of local governments in connection with the termination of the performance of municipal employees of their duties can paralyze the normal functioning of the municipality and its consequences is quite comparable with the suspension of the activities of public administration" (Wei, 2014c).

In our opinion, given the legislative ban on strikes in the municipal service, part 2 of article 142 of the labor code can and should be applied by municipal employees, moreover, the possibility of its application is the main condition for the successful implementation in practice of the guarantee of municipal employees timely and in full receiving cash. We believe that there are no legal obstacles to the suspension of the performance of their duties by municipal employees, because, firstly, this case does not really apply to labor disputes, and, secondly, municipal employees, unlike civil servants, are not specified in part 2 of article 142 of the labor code as a category of employees, the suspension of work is not allowed.

The content of the third guarantee—a guarantee of rest, provided by the establishment of normal working hours (office) time, the provision of weekends and public holidays, as well as annual paid leave, duplicates the content of the right of a municipal employee to rest (article 21 of the labor code, article 11 of the law on municipal service), analyzed in the previous Chapter of the dissertation research (Council of Europe Staff, 1972).

Finally, owing to direct instructions of the Law on municipal service, municipal employees are subject to articles 178 and 180 of the LC RF. Thus, after analyzing the content of the four guarantees from the list of article 23 of the law on municipal service, it can be stated that these guarantees are a duplication of the relevant municipal employee rights (enshrined in the law on municipal service and (or) the labour code) and do not establish a special, "official" features compared to the general labour protection enshrined in the labour code.

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## ARTÍCULOS

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### Legal Aspects of the Functioning of the State Civil Service

*Aspectos jurídicos del funcionamiento del servicio público estatal*

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#### ABSTRACT

In this work, various methods are used to reveal the topic: a systematic approach to the analysis of research on the organization and implementation of the public civil service, as well as the method of using logic, as in the presentation of all the material of the work, the relevant conclusions are formulated. The primary task of passing of the public civil service in the Russian Federation is signing of the service contract about the form of conducting a certain type of public service, and also establishment of the order and the reasons of dismissal from the public civil service.

**Keywords:** Legislation; modernization; regulation; technology.

#### RESUMEN

En este trabajo se utilizan diversos métodos para formular el tema: un enfoque sistemático en el análisis de la investigación sobre la organización y ejecución de la función pública, así como el uso del método lógico en la presentación de todo el material de trabajo, se formulan las conclusiones pertinentes. La tarea principal de la transición del servicio público en la Federación de Rusia es la firma del contrato de servicios sobre la forma de realizar un determinado tipo de Servicio público, así como el establecimiento de la orden y las razones de despido del servicio público.

**Palabras clave:** Legislación; modernización; regulación; tecnología.

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## **INTRODUCTION**

In the study of the features of the mechanism of legal regulation of the public service, it is important to consider the system of legal principles. The word "principle" means basis. Therefore, it is logical that the principles of law – "it is expressed in the law of the original normative guiding principles that characterize its content, its foundations, enshrined in it the laws of social life." The question of principles of public service is the most important in the structure of the Institute of public service, the legal system not only of the Russian Federation but also of other countries. The term "principles of public service" indicates the fundamental features, essential characteristics, the most important content and importance of the public service itself, as well as the main legal provisions in the structure of the legal institution of the same name. The modern legislator does not define the principles of the state civil service, although it lists them in various regulations. Thus, it is possible to talk about the legal principles of the civil service (Gideon, 2017).

Under the principles of civil service should be understood-the basic ideas, the establishment, the requirements that guide civil servants in the process of their professional activities. They Express the necessary grounds for the functioning of the state hardware management. They set the basic rules for this activity (Arena, 2015). The principles form the basis for the formation and further functioning of the civil service as an administrative authority. According to the content of the principles of civil service are guidelines, some grounds for the regulation of social relations, management of social phenomena and processes. They ensure the integration of certain types of management activities in various bodies of the public administration system, their mutual coherence and the overall focus on the implementation of the goals. On the basis of these principles, the actual process of administrative management is organized, that is, the administrative process. well-thought and justified regularity of actions for the implementation of administrative management functions, the choice of methods and techniques of administrative influence (Wehlander, 2016).

The principles of the modern civil service are contained in several current Federal laws, the Central of which are "on the system of the public service of the Russian Federation" and "on the public civil service of the Russian Federation" (Wehlander, 2016).

The principles of the civil service objectively reflect its essence and most important features. They reveal the General nature of the administrative, Executive and administrative and other administrative activities of civil servants, fix them in the norms included in the social and legal Institute of civil service.

## **LITERATURE REVIEW**

Therefore, it is possible to conclude that the Federal law only enumerates the principles without revealing their value. The laws of the subjects of the Russian Federation, even if they contain the very wording of the principles, too, as a rule, do not. At the same time, given the importance of the principles of law, which are the principles of public civil service, it is especially important to understand their content. Therefore, it is simply necessary to characterize the principles of the public civil service (Krajewski, 2011).

The principle of federalism ensures the unity of the system of civil service and the observance of the constitutional distinction between the subjects of jurisdiction and powers between the Federal bodies of state power and the bodies of state power of the subjects in the Russian Federation.

## **DATA AND METHODOLOGY**

Based on the content of the Constitution of the Russian Federation, our country is a Federal state, so the state power in it is exercised by both Federal state bodies and state authorities of the subjects of the Russian Federation: republics, regions, cities of Federal importance, Autonomous region, Autonomous

districts (Batura, 2016). Therefore, between the state bodies of the Russian Federation and the bodies of the subjects of the Russian Federation provides for the separation of powers and powers. This principle is manifested in the fact that the Federal service is under the jurisdiction of the Russian Federation, and the state civil service of the subjects of the Russian Federation is under their joint jurisdiction. As part of the differentiation of these subjects of jurisdiction, the scope of powers of the Russian Federation should be sufficient for the organization of the state civil service as a single legal institution of state power. The implementation of this principle objectively requires a single legal regulation of the foundations of the organization of the state civil service and the foundations of the legal status of civil servants of the Russian Federation.

## **RESULTS AND DISCUSSION**

Principle of legality. Part 1 of article 19 of the Constitution States: "All are equal before the law and the court." This means that the state body and the activities of civil servants are regulated by legal norms and are carried out in order to implement the provisions of the law, with strict observance of the rights and freedoms of citizens, the rights and legitimate interests of all participants in management relations. Executive authorities, local authorities, officials and citizens are obliged to comply with the Constitution of the Russian Federation and the laws of the Russian Federation, as well as generally recognized principles and norms of international law, international treaties of Russia, which are part of the legal system. If an international Treaty of the Russian Federation establishes rules other than those provided by law, the rules of the international Treaty shall apply (Van Duzer, 2015).

In addition, the principle in question is not only the principle of the organization of the public service, but also the principle of activity, since the article of the law refers to the performance of public servants' duties. That is why the rule of law is the basis of the discipline of public servants.

The principle of priority of human and civil rights and freedoms, their direct effect, the obligation of their recognition, observance and protection. This principle is reflected in the administrative law and the Institute of public service in the constitutional provision that "the human person, his rights and freedoms are the highest value, and the recognition, observance and protection of human and civil rights and freedoms are the duty of the state" (Krajewski, 2011). This provision is a manifestation of a common approach in our law to the essence and purpose of the state, to the place in it of both the citizen and the person in General, the foundations of their relationship. The Russian state, having established in the Constitution the rights and freedoms of man and citizen, undertakes through the activities of the authorities, the court, the Prosecutor's office and the protection of law and order to guarantee their implementation and protection (Madsen, 1992). "The mechanism of action of human and civil rights and freedoms is directly implemented. i.e. if a person is guided by them, his behavior is considered legitimate and, thus, in addition to the constitutional establishment, no additional confirmation of their action is required. Because of this, there is no need for real support from the state and civil servants. Civil servants of all public authorities, carrying out law enforcement and exercising the relevant powers, are guided, first of all, by the need to recognize, ensure and protect the rights and freedoms of man and citizen". The Constitution of the Russian Federation in article 18 establishes: "the Rights and freedoms of man and citizen are directly applicable (von Kielmansegg, 2006). They determine the meaning, content and application of laws, the activities of the legislative and Executive authorities, local self-government and are provided with justice" (Hatzopoulos and Stergiou, 2011).

Ultimately, the activities of state bodies should be aimed at the implementation and protection of constitutional rights, freedoms and legitimate interests of citizens. All state bodies and civil servants, within the limits of their powers, are obliged to contribute strictly to: creation of conditions ensuring a decent life and free development of a person, protection of labor and health of people; state support of family, motherhood,

fatherhood and childhood, disabled and elderly citizens; implementation in practice of the equality of human and civil rights and freedoms, regardless of gender, race, nationality, language, origin, property and official status, place of residence, attitude to religion, beliefs, membership of public associations, other circumstances; creation of equal opportunities for the realization of their rights and freedoms by men and women; protection of the dignity of the individual, prevention of its derogation on any grounds by public administration bodies and officials.

The principle of equal access of citizens to the public service means the right of citizens to hold any position of office in accordance with their abilities and professional training, without any discrimination. Based on the content of the Constitution of the Russian Federation, the public service is defined as the most important institution of direct participation of citizens in the management of state Affairs, they have equal access to this service. The Federal law "on the state civil service of the Russian Federation" establishes that "the right to enter the civil service are adult citizens of Russia, unless otherwise provided by law." When entering the civil service, as well as its passage is not allowed to establish direct or indirect restrictions and benefits depending on social, national, linguistic or religious affiliation. Also, in this law, namely in article 16, only such restrictions are formulated, which are related to health, judicial punishment, refusal of the procedure of registration of access to classified information, the presence of citizenship of another state, and others. Therefore, it turns out that civil servants can only be a citizen of the Russian Federation, capable of professionally ensuring the performance of functions assigned to the relevant body for their health and their business qualities. The principle of equal access to the civil service is implemented in the participation of citizens in the competition for vacant public positions of the civil service. The limitations provided for in the act do not weaken this principle or imply exceptions to it. They are derived from the fact that civil servants exercise authority and the specifics of specific functions (Nistor, 2011).

The principle of the unity of legal and organizational bases of public service, involving the legislative consolidation of a unified approach to the organization of public service. According to it, the basic requirements are common for both the Federal public service and the public service of the Russian Federation and, accordingly, for the activities of civil servants (Grellet, 2010). "The unity of the basic requirements is carried out through the system of regulation and coordination of the status of public positions, the sequence of relationships and procedures for the functioning of all elements of the Institute of public service." For example, in accordance with the groups of state civil service positions, class ranks are established, according to which, in turn, the candidates are required by law to meet the qualification requirements. In addition, various requirements for public positions of the civil service may be established both by Federal laws and the laws of the subjects of the Russian Federation, as well as by regulations of state bodies – in respect of civil servants of these bodies. Consequently, this principle provides obtained a government employee an equal opportunity to implement their duties, promotes fairness, and quality performance of official functions (Manunza and Berends, 2013).

The principle of openness of public service and its availability to public control, objective information of society on activity of public servants (Batura, 2016). This principle is also based on the Constitution of the Russian Federation, which States that all laws, and, consequently, laws on public service, are subject to official publication. Therefore, citizens have the right to know the situation in the public service. At present, the official publication of normative acts is considered to be the publication of their full text in the "Rossiyskaya Gazeta" or the "Collection of legislation of the Russian Federation". And, the media should highlight the practice of the activities of the state structures, its successes and shortcomings, material and other support, etc. It is because of the transparency can be set public control over the activities of the public service (Maresca, 2013).

As noted by A. F. Nozdrachev, in the Federal law "on the basics of public service" for the first time in the regulatory form of the obligation of civil servants to provide information. Thus, the law refers to information on the implementation of public service, including the one that is not important for the implementation of rights and freedoms.

Therefore, information may be more diverse. Yu. N. Starilov in his work reasonably believes that this "has a positive effect on public opinion, under the influence of which the work of the entire state apparatus, and the civil servant can improve."

According to the content of this principle is due, on the one hand, to the provision on the need for citizens to participate in the management of the state and society, on the other – the need to constantly take into account the views of citizens in solving state problems. Practice shows that in order to ensure transparency in the public service, it is necessary to:

- create a mechanism for taking into account the views of citizens;
- to create legal conditions of safety of citizens in case of criticism of state bodies, officials, administrative structures;
- to ensure transparency in the process of implementation by public servants of their powers and competence of state bodies through the media.

The principle of publicity necessarily leads to the facts of corruption in the state apparatus, prohibited by law, the combination of some civil servants of state and business positions, etc. (Dralle, 2018).

The public servants themselves are convinced that excessive openness and transparency in the work of the state apparatus is detrimental to the cause. The same position and some authors who believe that "the necessary degree of independence can be an important means of attracting qualified professionals to the public service, for whom professional independence is an important value guide in life." However, it is the secrecy of information about the work of state bodies that most often undermines the credibility of them. Therefore, it is necessary to define the boundaries of free provision of information. Thus, the legislator has established limitations of this principle, fixing the obligation of the public servant to keep the state or other secret protected by the law, and also not to allow disclosure of data which became known to it in connection with execution of the official duties.

Regulation of issues related to state secrets is devoted to the law "on state secrets", which contains an exhaustive list of persons entitled to include information to state secrets, as well as a list of information that cannot be included in this category.

The principle of professionalism and competence of civil servants reflects the essence of the public service as a highly significant activity to ensure the execution and execution of the powers of Federal and Federal subjects of state bodies. The public service should be considered a profession that is relevant to the whole of the state and requires special skills, acquired and maintained through systematic and continuous education. The performance of functions of the state administration is the main occupation of a civil servant (Kettiger and Lienhard, 2016).

D.M. Ovsyanko (2007) believes that "professionalism is the execution of public officials of their duties continuously and regularly receive the reward. And competence, in his opinion, reflects the amount of knowledge and experience of the employee. Therefore, professionalism is considered by him as "an incentive to expand and improve knowledge, filling experience, development of organizational skills, high level of service and performance discipline."

All together, this principle makes it possible to state that civil servants are bound by it:

- be constantly ready to implement the job powers';
- it is good to know the subject of their own public service activities;
- to know their rights and duties, to fully and qualitatively perform the functions and powers provided by the legislation by the official regulations and instructions;
- own the rules and procedures of the bodies public authority;
- have General and professional training;
- know the legal and moral and ethical standards in the field of performance.

The principle of protection of civil servants from unlawful interference in their professional activities of both state bodies and officials, as well as individuals and legal entities this principle is revealed in the fact that civil servants are under the constant protection of the state, its laws and law enforcement agencies. No one has the right to interfere in their official activities, except for persons directly authorized to do so by regulations.

In the Law "on the state civil service of the Russian Federation" under the state protection of a civil servant and his family members are understood various measures of protection against violence, threats, other illegal actions in connection with the performance of their duties in the manner and under the conditions established by the Federal law.

When classifying the principles of public service, it is advisable to distinguish three groups of principles: constitutional, organizational and auxiliary. The constitutional principles are determined by the provisions of the Constitution of the Russian Federation, which are specified in this legislative act. The organizational principles reflect the mechanism of construction and functioning of the public service, the state apparatus and its units, the division of administrative work, ensuring effective administrative activity in the state bodies (Dralle, 2018).

Thus, out of the nine principles of public service, the first four are constitutional and the remaining five are organizational. All Federal bodies and public authorities of the Russian Federation are obliged to follow these principles. Public servants must adhere to them in their work. In addition to these two groups, in real life civil servants are guided by auxiliary principles. Which for the most part are scattered in various regulations.

There are other classifications of principles, D. N. Bakhrakh proposes to consolidate all fixed normative principles of public service three: "1. legality, 2. democracy, 3. professionalism, and in addition, emphasizes the principle of social and legal protection of employees".

B.N. Gabrichidze and A. G. Chernyavsky (2007) propose to consider "two groups of principles: principles of public service and principles of service law". The principles of public service, in their view, are broader than those of service law. It seems that for such classification of principles the authors used significantly different grounds for their selection than those proposed by Yu. Starilov, who classified the principles of public service on the constitutional and organizational. However, in the aggregate and the General list, and the content of the principles proposed by Yu. Starilov, B. N. Gabrichidze and A. G. Chernyavsky are close to each other. B. N. Gabrichidze, and A. G. Chernyavsky (2007) emphasizes "the principles of democracy, humanity, civilization service law."

In addition to the above principles, the Law "on the state civil service of the Russian Federation" highlights such principle as the stability of the civil service. Its essence is that "under the stability of the civil service is meant the constancy of public-service relations, which is expressed in the irremovability of civil servants and continuity in the conduct of the state personnel policy, in the formation of the foundations of the state apparatus. This principle is based on the desire of the state for its permanence." The stability from the point of view of the legislator is manifested in the maintenance of the civil service management, in a way that will allow it to perform the functions of the state qualitatively. Stability is provided by many institutions of modern service law and measures to improve performance and professional development of civil servants:

- appointment to the positions of the civil service of persons taking into account their merits in professional performance and business qualities;
- development of professional skills of civil servants; the use of the potential of additional professional education of civil servants in accordance with the professional development programs;
- facilitation of career advancement of civil servants on a competitive basis;
- the formation of personnel reserve on a competitive basis and its effective use;
- the assessment of results of professional office activity of employees through the use of institutions for the certification and qualification examination.

**CONCLUSION**

Therefore, it can be concluded that the essence of this principle in its General form is to ensure the construction and proper functioning of the state apparatus. Many authors agree that the principle plays an important role directly for public servants. In particular, it should be "a guarantee against unlawful dismissal and other arbitrary actions affecting their professional position or career".

Studying the Federal laws" on the system of public service of the Russian Federation "and" on the public civil service of the Russian Federation", we can see that if the Federal law" on the system of public service of the Russian Federation "discusses the principles of construction and functioning of the system of public service, the Federal law" on the public service of the Russian Federation", we are talking about the principles of the civil service. However, these principles are similar and practically duplicate each other.

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## ARTÍCULOS

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# Direct Foreign Investment and Demographic Policy in the Russian Far East

*Inversión extranjera directa y política demográfica en el Extremo Oriente de Rusia*

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### ABSTRACT

The article deals with the problem of attracting foreign direct investment to the economy of the Russian Far East, which is the priority area of the country's socio-economic strategy. The results show a stable dynamic of foreign direct investment despite economic sanctions imposed on Russia. The key challenges in the development of the Far Eastern region are the quality of labor and its availability and profitability of enterprises. The article outlines the main mechanisms of realizing the demographic policy, which have been proposed in 2018, as well as measures aimed at increasing the profitability of enterprises in the region.

**Keywords:** Demographic policy; foreign direct investment; investment climate; the Russian Far East.

### RESUMEN

El artículo aborda el problema de atraer la inversión extranjera directa a la economía del Extremo Oriente ruso, que es la esfera prioritaria de la estrategia socioeconómica del país. Los resultados muestran una dinámica estable de inversión extranjera directa a pesar de las sanciones económicas impuestas a Rusia. Los desafíos clave en el desarrollo de la región del Extremo Oriente son la calidad de la mano de obra y su disponibilidad y rentabilidad de las empresas. El artículo describe los principales mecanismos de realización de la política demográfica, que se han propuesto en 2018, así como las medidas destinadas a aumentar la rentabilidad de las empresas en la región.

**Palabras clave:** política demográfica; inversión extranjera directa; clima de inversión; el Extremo Oriente ruso.

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## INTRODUCTION

The development of the Russian Far East is regarded as the priority area of the economic policy of the Russian Federation enacted now through expanding the Asian vector of the development of the country. That is due to the strategic importance of the Far East for Russia as the country has long maritime external borders and tremendous supply of natural resources in the region.

The central documents adopted by the federal government are: the Strategy for Social and Economic Development of the Far East and the Baikal Region to 2025 and the State Program "Social and Economic Development of the Far East and the Baikal Region" (Government of the Russian Federation, 2014). Ministry for the Development of the Far East is appointed a responsible institution for the implementation of the goals stated - "to improve the level of social and economic development of the Far East and the Baikal region, to ensure labor resources and population increase in the Far East".

Investment projects are among the most important in the State Program. Investments, both Russian and foreign, are regarded as the main tool for ensuring the increase in labor and population resources in the Far East and the improvement in the standard of living of people which is still below the average-Russian level. Thus, the program document postulates a direct relationship between investment and labor resources in the region.

The Far-Eastern Federal District (FEFD) has specific characteristics which determine the investment process. They are, namely, remoteness of the territory, density of the population, extreme climatic condition. The Far Eastern Federal District accounts for 36% of the territory of the Russian Federation (6,169.9 thousand sq. km.) and 4.2% of the population of Russia (6.156 million people), which causes an extremely low population density: its average size is 1.1 people for 1 sq. km. Besides the population is settled extremely unevenly: 12 people for 1 sq. km. – in the Primorye Territory, and 0.2-0.8 people for 1 sq. km. in the Republic of Sakha (Yakutia), Magadan and Kamchatka regions and in Chukotka. The share of the urban population is about 78% (Federal Service of State Statistics, 2017a).

The Far East accounts for 92% of Russia's tin reserves, 82% of diamonds and antimony, 61% of uranium, 40% of gold, 23% of tungsten, 11% of coal, and significant explored reserves of oil and gas: about 10-14 billion tons of oil and 14-15 trillion cubic meters of natural gas (this is about 1/3 of all confirmed gas reserves in Russia). But, because of low level of development of the manufacturing industry, only 6.5% of the total Russian export is from the FEFD.

The gross regional product (GRP) of the FEFD is rather low in relation to the GRP of the whole country: 4.2% in 2000 and 5.6% in 2016. But the indicator of GRP per capita income is positive: in 2000 GRP in the Far Eastern Federal District was only 44,932 rubles (while the average level in Russia was 49,835 rubles), in 2016 GRP in the Far Eastern Federal District became 607004 rubles (while the average level in Russia was 586630 rubles) (Federal Service of State Statistics, 2017a; Goskomstat, 2001).

Thus, the FEFD differs in a number of specific features that determine the dynamics and structure of foreign direct investment, namely, the economic-geographical position (a great distance from the main economic potential of Russia), rather extreme natural and climatic conditions, and the richest natural resource potential. It is with these factors that both the investment attractiveness of the region and its strategic vulnerability, and, consequently, investment risks are connected.

The factor of remoteness of the region causes high transportation costs which in turn increase the cost of products and services. Thus, poor infrastructure and the lag in the level of living of the population cause investment risks and as a consequence, low investment attractiveness of the region. Although a large number of scientific studies have been done in Russia on foreign direct investment into the economy of the country, there are not enough studies related to the Far Eastern region.

The article analyses the current situation in the field of foreign direct investment into the Far Eastern Federal District, gives an assessment of investment attractiveness of the region. The conclusion made is

about the importance of investing into the development of human resources and the improvement of infrastructure, rather than keeping dependent on huge reserves of minerals.

## LITERATURE REVIEW

A large number of scientific studies on the topic of foreign direct investment (FDI) analyze factors that mainly determine investments. They are:

- orientation for the implementation of foreign investments by competing firms of potential foreign investors (Knickerbocker, 1973);
- psychological factor (Aharoni, 1966);
- minimization of all types of costs: total, transaction, etc. (Dunning, 1980);
- maximization of profitability in different variants: interest on invested capital, currency premium, net cash flow (Aliber, 1970; Hymer, 1976);
- competitive advantages at different levels: firm, region, country (Dunning, 1988; Vernon, 1974).

In the 1990s several scientists, who worked independently, proposed econometric models for assessing the impact of various factors on foreign direct investment in the branches of receiving countries. In particular, K. Milner and E. Pintecost (1994) – an example of American FDI in British companies; V.N. Balasubramanyam and D. Greenaway (1994) – a study of East Asian FDI in the EU; M. J. Fry (1994) – on the example of Malaysia.

Some studies are aimed at assessing the relationship between domestic investment and international capital flows (Balatsky, 2012; Feldstein and Horioka, 1979), as well as assessing the impact of FDI on economic growth (Balatsky, 2011; Moran *et al.*, 2005). The Harvard Business School study (Alfaro, 2003) shows that FDI invested in the primary sector of the economy has a negative impact on economic growth, and those invested in the secondary sector have a positive impact. The effect of investing in services is defined as unclear and contradictory. Scientific studies on methods of assessing investment attractiveness of the economy deserve special attention (Blank, 2002; Panaseikina, 2010; Smaglyukova, 2007).

Also scientific studies on mechanisms of attracting FDI to the country arouse interest. For example, studies conducted by American scientists show that just liberalization policy not the only factor for increasing the flow of foreign investment into the country. According to M. Adler and G.K. Hufbayer (2008), the impact of liberalization policy on the growth of foreign direct investment in the United States in 1982-2006 was about 20% (48 billion dollars from 234 billion dollars). The increase in foreign investment happened due to combined factors of market economy and technology change – 48% (112 billion dollars from 234 billion dollars).

Studies on FDI in Russia are quite diverse. Authors study the issue of geographical distribution of FDI and how FDI is regulated by authorities (Makarov and Morozkina, 2015; Vercueil, 2013). Also they analyze the ways of using internal resources along with external (Starodubtseva, 2014) and the influence of FDI on domestic financial resources (Sholomitskaya, 2017). Some works direct attention to the impact of unfavorable investment climate in Russia on FDI (Akgun *et al.*, 2015) and the importance of the quality of authorities' management for FDI effectiveness (Kuzmina *et al.*, 2014).

The study on the assessment of the impact of FDI on the social and economic development of Russian regions (Pogodina, 2017) indicates that the spillover effect of attracting FDI in the Far Eastern region is negative because funds are invested almost exclusively into the extractive industry. The influence of FDI on employment issues in transition economies (Estrin, 2017) was considered; the analyses shows that the influence of FDI on employment in Russia has a much smaller effect than in Eastern Europe due to institutional weaknesses and inefficient use of human capital.

As for the works related to the Russian Far East, they are few. One of them is the study done by the Centre for Economic and Financial Research (CEFIR) on the impact of FDI on the socio-economic

development of the Russian Far East (CEFIR, 2013). The paper emphasizes that FDI makes significant contribution to the social and economic development of the Far East, including the development of human capital; but the results are based on data on FDI prior to the introduction of economic sanctions against Russia. The research of Ernst & Young (2013) shows that 64% of foreign investors working in Russia believe that improving the demographic situation will contribute to the inflow of FDI.

There are publications (Radomska, 2017) that give rather negative ratings of the development of the Russian Far East. However another research of Ernst & Young (2015) indicates the significant improvement in the investment climate in the regions of Russia as the Regional Investment Standard was introduced.

## **MATERIALS AND METHODS**

Although our study is done in line with other researches in the field, it gives more expanded content as the period covered in the research includes the year of 2016 allowing the analysis of foreign direct investment both before and after the imposition of sanctions. Econometric modeling covers the period from 2004 to 2016, i.e. two economic crises were reflected in it: the global financial crisis of 2008-2009, and the internal economic crisis of 2014, caused by the introduction of economic sanctions.

The information base for the study was the following:

- federal regulations acts,
- proceedings of the United Nations Conference on Trade and Development,
- materials of the Federal State Statistics Service,
- materials of the Central Bank of Russia,
- information materials contained in periodicals and posted on official Internet sites.

The main methods used in the study were the dialectical method, the system approach, comparative economic analysis, and correlation-regression modeling with the STATISTICA 13.0 application software package based on data from the Federal State Statistics Service and the Central Bank of Russia. The least-squares method (LSM) enabled to get the assessments of the parameters of the regression equation under which the sum of the squares of the deviations of the actual variables of the result  $\hat{y}$  – the volume of foreign direct investments in FEFD from the calculated values is minimal. The construction of the multiple regression equation followed a step-by-step algorithm for including and excluding significant variables. The inclusion of certain factors in the equation comes from to the notion that the effectiveness is the result of relationship. In our case those factors are the volume of foreign direct investment combined with other economic factors.

To assess the investment attractiveness of the subjects of the Far Eastern Federal District, the methods of the Expert Rating Agency (RAEX) (2018) and the Doing Business rating (2017) were used.

## **RESULTS AND DISCUSSION**

### **Structure and dynamics of foreign direct investment in the Russian Far East**

The share of foreign direct investment in the Far East following the results of 2017 is 12% of the value of all foreign direct investment in the Russian economy. The dynamics of foreign direct investment in the economy of the Far East (Figure 1) is characterized by stability (an increase of 2.3 times) during 2004-2016, in contrast to the all-Russian indicators (growth of 2.1 times with much larger multidirectional amplitude). Even after the imposition of economic sanctions in 2014, the inflow of FDI did not decrease. It is not large, but stable, the fact may indicate that large-scale long-term projects are realized.

Figure 1: Dynamics of foreign direct investment inflow into the Russian economy in general and the Far East, million US dollars (Central Bank of Russia, 2018; Federal Service of State Statistics, 2017b)



The estimation of the structure of FDI in the Far Eastern regions (Table 1), shows its extremely uneven distribution. Sakhalin is the absolute leader as the region attracts almost 90% of Far Eastern FDI. This is due to the implementation of the Sakhalin offshore gas projects. Also, these tables clearly show that in 2010-2013, before economic sanctions were imposed on Russia, the share of the Sakhalin region gradually decreased, but starting from 2014, the share has increased significantly, due to the growth of foreign direct investment and in absolute terms.

Table 1: The structure of foreign direct investment in the Far East of Russia by region (2010-2017), % (Central Bank of Russia, 2018; Federal Service of State Statistics, 2017b)

Region	2010	2011	2012	2013	2014	2015	2016	2017
Far Eastern Federal District	100	100	100	100	100	100	100	100
Sakhalin Region	68.19	69.89	37.99	40.10	86.85	89.17	89.27	89.48
The Republic of Sakha (Yakutia)	0.21	0.73	5.20	2.80	3.43	3.07	2.91	3.40
Primorye Territory	4.4	1.69	18.44	45.80	2.59	2.97	3.40	2.44
Amur Region	17.98	13.35	25.73	4.50	2.35	2.27	1.58	1.95
Khabarovsk Region	5.09	2.89	5.83	5.60	1.78	1.40	1.64	1.65
Kamchatka Territory	0.65	0.46	0.09	0.00	0.00	0.00	0.00	0.37
Jewish Autonomous Region	1.38	0.67	0.82	0.50	0.00	0.00	0.00	0.22
Chukotka Autonomous Area	2.09	1.86	2.25	0.20	0.92	0.76	0.01	0.45
Magadan Region	0	8.45	3.63	0.50	1.87	0.00	0.00	0.02

Apart from the Sakhalin Region FDI is directed to Yakutia, the Primorye Territory, Amur Region and Khabarovsk Region. Yakutia is also the region specialized in extractive industry. The Amur and Khabarovsk Regions, Primorye Territory are located in the border area; this determines that about 50% of foreign enterprises established are "Chinese". It becomes evident that the overwhelming share of FDI is concentrated

in the extractive industry. This kind of sharing has increased after the imposition of economic sanctions on Russia (Figures 2 and 3).

Figure 2: FDI in the Far Eastern region by industries in 2013, % (Federal Service of State Statistics, 2017b)

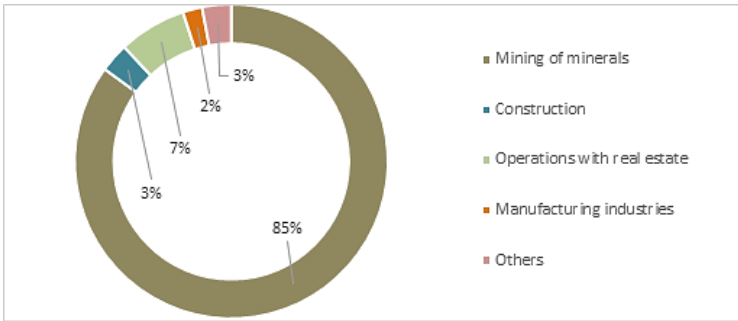
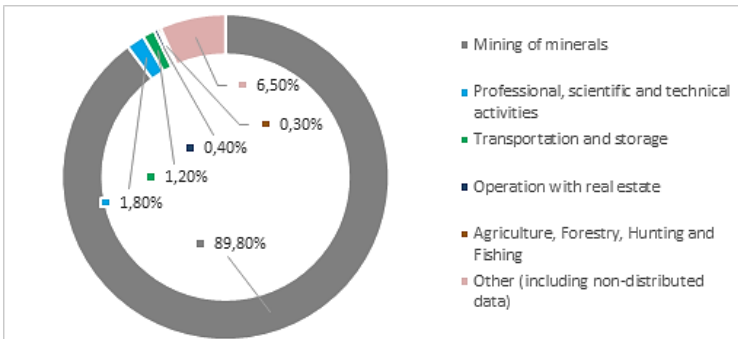


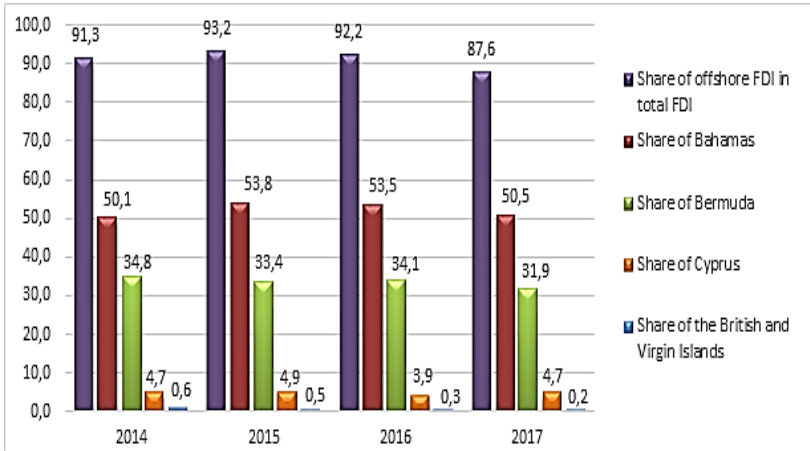
Figure 3: FDI in the Far Eastern region by industries in 2017, % (Central Bank of Russia, 2018)



As CEFIR research shows, nowadays foreign companies introduce innovative technologies mainly into extractive industries (CEFIR, 2013). After 2014, foreign investment inflow almost ceased in the construction sector but appeared in the fields of agriculture, forestry, hunting and fishing, as well as in the spheres related to science and technology, transportation and storage.

The difficulty in the analysis was aroused by the change in the way of statistical accounting of foreign investment. Until 2014 the statistical accounting was carried out by the Federal State Statistics Service on the basis of the form of statistical observation "1-Invest", but at present it has been carried out by the Central Bank of the Russian Federation in accordance with the balance of payments methodology. The change made it possible to analyze the "origin" of FDI by investor countries at the level of regions in order to adjust the total volume of FDI to the value of offshore FDI, which, in fact, is the returning of Russian capital previously exported to offshore. Ex., the share of offshore FDI in the Russian economy is about 20% (unallocated volumes are taken into account), but in the Far East this figure is much larger (Figure 4).

Figure 4: The share of offshore FDI and selected offshore jurisdictions in total FDI in the Far East of the Russian Federation (2014-2017), % (Central Bank of Russia, 2018)



Thus, despite the positive and stable dynamics of the total volume of FDI in the Far Eastern region, its geographical distribution and the factor of "origin" of investment remain unsatisfactory.

#### Activities of organizations with foreign investment in the Russian Far East

The small share of FDI, which is attracted to the region not from offshores, is invested, as a rule, in small and medium-sized enterprises (Table 2).

Table 2: Organizations with foreign investments in the Russian Far East and their indicators in 2010 and 2016 (Federal Service of State Statistics, 2017b)

Region	Number of organizations with foreign capital, units		Turnover of organizations with foreign capital, billion rubles		The share of organizations with foreign capital in the total number of organizations, %		The share of turnover of organizations with foreign capital in the total turnover of organizations, %	
	2010	2016	2010	2016	2010	2016	2010	2016
Far Eastern Federal District	859	4886	709.7	1046	0.5	2.47	34.99	28.39
The Republic of Sakha (Yakutia)	50	288	50.5	63	0.20	1.07	14.66	9.43
Kamchatka Territory	18	137	1.2	7	0.16	1.24	15.35	4.14
Primorye Territory	316	1897	145.2	123	0.48	2.68	30.91	15.70
Khabarovsk Region	158	850	84.1	61	0.38	1.87	20.51	8.97
Amur Region	89	693	33.7	55	0.60	4.15	26.10	25.70
Magadan Region	13	108	1.5	40	0.21	2.15	25.38	23.12
Sakhalin Region	159	612	364.2	627	0.96	3.49	46.51	71.74
Jewish Autonomous Region	53	275	1.6	4	1.54	8.24	33.33	33.33
Chukotka Autonomous Area	3	26	27.8	67	0.22	2.38	56.16	69.9
<i>For reference: Russian Federation</i>	15518	153675	26748	30032	0.32	3.23	42.10	24.99

According to the Federal State Statistics Service of Russia in 2010–2016 the total number of enterprises with foreign capital increased 5.7 times. During the period under consideration the Primorye Territory was in the leading position: it had 37% of enterprises in 2010 and 39% in 2016. The Chukotka Autonomous Area had the least number of enterprises with foreign capital but their share in turnover was significant and was about 7% in 2016. The Sakhalin Region had 68%-89% of all FDI in the FEFD. The turnover of 612 enterprises with foreign capital makes up almost 72% of the total turnover of organizations in the Sakhalin. Nowadays the share of enterprises with foreign capital in the total turnover of Far Eastern enterprises has reduced; the fact is explained by the rapid growth of domestic commercial organizations.

In general, the enterprises with foreign capital in the Far East greatly contribute into the economy of the macroregion. In the Amur Region and the Jewish Autonomous Region the share of turnover of enterprises with foreign capital exceeds the average level in Russia. In the Sakhalin Region and Chukotka Autonomous Area the shares of turnover of enterprises with foreign capital are 72% and 79% respectively. However, in other regions mentioned the share of turnover of enterprises with foreign capital is still lower than the national average. This indicates that the regions are not attractive for foreign investors in perspective of business opportunities. The question arises as to the factors that influence the attractiveness of foreign direct investment.

### Evaluation of the investment attractiveness of the Russian Far East

Expert Rating Agency (RAEX) (2018) is recognized as the most authoritative rating agency in the Russian Federation; the agency has been engaged into assessing the investment attractiveness of the Russian regions since 1996. From the point of view of methodology the investment attractiveness of the region is based on the combination of two factors - investment potential and investment risk, both factors are integral (Table 3). The investment potential of the region comprises of 9 private potentials characterized by indicators on natural resources and labor, production, consumer, infrastructure, innovation, institution, finance and tourism data. Investment risk of the region is formed as an integral value combining the assessment of 6 types of risk: social, economic, financial, managerial, environmental and criminal.

**Table 3: Investment rating of the regions of the Far East according to version of Expert Rating Agency (RAEX) (2017)**

Region of the Far Eastern Federal District	Rank of investment potential		The rank of investment risk		Investment rating of the region
	2010	2017	2010	2017	
The Republic of Sakha (Yakutia)	24	20	48	54	3B1 (reduced potential – moderate risk)
Primorye Territory	18	22	62	53	
Khabarovsk Region	30	30	67	39	
Sakhalin Region	53	56	70	25	
Amur Region	55	66	47	48	3B2 (low potential – moderate risk)
Magadan Region	75	77	75	67	
Kamchatka Territory	69	70	74	73	3C2 (low potential – high risk)
Jewish Autonomous Region	81	81	71	80	
Chukotka Autonomous Area	73	80	80	81	



The investment potential of regions in the Far East has not changed radically during the past seven years. The only region that has improved its rating is the Republic of Sakha (Yakutia). Other regions either retained their positions or worsened them. Some of the regions have reduced investment risks: Sakhalin Region has got the best result (+45 positions), Khabarovsk Region (+28) and Primorye Territory (+9). Still indicators of labor, infrastructure, consumer and tourist potential remain to be the so called "failures".

Low labor potential is caused by the population outflow from the Far Eastern regions. The population of the Far Eastern Federal District has decreased by 120 thousand people (2%) in comparison with the year of 2010. Proportion of the working age population has also decreased; from 63.4% in 2010 to 58.4% at the beginning of 2017 (Federal Service of State Statistics, 2017b). The decrease of population and the increase of the number of pensioners result in narrowing the consumer market. High prices caused by high transport costs also affect negatively on the region's consumer potential. High transport costs are caused by the low level of transport infrastructure (Table 4).

**Table 4: Development of the transport infrastructure of the Russian Far East (2010 and 2016) (Federal Service of State Statistics, 2017b)**

Region	Density of public roads with hard surface, km per 1000 square kilometers of territory		Density of railways, km per 10,000 square kilometers of territory	
	2010	2016	2010	2016
<b>Far Eastern Federal District</b>	<b>6.1</b>	<b>9.5</b>	<b>13</b>	<b>14</b>
The Republic of Sakha (Yakutia)	2.7	3.8	2	2
Kamchatka Territory	3.6	4.2	0	0
Primorye Territory	52	92	95	95
Khabarovsk Region	7.4	12	27	27
Amur Region	22	35	81	81
Magadan Region	4.7	5.4	0	0
Sakhalin Region	14	23	92	96
Jewish Autonomous Region	46	68	141	141
Chukotka Autonomous Area	0.8	1.0	0	0
<i>Reference: Russian Federation</i>	39	62	50	50

Despite the fact that the density of motor roads increased 1.6 times from 2010 to 2016, it still remains extremely low. There is no railway communication in the northern regions (Kamchatka, Chukotka, Magadan Region). The Amur-Yakutia railway in the Republic of Sakha (Yakutia) does not function fully, and no new railways have been built in the region during the period. Thus, the low level of transport infrastructure restrains the development of domestic and inbound tourism.

At the international level, the Doing Business rating compiled by the World Bank in conjunction with the International Finance Corporation has become frequently used. It assesses and rates the ease of doing business not only at the level of the Russian Federation but also at the regional level. 30 Russian cities participate in the rating, not 12 but only 4 criteria are used which are the most important components of the rating. As for the Far East, rating participant are the Republic of Sakha (Yakutia), the Khabarovsk Territory and Primorye Territory - Yakutsk, Khabarovsk and Vladivostok. According to the rating of Doing Business

(2017), the leader is Ulyanovsk. Yakutsk took the 28<sup>th</sup> place, Vladivostok – 15<sup>th</sup> place and Khabarovsk – 23<sup>rd</sup> (Table 5).

**Table 5: Comparative analysis of the positions of the cities – centers of the Far Eastern regions in the Doing Business 2017 rating**

Indicators	City	Occupied place (from 30 cities)	Number of procedures	Time Spent, days	Amountin %
Business Registration (LLC with an authorized capital of 5 thousand rubles)	City Leader, St. Petersburg	1	7	17	2.1'
	Yakutsk	8	7	25	2.2'
	Khabarovsk	24	8	23	3.0'
	Vladivostok	18	8	23	2.3'
Connection to power supply system	City Leader, Saransk	1	9	123	269.2'
	Yakutsk	25	6	279	1012.2'
	Khabarovsk	8	9	248	391.1'
	Vladivostok	23	9	260	852.4'
Dealing with Construction Permits (estimated cost of the warehouse is 2620 thousand rubles)	City Leader, Surgut	1	17	150	106.2''
	Yakutsk	26	26	280	178''
	Khabarovsk	29	32	269	188.9''
	Vladivostok	22	26	218	169.4''
Registration of property (the value of the property 15333527 rubles)	City Leader, Kaluga	1	3	19	0.2'''
	Yakutsk	30	4	60	0.4'''
	Khabarovsk	17	3	13	0.3'''
	Vladivostok	3	3	32	0.2'''

Notes: \* – in % of per capita income; \*\* – in% of the value of the commodity warehouse; \*\*\* – in% of the value of the propertyobject

The key problems in attracting investments (based on the analysis of Table 5) are infrastructure (power supply system) and management (procedures and time).

### Correlation-regression analysis of the dynamics of foreign direct investment in the economy of the Far East of Russia

A comparative analysis of the indicators of investment attractiveness of various methods has shown that most of them are based on the methodology of the United Nations Conference on Trade and Development (UNCTAD), which is the most authoritative organization of the UN system in the investment sphere. Since 1991, UNCTAD has been publishing the World Investment Report, which reflects the dynamics of the investment attractiveness of the economies of the world.

The conference highlights four groups of factors of investment attractiveness of the economy for foreign investors (World Investment Report, 2012):

1. The attractiveness of the market (the size of the market, the purchasing power of the population, the potential opportunities for market growth);
2. Price and quality of labor, incl. its availability (labor costs per unit of production, production capacity of labor);
3. Availability of natural resources (exploitation of natural resources, agricultural resources);

4. Availability of necessary infrastructure (transport, energy, communications, business infrastructure).

Taking into account the above factors, in this study, a stochastic factor analysis of the dynamics of foreign direct investment in the economy of the Far Eastern Federal District by means of correlation-regression modeling was carried out. For this, according to the Federal Service of State Statistics (2017b) for 2004-2016, the following factors (variables) were selected:

1. Group of factors "Attractiveness of the market":
  - a. per capita monetary income of the population in thousand rubles., as an indicator of the attractiveness of the regional market ( $x_1$ );
  - b. The share of profitable enterprises in the region in% as the main indicator of the degree of favorable business practices and the attractiveness of the market for investors ( $x_2$ );
  - c. amount of tax paid on organizations' profit in million rubles., as an indicator of the budgetary efficiency of entrepreneurship in the region ( $x_3$ ).
2. Factors group "Quality of labor and its availability":
  - a. the number of economically active population as the base indicator of the size of the market and the availability of labor resources ( $x_4$ );
  - b. the unemployment rate in% as an indicator of the availability of a labor reserve in the region ( $x_5$ );
  - c. the annual graduation of mid-level specialists as an indicator of the availability of staff ( $x_6$ ).
3. Group of factors "Availability of natural resources and their exploitation":
  - a. sectoral structure of gross value added (extraction of minerals) as an indicator of the sector's specialization in the region ( $x_7$ ).
4. Group "Infrastructure Development Indicators":
  - a. coefficient of depreciation of fixed assets in % as an indicator of the level of development of the industrial infrastructure of the region ( $x_8$ );
  - b. internal costs for research and development in million rubles., as an indicator of the level of innovation development ( $x_9$ );
  - c. density of public roads with hard surface in km per 1000 sq. m. km as an indicator of the development of transport infrastructure ( $x_{10}$ );
  - d. electricity generation in billion kW / h as an indicator of the level of development of the energy infrastructure ( $x_{11}$ );
  - e. the number of operating credit institutions and branches as an indicator of the level of development of financial infrastructure in the region ( $x_{12}$ ).

The model was built using the application software STATISTICA 13.0 based on the data of the Federal Service of State Statistics (2017b) using the least-squares method (LSM).

LSM allows obtaining estimates of the parameters of the regression equation in which the sum of the squares of the deviations of the actual variables of the result  $\hat{y}$  – the volume of foreign direct investments in the Far Eastern Federal District from the calculated values is minimal:

$$\sum (y_i - \tilde{y}_{x_i})^2 \rightarrow \min(1)$$

The procedure for constructing the multiple regression equation consists in a step-by-step algorithm for including and excluding significant variables. The inclusion of certain factors in the equation is related to the notion of the essence of the relationship between the effective feature, and in our case the volume of foreign direct investment, with other economic factors selected in the model.

When analyzing the matrix of paired correlation coefficients explaining the variables, multicollinearity was revealed (at  $|r| \geq 0.8$ ), which makes the model unstable and inadequate. In this connection, insignificant variables were excluded from the model, which could distort the significance of the constructed regression equation for the volume of foreign direct investment in the Far East. As a result, the following regression equation of the volume of foreign direct investment to the economy of the Far East was obtained  $\hat{y}$ :

$$\hat{y} = -116601 + 460x_2 + 21x_4 + 1269x_5 - 340x_6 + 635x_8 \quad (2)$$

$$R^2 = 0,93 \quad (5,67951) \quad (3,35466) \quad (3,69881) \quad (-5,15276) \quad (5,92618) \\ F_{obs} = 17,736 \quad DW = 2,8$$

The verification of the significance of the obtained equation with the help of the Fisher criterion gave a positive result at a level of significance  $\alpha = 0.05$ , since  $F_{kr(table)} = 3.97 < F_{obs} = 17.736$ , all regression coefficients are significant. The multiple coefficient of determination ( $R^2$ ) indicates that the dynamics of the volume of foreign direct investment by 93% is explained by the influence of the factors selected for the model. The Darbin-Watson criterion, which is a method for determining the presence of autocorrelation in residues and characterizing the reliability of the model, has the value  $DW = 2.8$ , i.e. is in the range  $0 \leq DW \leq 4$ , which indicates that there is no autocorrelation of the residues. Thus, it can be argued that all factors that have a significant impact on the resultant indicator are taken into account and their impact is not reflected in the balances.

In the course of the analysis of values of regression coefficients, it was revealed that the influence on the dynamics of the volume of foreign direct investment is exerted by factors:

- the share of profitable enterprises in the region, in % ( $x_2$ ),
- the number of economically active population in the region, in thousands of people. ( $x_4$ ),
- unemployment rate, in % ( $x_5$ ),
- annual output of mid-level specialists, thousand people (with a negative sign) ( $x_6$ );
- coefficient of deterioration of fixed assets, in % ( $x_8$ ),
- The obtained model shows that:
  - an increase of 1% in the share of profitable enterprises will increase foreign direct investment by \$ 460 million, provided that other factors remain unchanged.
  - an increase of 1% in the economically active population in the region will lead to an increase in foreign direct investment of \$ 21 million, provided that the remaining factors remain unchanged.
  - an increase of 1% in the level of unemployment contributes to an increase in foreign direct investment by \$ 1,269 million, provided that other factors remain unchanged.
  - an increase of 1% in the annual output of mid-level specialists leads to a decrease in foreign direct investment by \$ 340 million, provided that the remaining factors remain unchanged.
  - an increase of 1% in coefficient of deterioration of fixed assets ensures the growth of foreign direct investment by \$ 635 million, provided that other factors remain unchanged.

Thus, the main group of factors is the quality of the workforce and its accessibility. In addition, an important factor is the share of profitable enterprises, which characterizes the level of comfort of doing business in the region.

The results obtained largely correlate with the conclusions of the CEFIR study (CEFIR, 2013), which was carried out by polling. According to this survey of foreign companies operating in the Far East, the key problem is the shortage of skilled labor. Compared to 1991, when the population in the Far East was the highest in the

history of the region's development and exceeded 8 million people, by 2018 it had decreased by almost 25%, primarily due to the outflow of population to the European part of Russia. Taking into account the fact that young qualified specialists are leaving, the share of pensioners is increasing. However, the CEFIR study showed that, in spite of personnel problems, foreign investors from developed countries are more attracted to local labor resources, while companies from developing countries, primarily from China, use their cheaper labor, which reduces the positive effect of attracting foreign investment in the region. As for specialists with secondary specialized education, according to the CEFIR poll, specialists with higher education are more likely to find work in a campaign with foreign capital.

To solve the strategic tasks of social and economic development of the Far East, the population of the region should increase by 2-3 million people, i.e. at least by 30%. To achieve this goal, the Concept of the Demographic Policy of the Far East for the period up to 2025 was developed and adopted (Government of the Russian Federation, 2017). According to this Concept, the efforts of the authorities, both federal and regional, should be aimed at increasing the birth rate and reducing mortality, reducing the migration outflow of the permanent population, attracting migrants and repatriating compatriots living abroad, creating conditions for securing young people from other regions.

## **CONCLUSIONS**

According to the results of modeling, the key challenges in the development of the Far Eastern region are the quality and availability of labor, as well as ensuring the profitability of enterprises. The authorities believe that the most effective tools are the increased use of maternity capital, i. its increase by 30% compared with the rest of Russia, payments for the first child will amount to 150 thousand rubles. Increase "lifting" for those moving to the Far East from 250 thousand rubles up to 1 million rubles for each member of the family. Thus, the additional costs will amount to more than 30 billion rubles annually.

Profitability as a relative indicator of financial effectiveness of companies is formed under the influence of many factors. Based on the analysis results applied to the Far East, the main factors are the level of transportation costs, high depreciation of fixed assets, high tariffs for electricity for business, and the level of taxation. And in this direction there are also significant changes. The mechanism for equalizing electricity tariffs for business was extended until 2028 in order to ensure the implementation of regional investment projects. Significant tax incentives for companies implementing regional investment projects have been introduced, and it is expected to increase a number of benefits for investment projects worth more than 100 million rubles (for example, for income tax, the benefits will be extended from 10 to 19 years). Residents of the territories of advanced development (TAD) will be granted a 10-year privilege to pay insurance premiums instead of the current 3-year one. In addition, the so-called "grandfather's reservation" will apply for the first 10 years of the project's implementation instead of seven.

Another important factor that has a deterrent effect on the inflow of FDI into the economy of the Far East is their concentration in the extractive industry, which is expressed in a negative spillover effect. In this regard, it seems expedient to develop infrastructure, primarily transport infrastructure, which will reduce transport costs and ensure the competitiveness of products of manufacturing industries, and will promote the development of domestic and inbound tourism, which in turn will ensure the development of all induction of hospitality through multiplicative effect. The implementation of projects in the field of transport infrastructure development is currently being successfully implemented on the terms of public-private partnership. In addition, the development of transport infrastructure will overcome the "enclave" of the Far East and will contribute to an increase in the population.

Thus, the implementation of the demographic policy is directly related to attracting FDI to the economy of the Russian Far East.

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# The Scientific and Philosophical Meaning of the Concept of 'Information'

*El significado científico y filosófico del concepto de 'información'*

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### ABSTRACT

In this paper the relationship of philosophy, specific sciences and information from the point of view of their own information specifics is considered. The information is the diversity inherent in one or another (any) thing. In the article, information is understood not in a mathematical sense – as a complete abstraction (abstraction) from the content moments. The philosophical category "information" is designed to take into account the universal signs of diversity inherent in all things, taking into account all without any exceptions of their content. The category "information" in a certain sense coincides with the category "content".

**Keywords:** "Artificial intelligence"; criteria of scientific character; diversity; reflection.

### RESUMEN

En este artículo se considera la relación de la filosofía, las ciencias específicas y la información desde el punto de vista de sus propios datos específicos. La información es la diversidad inherente a una u otra cosa (cualquiera). En el artículo, la información se entiende no en un sentido matemático, como una abstracción completa (abstracción) de los momentos de contenido. La categoría filosófica "información" está diseñada para tener en cuenta los signos universales de diversidad inherentes a todas las cosas, teniendo en cuenta todo sin excepciones de su contenido. La categoría "información" en cierto sentido coincide con la categoría "contenido".

**Palabras clave:** "Inteligencia artificial", criterios de carácter científico, diversidad, reflexión.

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## **INTRODUCTION**

There are many interesting topics associated with the relationship of philosophy and information. These are the philosophical problems of cybernetics, and the philosophical problems of informatics, the philosophical problems of information technology, the philosophical problems of artificial intelligence etc. Indeed, all listed and not listed similar problems are of great importance and deserve attention. There is a large body of publications related to this problem.

More than 60 years have passed since N. Wiener introduced the notorious concept of information to general scientific usage, in "Cybernetics" (1948), and from there it spread to all levels, from everyday life to philosophy. Around the same time, information theory was formed (K.E. Shannon). There are a lot of definitions of the concept of information (more than one hundred definitions of information are known), but so desired and unambiguous definition, suiting everyone, was never found (Wiener, 1983).

In the present paper, we would like to dwell on a question that has never been raised by anyone, according to the available literature. This is the question of the relationship between philosophy, specific sciences and information from the point of view of their own information specifics.

The problem here is that we do not understand well what the same philosophy, specific sciences, and information itself like a special qualitative information formations are. Obviously, there is a lack of positive knowledge about this. So far, for example, there is no more or less generally accepted definition of what information is in general. Shannon's and his similar definitions are more likely to be of some aspect character (Shannon, 1993). They do not include some basic and essential content of what can and especially needs to be understood as information.

## **MATERIALS AND METHODS**

In this paper, we proceed from the following working philosophical definition of information: information is the diversity inherent in one or another (any) thing, let it be a material or ideal thing. The "thing" in this paper is any formation. Starting with the Universe as a whole, and ending with any element of the content of consciousness, the so-called. ideal subjectness: theory, myth, fairy tale, etc. The concept of information, in our opinion has long been performing functions of one of the basic categories, such as the functions of categories: "content", "form", "structure" in philosophy. The category of information fixes the fact that any formation of any kind of being represents a certain variety. Each thing consists of something and includes some parts (elements), relations and connections between them (structure), relations between different properties and relations themselves, both inside this thing, and in relation to the environment (super-system). Even the very concept of "information" is a special information formation, characterized by a special variety inherent only in this concept. This own variety of information can be called "meta-information diversity", information about "information", the variety which characterizes the structure of this concept, its relationship with numerous other concepts of various sciences, as well as philosophy. We believe that the last circumstance is very close and understandable to representatives in the area of information technology, in general, because they permanent have to deal with information, its various aspects and various information processes at every step (Walton, 2017).

Modern science is based on the classical Galilean paradigm: to measure everything that is measurable, and to make measurable everything that is not measurable. And if you cannot make measurable an immeasurable love, an endless desire for knowledge, a human consciousness as a whole, nothing and other qualitative phenomena, then all of them, not fitting into mathematical beliefs, are in general outside of science. Such is a soul which is neither a heart-pump nor a fragment of the brain substance and the energy expended by it. The information is like soul: Information is information, neither a matter and nor energy. Materialism which does not recognize this cannot be viable at the present time (Wiener, 2001).

So, information is diversity, and, understood not only and not so much in the mathematical sense – as a complete diversion (abstraction) from any substantive content, fixing in the most abstract form exclusively the structural (formal) aspect of the being of things (Bourbaki, 1963, pp. 19-23; Bourbaki, 1965). The philosophical category "information" is designed to take into account some universal signs of diversity inherent in all things, taking into account all without any exceptions of their content. Actually, the category of "content" just records the consideration of each thing on the basis of accounting for everything which is somehow inherent in this thing and characterizes it. In a certain sense, the category of "information", as it is interpreted in our paper, coincides with the category "content", but only in a certain sense. And most importantly, what distinguishes them from each other is that the content of a thing cannot be separated from the thing itself. Each thing is its content. While information is not just a content of a thing, but such a content of a thing, or the existence of the content of a thing, which, as it were separates from the thing itself and is transmitted, transported and translated outside.

## RESULTS AND DISCUSSION

As an alternative to the quantitative representation of information, the adepts of the functional information offered to consider information as a designation of the content obtained from the external world in the process of our adaptation to it and the adaptation of our feelings to it (Wiener, 1958). Such information – the designation – can be interpreted as a sign message (in the form of material signs), transmitted in space-time by means of signals. According to this definition, signals should be perceived by the human senses and the technical devices invented by them, i.e. based on perceived physical (material-energy) fields.

For example, on other things, it is included in the content of those, exerting or not some influence on these things (Allo, 2017). The information associated with this or that thing coincides with the content of this thing, only being the content of this thing, when it has not yet separated from it, is not in a state of transmission, translation of one or another kind.

All that has been said above about information and content and their relationships oddly enough, is clearly in harmony with the so-called reflection theory. In the Soviet period, in the Soviet philosophy particularly in dialectical materialistic philosophy, this theory played and continues to play a decisive role in many respects when considering the theoretical and cognitive questions of all kinds of human activity, primarily those related to knowledge and sciences. Indeed, in this philosophy-dialectical materialism, the consciousness of man in general and his basic cognitive function, in particular, along with the creative-constructive function, is understood as the specific reflection processes inherent in man in connection to the presence of his universal apparatus of such reflection, namely, the human brain (Losee, 2017). At the same time, reflection is understood, of course, not as a mirror image in the literal sense of the word. Reflection is understood here precisely as a process of transition, translation and transfer of the content of the cognizable object into the consciousness of a person. Now we can rightfully say that here is the transfer and the translation of the content of things, or rather, information. On this occasion, it is not superfluous to recall the well-known statement of K. Marx in *Capital*: "The ideal is the material, transplanted into the human head and transformed into it" (Marx, 1983). This, of course, is a metaphor, an analogy, but a very relevant metaphor. It is appropriate here to recall V.I. Lenin's thesis, that there is a certain property, similar to the consciousness of man, inherent in all matter, and this property is a reflection (Lenin, 1923).

If we turn to the area of IT-technologies, their creation and application, it is possible, based on our interpretation of information, to note the following. Information technologies, developing and using various material carriers, are designed to ensure, as far as possible, the complete transfer of information (= diversity), enclosed in one or another thing, into other things, making it, in a certain sense, part of the content of these other things. That is, these technologies "transplant" some things into others, although not necessarily in the

"head of a person", but, for example, from one computer to another, or in the so-called "artificial intelligence". At the same time, they endow some of these other things – computers and "artificial intelligence" with different transferring and transformational possibilities, the ability to operate with the content of things, to perform with it all kinds of actions that cannot be done with real things in principle, that is, to perform with the content of things all those procedures, or at least some which a person commits in his mind, starting with a simple almost really "mirror" (passive) reflection, and ending with their the most incredible transformations for real things. What, for example, takes place in the case of various kinds of modern fantasy variants, in literature, cinema, installations, computer art, and before that in myths. By the way, it is the same thing happening in the consciousness of the cognizing person, creating in his mind different kinds of idealized objects, putting forward hypotheses, creating models and forming theories (Lundgren, 2017). And, what is especially noteworthy, constructing on the basis of these theories, there are completely special and unusual objects, which are not in nature and cannot exist without man, but which then materialize and are embodied in real things and processes.

In modern computers, we are dealing with the preservation of information, the diversity inherent in things in a variety of ways, primarily related to the capabilities of the average person. This refers to the forms, sounds, colors that are inherent in things. But this also concerns the numerous arbitrary actions of a person with things – ideal actions, actions with information analogs of things which are produced in the mind of a person. However, all this are already well-known truths.

Let us concern the correlation of information and specific sciences, information and philosophy and especially the relationship between philosophy and specific sciences, in terms of our accepted understanding of information as the diversity inherent in things. Let us try again, to discuss the question of whether philosophy is a science using this approach. In this case, the question arises if does this apply to any philosophy, or only to a certain kind of philosophy or philosophizing? In our opinion, this issue is more topical than ever. The further fate of philosophy depends on this or that decision of this question, and in many respects also the fate of specific sciences. As we are deeply convinced, the normal development of science, especially modern one, is impossible without direct participation in this philosophy, more precisely, without the participation of the level of philosophical reflection inherent in every developed, serious science, philosophical understanding of all its sides. Such comprehension is always present in science as the question as this interpretation and also who and by what means, what intentions it is engaged with.

Many researchers concern the question of whether philosophy is a science. Today, strangely enough, the question of whether philosophy should strive to adopt the form of science is actively debated. It cannot be in principle a specific science. But we believe the philosophy cannot, with reference, at least to the practice of modern scientific knowledge, avoid develop in itself, assimilate the criteria, norms and approaches of scientific activity. We are convinced that today we need to get used to speaking not so much about particular sciences as about some completed Platonic ideas or monads of Leibniz, but about a united and integral knowledge in which all the so-called specific sciences, philosophy, and all cognitive practices which are characteristic of society areas which do not specialize in cognition. And yet philosophy should not only avoid the scientific form, but often consciously strive for it (Khalin, 2005).

In this paper, we will dwell only on one point. It has been said above that we are considering here the very information, as well as philosophy and specific sciences in their informational quality as well as what they are as specific varieties. In the category of "information" it was said that this issue is a question of the meta-information aspect of information. That is the information as a category concept is some knowledge which, taken in its "living" form, is a certain element of the consciousness of many people. The diversity which is contained in the respective components of the consciousness of all these people is the information contained in the category and in the concept of "information". In other words, the category "information" itself is not information about something else, namely it is information about the very concept of "information".

What can be said about philosophy and specific sciences in their information aspect? As the corresponding types of knowledge, both philosophy and specific sciences are the content of the consciousness of a vast multitude of people as bearers of this knowledge, in particular, scientists, researchers of all kinds, ranks and categories, first of all. As appropriate activities in the formation of this knowledge, their processing and application, specific sciences and philosophy are processes of reflection, including transformation, the diversity presented in a variety of things, particularly, in the objects of cognition, i. e., information, enclosed in things in the form of their inherent diversity (Marx, 1983).

To be a science is to receive, transform and apply information contained in things in the form of their particular diversity according to certain rules, if you will the canons or the criteria of scientific character. Specific sciences strive precisely to follow the same criteria developed by their own representatives, to systematically develop reliable, constantly verified and refined knowledge about certain sides, levels and aspects of reality. Therefore, knowledge is private, not embracing all reality. Who is engaged in developing knowledge about reality in general and how can this happen? The last question is on the nature of philosophy, and in particular the possibility or impossibility of being philosophy as a science. Philosophy, in the person of the first Greek natural philosophers (Thales, Anaximander, Anaximenes, Heraclitus, etc.) arises as the first practice in the history of mankind of reflecting the diversity enclosed in the world around them, in the form of primary abstractions, concepts and categories. It arises as a generalization of the experience at that time (the subject of abstraction) of citizens of ancient Greek polities (Milet, Ephesus, etc.). In the experience, which was generalized by the first philosophers, of course, experience in the form of scientific knowledge did not include. It was still very far away to a science and specific sciences. But there was already a wide variety of specific utilitarian experience about various phenomena of nature, social and spiritual life of people. Accordingly, a philosophy of a certain kind arose. There was a lot of contrived and speculative in it. It is not by chance that the terms "natural philosophy" and "speculation" received in the future numerous negative connotations. But it was precisely philosophy. In it, the first signs appeared of that is inherent in the diversity of all things without exception. There were common signs. But it was started not with the signs themselves, but simply with the statement of existence – the being of things, both material and ideal (the soul), and ending with attempts to express the ideas of the beginning, the parts and the whole, the unified and the diversified.

## **CONCLUSION**

With the appearance of the foundations, and then the actual sciences as such, in a more developed form, in which philosophy took the most active part (philosophy is the mother of all sciences), the philosophical level of mastering reality by man began to proceed more and more from a generalization of experience in the form of knowledge, developed by already specific sciences. Thus, new directions of the philosophical development of reality appeared: at the level of the universal one, at the level of those aspects of diversity (= information) that are actually present in the content of all things without exception, and which resulted from direct generalization, i.e. extract relevant information from the knowledge accumulated by specific sciences. Such a philosophy is the scientific philosophy.

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## NOTAS Y DEBATES DE ACTUALIDAD

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### Synthesis of the Use of Information Technology and Interactive Methods in the Educational Process

*Síntesis del uso de la tecnología de la información y de los métodos interactivos en el proceso educativo*

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#### ABSTRACT

The experience of synthesized use of information technologies and interactive methods in educational activity is considered. It is noted more effective mastering of the competencies revealed by the discipline by students as well as the formation of practical skills and mastering the methodology of calculating the estimated cost of the facility construction. The assessment of mastering the discipline by students was made. The results showed a significant increase in the effectiveness of teaching the economic disciplines and increasing the motivation of students when using software packages and information technologies, which allowed us to recommend their use in the educational process.

**Keywords:** Information technologies in education; interactive teaching methods; software packages; the effectiveness of the educational process.

#### RESUMEN

Se considera la experiencia del uso sintetizado de las tecnologías de la información y los métodos interactivos en la actividad educativa. Se observa un dominio más efectivo de las competencias reveladas por la disciplina por los estudiantes, así como la formación de habilidades prácticas y el dominio de la metodología de cálculo del costo estimado de la construcción de la instalación. Fue hecha la evaluación de dominar la disciplina por los estudiantes. Los resultados mostraron un aumento significativo en la eficacia de la enseñanza de las disciplinas económicas y el aumento de la motivación de los estudiantes al utilizar paquetes de software y tecnologías de la información, lo que nos permitió recomendar su uso en el proceso educativo.

**Palabras clave:** tecnologías de la información en la educación; métodos de enseñanza interactivos; paquetes de software; la eficacia del proceso educativo.

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## INTRODUCTION

Qualitative training of students in modern conditions is one of the primary tasks of the educational process. Employers make high demands on potential employees – graduates of educational institutions, therefore at present the educational process should be close to the production conditions and aimed at maximizing the learning skills and those required in future professional activities. The solution of the tasks in full is not possible only with the use of classical teaching methods, and therefore interactive methods and information technologies are widely used to increase the effectiveness of the educational process.

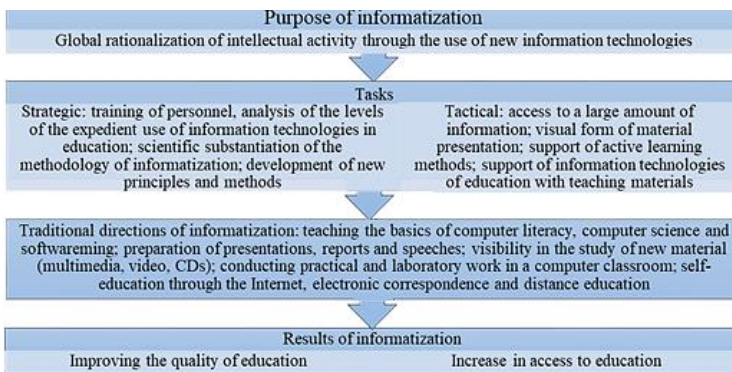
In the context of a decrease in students' interest in engineering and construction directions in the study of economic disciplines it is especially difficult for the teacher to motivate them to work productively in the classroom and mastering the competences discovered by disciplines. The use of simulation of practical situations in the educational process, application of software products and modern information technologies increases the motivation of students and the educational process becomes more cognitive (Shcherbakova, 2017).

Thus, the increase in the effectiveness of the educational process, determined by factors such as student motivation, teacher's professionalism and teaching methods (Mormuzheva, 2013), are also significantly influenced by the means of providing the educational activities and information technologies used in the learning process. In addition, the use of information technology allows simulating the situation and prediction the options for solving the tasks posed and visualizing the educational information, which is important when carrying out assignments for economic disciplines of an applied nature.

## SUBJECTS AND METHODS

Rapidly growing informatization of the society is accompanied by computerization of educational institutions, which ensures the wide introduction of electronic educational resources and technologies into the learning process. Under informatization according to the interpretation of the UNESCO Institute for Information Technologies (Badarch, 2014), the application of methods and means of collecting, storing and disseminating information on a large scale, systematizing existing and forming new knowledge for the purpose of their application to management and further improvement and development is meant. It is possible to single out the main elements of the informatization process in accordance with the position of T.E. Platonova (2012), which was reflected in Figure 1.

**Figure 1: The main elements of the informatization process**



The introduction of modern information technologies into the educational process and the formation of tasks, which solution involves the use of software packages and a certain level of independent participation of the learner, contributes to a change in the interaction and relationship between the teacher and the student. In this case, the student, previously an object of training, becomes an equal subject of that, and the teacher becomes the organizer of the educational process.

The most interesting example of such training is the synthesis of interactive teaching methods (case studies) and information technologies in the teaching of economic applied disciplines for students of engineering and construction training directions. Case methods (case technology) are one of the most frequently used interactive teaching methods. Case-technology is considered to be an active training method, oriented towards independent, conscious participation by the student in his training, gaining new knowledge, mastering professional competencies and skills (Igonina, 2015). The case assumes the student's consideration of a simulated real situation, which can arise in production conditions, with a problem formulation, both package and private (Telnov, 2015).

As conditions for the effective application of case-methods are:

- description of the problem situation;
- availability of educational and methodological materials providing for the students' independent work;
- control and correction by the teacher of the decision-making process by students in relation to the problem posed.

When studying by students trained in the direction 08.03.01 "Construction", on the training software "Roads...", economic disciplines "Pricing and Estimates in Construction" and "Branch Economics", case technologies and information technologies in the system are applied. So, practical classes on "Pricing and Estimates in Construction" are connected with laboratory studies and subjects of the course work on the discipline "Branch Economics". Within the framework of both disciplines the case developed on the topic "Forming the estimated cost of construction products" is solved, but only on laboratory work the students also use the "GRAND-Smeta" software package, in which the necessary calculations are carried out, which corresponds to the definition of the cost of facility construction at enterprises investment and construction package. According to the typology of case studies, it is a case of an applied nature, teaching the assessment, analysis and decision making. The mentioned developed case includes:

- a set of tasks within the framework of the indicated problem or task, which are simultaneously sources of information for solving it. The specified tasks are reflected in various design solutions implemented in the field of road construction in modern conditions;
- options and ways to solve the indicated problem or task;
- control questions which allow analysis the results and choose the optimal solution.

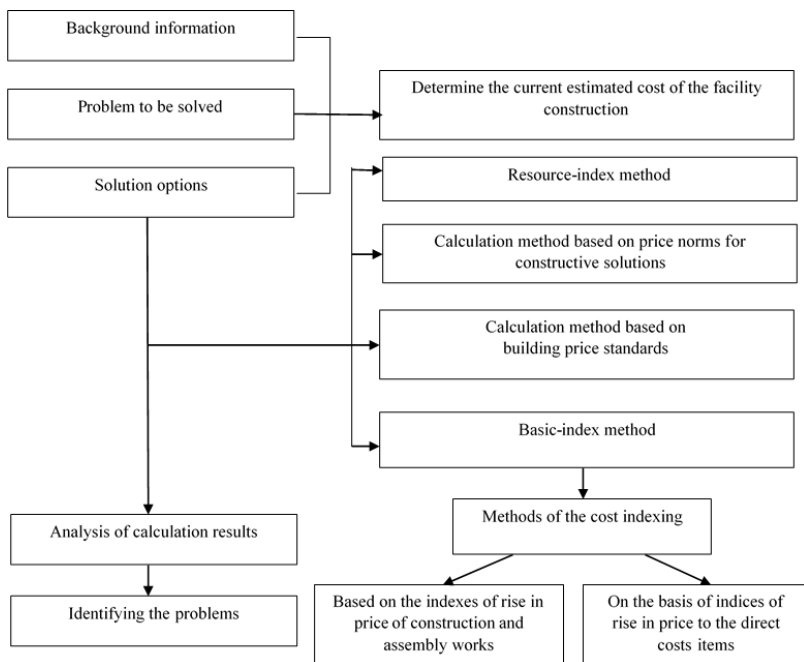
When solving a case in a practical lesson, students are engaged under the strict guidance of the teacher. When laboratory and course project work, the main activity of the student is the independent activity, which is directed and supervised by the teacher. When performing the laboratory work, students are engaged in the software package, using the developed methodological support. Execution of the course project is carried out on individual variants in the software package by the student independently, with the purpose of fixing the technique of mastering certain skills in calculating the estimated cost of the facility construction, obtained in practical and laboratory classes. Course design also has a methodological support.

The purpose of the case is to master by students practical skills in the alternative substantiation of the cost of facility construction using modern information technology and the formation of primary accounting documentation for capital construction (Ostapchuk, 2017).

The developed case-method includes four stages (Figure 2) (Ostapchuk, 2017):

1. Obtaining of initial information and its analysis;
2. Performance the necessary calculations to determine the estimated cost of the facility construction in the GRAND-Smeta software package according to alternatives options under consideration;
3. Analysis of the results obtained, aimed at solving the indicated problem, achieving the task posed;
4. Substantiation of the chosen variant for the achieving of the goal, discussion of the results obtained, identification of the problems and evaluation of the work performed.

**Figure 2: Case structure "Formation of the current cost for a highway construction"**



As E.G. Ostapchuk, in the process of working with cases and in the GRAND software package the trainees assess the adequacy of regulatory support for the implementation of methods for estimating the cost of construction products, the merits and demerits of the methods used, the preference for methods to objectively determine the level of the estimated cost of construction products, which predetermines the analytical and research type of the developed case (Ostapchuk, 2017).

A similar example of the effectiveness of integrating information technologies and interactive teaching methods in the educational sphere is the fulfillment of final qualifying work by students. For students in the engineering and construction training directions, the final qualification work is a project which the student develops completely from the green field. Preparation of final qualifying work in this case is also made on the

basis of the implementation of one of the interactive methods, the project one. When preparing engineers, V.V. Pak (2016) also notes the extensive use the project method in the course and diploma design projects.

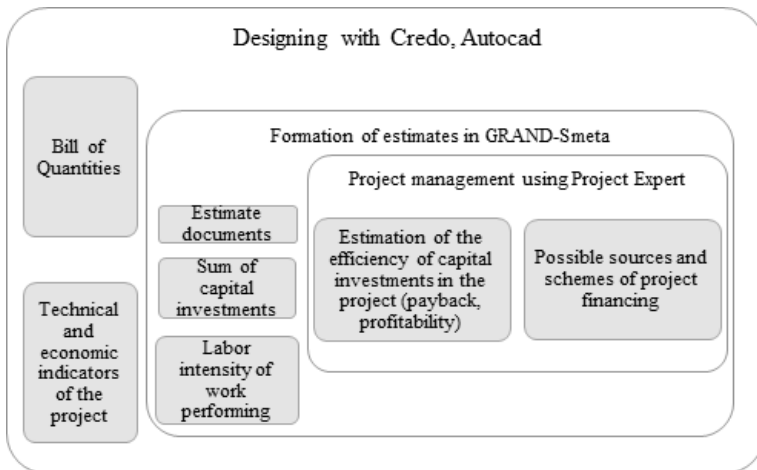
In accordance with the definition of E.S. Polat (Polat *et al.*, 2008), the project method is considered as the method of achieving the didactic goal through the detailed development of the problem (technology), which must end with a very real, tangible practical result, designed in one or another way (Telnov, 2015).

When carrying out the feasibility study of the design solution presented in the final qualifying work, i.e. implementing the project teaching method, the students of the training direction 08.03.01 "Construction" use various software packages. And the result of work in one software is the initial information for work in another software package.

So, students design a construction facility using the software packages CREDO, AutoCAD, which allow calculating the amount of construction and assembly work for the facility construction. Volumes by work types become the initial information for determining the amount of investment in the facility construction, which is calculated in the software package "GRAND-Smeta". Further, the results of calculations, namely, the size of capital investments, are taken into account when assessing the project's payback and its profitability. The payback and economic feasibility of the project can be estimated in the Project Expert software package. And the work complexity, determined from the estimates, is the basis for drawing up a work schedule on the construction site and its optimization.

The process of using the obtained information based on the results of applying certain computer software for calculations in other software packages when performing the final qualification work is schematically shown in Figure 3.

**Figure 3: Synthesis of software packages used in the educational process**



Formation of case studies carried out with the use of software products in the relevant disciplines and the availability of the developed methodological support allows the students in the learning process to obtain the necessary skills for working in software packages and for carrying out calculations. Moreover if they independently perform the final qualification work, they should reproduce these skills (Dvoretzkii, 2003).

In this case, the level of training of a graduate of an educational institution is much higher, since he/she owns modern information technologies. The employer is interested in attracting such graduates, since it reduces the costs of training a new employee at the beginning of his professional activity.

## RESULTS

As part of the study of applied economic disciplines, students acquire practical skills in the GRAND-Smeta software, namely:

- work with normative documents and application of estimate-normative base;
- formation of estimate documentation and accounting forms for completed construction and assembly works;
- selection and application of the optimal method for determining the estimated cost in the existing conditions;
- estimation of volumes and types of resources consumed in the performance of construction and assembly works
- calculation of the contractual estimated cost of works (contract price) for the facility construction.

As a result of the integration of information technologies into the educational process using case studies and the design method of teaching, the following results can be noted:

- students form the knowledge, skills and abilities in economic disciplines, they acquire certain competencies, discovered by the discipline, necessary for the implementation of professional activities in the future;
- students develop visual-figurative, creative, constructive thinking;
- the students form and develop the spatial imagination and representation of objects
- a high level of motivation among students on engineering and construction areas of preparation for studying economic disciplines is maintained;
- students get skills in working with information perceived from software packages, its further processing and use;
- students receive a knowledge base that meets the current requirements of employers for potential employees – graduates of educational institutions.

## CONCLUSION

Modern education provides intensification of the process of education, the implementation of developmental training, the transition from the mechanical learning, refining the content of training, improving the forms and methods of organization and management of the learning process, thereby ensuring the level of training today's students, future specialists and their readiness for harmonious existence in society. With the development of information technology education linked changes in education.

Educational activity based on the synthesized application of interactive methods and modern information technologies, facilitates the acquisition of practical knowledge and experience by students in the most optimal and effective form for them that is through the performance of a certain type of activity that is as close to production conditions as possible. This makes it possible to solve the problem of qualitative training of students and increasing the effectiveness of the educational process.

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## NOTAS Y DEBATES DE ACTUALIDAD

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### The Role of Information and Informational and Communication Technologies in Modern Society

*El papel de la información y las tecnologías de la información y la comunicación en la sociedad moderna*

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#### ABSTRACT

The article presents the results of a study that determines the role of informational, communication and computer technologies in the development of modern society. The problems of the influence of informational, communication and computer technologies are considered in the framework of three theoretical and methodological approaches: technocratic, information and informational technology recognizes as a means of optimizing production and increasing labor productivity; humanistic, information is considered as one of the resources that have a positive impact on the development of all spheres of life; techno-pessimistic, information, informational and computer technologies are considered as weapons directed against humanity.

**Keywords:** Informational technology; intellectual environment; stability factor; threat to humanity.

#### RESUMEN

El artículo presenta los resultados de un estudio que determina el papel de las tecnologías de la información, la comunicación y las tecnologías de computador en el desarrollo de la sociedad moderna. Los problemas de la influencia de las tecnologías de la información, la comunicación y la computación se consideran en el marco de tres enfoques teóricos y metodológicos: la tecnología tecnocrática, la información y la tecnología de la información se reconoce como un medio para la capacidad de producción y el aumento de la pelea laboral; humanista, la información es considerada como uno de los recursos que tienen un impacto positivo en el desarrollo de todas las esferas de la vida; las tecnologías tecno-pesimistas, informáticas son consideradas como armas dirigidas contra la humanidad.

**Palabras clave:** Tecnología de la información; entorno intelectual; factor de estabilidad; amenaza a la humanidad.

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## **INTRODUCTION**

The problem of transmission, processing and preservation of information has been and still remains relevant throughout the human history. In ancient times, rock carvings were used as information, and cliffs, cave walls served as information carriers. The fundamentals of the scientific theory of information were laid by K. Shenon, who views information as "the removed uncertainty of knowledge about something" (Shenon, 1963). Among the set of definitions, the most common one is the definition by N. Wiener, in the interpretation of which, information is the exchange of messages, it is "the content of material obtained from the outside world in the process of adaptation of a person to it" (Wiener, 1983). In the broadest sense, information is data about the objective world received by a person in the process of cognition, transmitted through signals, symbols, and signs. Within the framework of the informational concept, the phase in which modern society is located is called the information.

Having entered the information age, the society actively uses information and communication technologies, automates and robotizes all branches of production, creates an integrative communication system, improves information sources and carriers, which led to its radical transformation. With the formation of the information society, an information and communication and economic space was formed that transformed information into one of the most important resources for the development of society. The active introduction of information and computer technologies, spread of information and communication networks, contribute to the formation of a global information and communication environment that covers the entire planet. Information and communication space is gradually becoming the medium of information influence on the mind of the masses. Influenced by information and computer technology, the structure of society is radically changing, and communicative relations are undergoing changes. The active spread of information, communication and computer technologies and their impact on society is becoming one of the interdisciplinary research problems, since it is directly related to the problem of the future of humankind.

## **SUBJECTS AND METHODS**

In characterizing modern society, the concept of "information society" is widely used, which was introduced by a scientist from Japan Yu. Hayashi in 1969. The concept of the information society developed gradually, forming the scientific direction "information philosophy", exploring the problems of applying information-theoretical and computing technologies to the problems of philosophy. In modern society, the issues of transfer and preservation of information and its impact on public consciousness are especially relevant. The philosophical concept of the information society as a result of dialectical analysis of social, cultural, technological foundations is the basis for the development of information and informational technologies. From a philosophical point of view, the entire objectively existing world has an information structure. Information, embodied in knowledge, or in technology, becomes a product and a reflection of social being, having a certain impact on the public consciousness.

The research is based on the principles of the system approach, due to which the information society is considered as a system. The information concept is based on the following statement: information is a universal category that is the basis of the existing reality (Dyatlov, 1995). To study the information society, the methodology of scientific research is used, the basis of which is the method of information content analysis. The use of this method allows revealing the patterns of development of information technologies and their influence on the dynamics of socio-cultural processes.

## **RESULTS AND DISCUSSION**

A characteristic feature of the modern information society is the growth of knowledge, the transformation of information into the main subject of human labor. Today, it can be confidently stated that in the era of information technology and high-tech production, information production becomes one of the types of manufacturing industry, and science becomes a productive force. Informational society is based on information and a well-developed network of services. This has affected all spheres of society: education, health, cultural institutions, whose members either receive or provide information, transferring their knowledge as a service. Rapid development of Internet technologies has opened new ways of organizing business relations at different levels. Through the Internet and web technologies, new ways of financial calculations, electronic payments appeared, as well as the ability to make purchases, receive various services. Information and communication technologies are used as a means of intercultural communication, which has broadened the opportunities for citizens to communicate with each other throughout our planet on forums, websites, and blogs.

The use of information and computer technologies enhances the ability of citizens to participate in municipal or state governance, makes it possible to assess events happening in the country and abroad. According to sociological research, approximately 50% of Russia's population are covered by information and communication. It should be noted that residents of some regions and remote settlements do not have the opportunity to use information technology. This creates prerequisites for increasing the political, social inequality of citizens. In this regard, the Government of the Russian Federation created the program "Electronic Russia", the main purpose of which was to overcome information inequality, granting the citizens a right to access information and communication networks. This program was implemented until 2010, and, in general, certain results were achieved. During 2002-2010, pilot projects were implemented, infrastructure was formed, the information and communication network was expanded. Informatization of public administration was actively carried out, information technologies were introduced into production, points for collective use of the Internet were created, and personnel were formed and developed. During this period, electronic document management programs were implemented, government portals were created, where citizens of the country could obtain the necessary information, apply, and make an offer.

With the development of telecommunications and the Internet, it became possible to integrate them into educational activities. One of the large-scale projects implemented in life is distance learning. The use of information and communication technologies makes it possible to carry out the process of interaction between the teacher and students at a distance. Two kinds of educational technology are the most developed: synchronous and asynchronous. The most common synchronous technologies include webinars, on-line lectures, on-line consultations. Efforts are focused on the creation of audiovisual texts. Asynchronous include electronic textbooks, virtual laboratories, computer simulators. To check knowledge, testing is used: to fix knowledge, electronic statements, journals are used. Distance education provides an opportunity to get education for people with disabilities, and those who live remotely from large cities, or who are on long expeditions. Particular attention is paid to providing educational institutions with multimedia, electronic and information resources.

To date, most of the projects have been implemented. Local, regional networks are being introduced, the global network is being improved. Russian specialists are working to implement programs that ensure the security of personal information of citizens and the information security of the state. Also, developments are under way to create programs that provide censorship, control over information placed on portals and Internet sites. Work is in progress on active implementation of information, computer technologies into production.

In philosophical discourse, there is no unified approach to assessing advances in information and informational technology. A huge layer of research of the problems of information, communication and

computer technology is composed of works that have two vectors in determining the assessment of the qualitative changes taking place in the modern informational society under their influence. Supporters of technological determinism D. Bell, E. Masuda, N. Moiseev consider the information society as a new stage in human evolution, a new type of communication links. They idealize the newest technologies, considering information technologies as the determinative factor of the progress of the world civilization. According to them, it is information-communicative and computer technologies that contribute to the positive dynamics of social development.

The opposite position is taken by K. Jaspers, A. Peccei, who deny the potential capabilities of technology and information and communication technologies in social progress. They call technics and information technology a factor that determines the instability of modern society. They voice the idea that all the processes associated with the active implementation of technics and technology are humanity's doom. A. Peccei (1985), M. Castells (1999), E. Toffler (2010), believe that current technology is turning into an uncontrollable factor, bringing a modern society closer to the point of bifurcation, capable of destroying humankind.

In contrast to them, the supporters of the theory of the information society J. Masuda (1997), A. Popov (2007) believe that all the positive processes of the development of society are caused precisely by information and communication technologies and computer technologies. These researchers argue that the information technology improves due to the needs of material production, and the accumulation of information is an indicator of social progress. They call information the main value of modern society, capable of acquiring the significance of value. We agree with W. Martin (1993) that the quality of life has changed under the "influence of achievements in the field of information", the prospects for social and economic development have been opened, and the standards of work and rest have changed.

In modern society, information becomes an industrial product, and its production is one of the types of industry. Information and informational and communication technologies are becoming one of the sources of labor productivity and power. People have access to an unlimited amount of information, knowledge of which allows them to build communication with the entire international community. Knowledge of certain information makes it possible to control the society, to influence the public consciousness. In modern society, a new type of information culture is formed, called the "screen culture" of communication, which allows one to conduct a dialogue with people living in all parts of the world. "Screen culture" contributes to the formation of thinking, harmonization of the inner world. The information environment creates conditions not only for intellectual development of a person, but also for acquiring a new type of activity, improving the financial situation, it allows people with disabilities to adapt socially. Due to the implementation of new technologies, the contradictions between production and consumption are gradually eliminated; the structure of employment is changing. "Electronic cottages" (Toffler, 2010), become a reality, transferring working places from the office to your home.

In modern society, due to the wide implementation of information and digital technologies, progress has been made in all branches of science and production, the latest technologies of augmented reality become widespread. The technology of augmented reality is the projection of various information: texts, video, graphics, audio-material on top of the real-time screen in real time. The term "augmented reality" was proposed by the researcher T. Codelet in 1990, which means some space between reality and virtuality. Augmented reality is the implementation of virtual information, perceived as a part/element of real life, into real life. Augmented reality is represented by portable devices, stationary devices (glasses, helmets, smartphones, suits, printers), that are actively entering the entertainment industry, into production. Projection systems that do not require powerful screens, imposing an image on any surface are actively used. Using the augmented reality in production allows one to present information in the form of three-dimensional graphics, animation, and video. In production, this allows ensuring the safety of labor,

increasing labor productivity, shortening staff training time. Augmented reality is used in large concerns at aircraft, cars and other large-sized objects assembling, which reduced the time for assembly, reduced the number of errors, and therefore increased the quality of products.

The introduction of information and computer technologies contributes to the active development of the world economy, formation of the world financial system, electronic labor exchanges, which influenced the formation of a global information society. This is confirmed by the existence of a "World Wide Web" (Internet, Skype, e-mail), allowing at any time to contact the organization or person living anywhere in the world. Digital processing of various sources of information, the process of information exchange has no spatial and geopolitical boundaries, contributing to the interpenetration of cultures, which does not allow preserving the identity of the culture of individual ethnic groups. Information and computer technologies contribute to the creation of cyber space, as a tool for manipulating people's consciousness. The Internet is often used to propagate distorted, falsified information in order to manipulate public consciousness. On the Internet, the information is transmitted in the mode of interactivity and in the absence of censorship. A person, having received it, independently processes, evaluates, falling under the influence of propaganda ideas, changes the system of values, mindset. With the formation of a global information environment, hacker attacks and cyberterrorism are actively used, creating the opportunity for information wars against any state. Information wars use the global information environment as a battlefield, processing and falsifying information.

So, the active implementation of information, communication and computer technologies into the life of modern society is ambivalent in its nature. There is no doubt that implementation and spread of information, communication and computer technologies in modern society has brought a lot of positive, in particular:

- 1) new structures were formed with new ways of providing information: e-government, public services, digital and interactive television, electronic document turnover, e-mail, which allowed to optimize the activity of these structures;
- 2) information has a positive impact on modernization processes in the social sphere, politics, culture; becomes one of the main resources of economic development;
- 3) computerization of industries, and other areas has allowed to optimize their activities, increase their productivity;
- 4) new professions are being formed: analysts, programmers, web designers, involved in collecting, processing, transmitting information;
- 5) spread of information and computer technologies has made it possible to create contacts between partners, which saves their time and resources;
- 6) information technologies have changed traditional activities (private business at home, "electronic cottages" (Toffler, 2010);
- 7) information becomes one of the basic values of modern society. Knowledge and information become the main factor of the economic well-being of society, and, consequently, a factor of stability and sustainable development of society.

Noting the positive dynamics in the development of modern society, one cannot but note the negative manifestations that arise in the process of active implementation of information technologies:

- 1) information, informational technologies become a factor in the globalization of society, creating a single world information space, the global economics;
- 2) television, mobile computer networks providing information to the inhabitants of the planet, standardizes the language, thinking, which leads to a decrease in the intellectual level;
- 3) spread of uniform (identical) information leads to the unification of mass consciousness;

- 4) lack of ability of the younger generation to filter out information becomes the reason for the formation of imaginary values (simulacrum);
- 5) negative information spreading in the information field, contributes to the development of negative attitudes, which neutralizes the moral and ethical principles, changes the mindset;
- 6) a negative manifestation is the Internet addiction leading to the violation of interpersonal relationships, to social exclusion, to health problems;
- 7) information has become a commodity, it is bought and sold;
- 8) the number of crimes in the field of information technology has increased;
- 9) computer games that demonstrate scenes of violence, contribute to the formation of aggression, cruelty;
- 10) longstanding sitting in front of the computer has a negative impact on lifestyle and on health;
- 11) information turned into a weapon of "mass destruction", it is used to spread the ideas of radical nationalism, extremism, religious fundamentalism.
- 12) unauthorized access to servers allows one to hack and disable the electronic control systems of the country, which is aimed at the destruction of states;
- 13) lack of a legislative framework in the field of information technology promotes the spread of indecent material in social networks, the creation of sites dangerous to life.

From our point of view, the solution of the problem can be possible within the framework of three theoretical and methodological approaches:

- technocratic, considering information and informational technology as a means of optimizing and increasing labor productivity;
- humanistic, considering information and informational technologies as one of the resources positively affecting the development of the economics, social and spiritual spheres;
- techno-pessimistic, considering information, information-communicative and computer technologies as weapons directed against a person.

## CONCLUSION

While revealing a number of negative consequences in the process of introduction of information and computer technologies, it should be recognized that it was these technologies that opened new prospects for the progressive development of modern society. Due to the latest technologies, humankind has been able not only to preserve and spread information, but also to use it in solving global problems and predicting the future (Isachenko, 2017). Information as a value becomes one of the regulators that influence the sociocultural changes in society.

In connection with the identified problems, it is necessary to develop a strategy for the further development of the information society and the use of information, communication and computer technologies. We offer the following measures that would minimize the negative influence of information and computer technology on society.

1. Create a legislative framework regulating the activities of the Internet, social networks.
2. All projects that are implemented in the system of information and communication and computer technologies should form the citizens' moral principles, human values.
4. In the process of spread of information, communication and computer technologies, it is necessary to pay great attention to the creation of an "intellectual environment" in the formation of the "information sphere".

In this article, an attempt was made to draw attention to the problems that arise in the process of the active spread of information, communication and computer technologies in the modern society. General approaches to solving this problem were offered.

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### Virtuality as the Ideality of the Information Society

*La virtualidad como idealidad en la sociedad de la información*

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#### ABSTRACT

From the philosophical and cultural point of view, the dynamically changing environment of the information society is considered, in which the tendencies of the emerging ideational culture system of the 21st century are revealed. The concepts of "virtual environment" and "virtuality" are divided. The virtual environment is represented as a technogenic information environment, the virtuality – as an idea abstracted from its technical embodiment and as a space of collective meanings. The ideality of modern society is revealed through three possible models of virtuality, described in the artistic and esoteric literature, as well as presented in feature films.

**Keywords:** Collective unconscious; ideationality; virtual environment models; virtuality.

#### RESUMEN

Desde el punto de vista filosófico y cultural, se considera el entorno dinámicamente cambiante de la sociedad de la información, en el que se revelan las tendencias del sistema de cultura ideacional emergente del siglo XXI. Los conceptos de "entorno virtual" y "virtualidad" se dividen. El entorno virtual se representa como un entorno de información tecnogénica, la virtualidad como una idea abstraída de su personificación técnica y como un espacio de significados colectivos. La idealidad de la sociedad moderna se revela a través de tres posibles modelos de virtualidad, descritos en la literatura artística y esotérica, así como presentados en largometrajes.

**Palabras Clave:** Inconsciente colectivo; ideacionalidad; modelos de entorno virtual; virtualidad.

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## INTRODUCTION

With the advent of the XXI century in the life of modern man, more and more places began to be assigned to virtual environment, characterized by its transfer from real objective environment to the sign environment of various technologies that do not have a natural property reference. The form of existence of virtual environment is the information space, which possesses the specific space-time relations, formed in biological and social systems. This space is a kind of superstructure above the physical space (the so-called noosphere) within which the subject is able to create, transform and consume information.

The concept of the noosphere as the "sphere of reason", the shell of the earth created by the mental activity of mankind, was introduced in 1927 by E. Le Roy, the French mathematician and philosopher bergsonian (Vernadskiy, 2008), developed by P. Teilhard de Chardin and the Russian academician V.I. Vernadsky. The noosphere is thus understood as a new state of the biosphere, to which we are approaching without noticing this, as a phenomenon of a planetary scale in which for the first time a man becomes the largest geological force capable of reconstructing the field of his life with his work and thought (Vernadskiy, 2008) and full of new creative possibilities. The information space of the noosphere is understood by V.I. Vernadsky materialistically, as the formation of the sphere of ideal being, which nevertheless organizes the man's material-transforming activity, and in the great historical tragedy we are experiencing, we have followed the right path that corresponds to the noosphere (Vernadskiy, 2008).

The virtual environment is considered a product of the information society, but it has a long cultural background and is a modification of the previously existing forms of virtuality.

## VIRTUALITY AS A FORM OF IDEATIONAL CULTURE

The appeal to geospatial theories in the system of international relations is due to The term ideationality became widely known thanks to P.A. Sorokin and his concept of social and cultural dynamics, whose central idea is the change and fluctuations of the three culture systems: ideational, idealistic and sensual ones. The filling of the ideational and sensual systems of culture is profoundly different, each of them has its own mentality, its own philosophy, type of religion, forms of art, laws, customs and its system of truth and knowledge. Balanced synthesis of these types is called an idealistic one by P.A. Sorokin (Sorokin, 2006).

The spiritual (ideal) supernatural beginning is the priority environment for ideational culture, and altruism, asceticism and mysticism play a priority role in it. Its opposite is the sensual (sensitive) culture, which is characterized by pronounced hedonism. Modern culture is an agonizing sensory system, but it is this state of extinction that is fertile soil for new shoots of ideational culture.

According to the concept of the Russian religious philosopher P.A. Florensky, the history of culture is a chain of alternating "night" and "day" civilizations, which he conditionally calls "medieval" and "revival" ones. At the heart of the "night" civilization lies the religious cult of God, and at the heart of the "day" civilization is the cult of man. The "night" period is the Middle Ages (or the ideational system of culture, according to Sorokin), and the "day" period is the New Age (or sensual culture). Between the Renaissance and the Middle Ages lies the period of destruction of the system, first internal, then public. XX century, according to P.A. Florensky, is a "degeneration" when culture is "on the threshold of a new Middle Ages" (Florenskiy, 2000).

If the XX-XXI century represents a crisis of sensual culture or the "degeneration" of the day civilization, then how can the ideality of modernity manifest itself?

A fertile ground for new shoots of the ideational culture of the 21st century was the dawn of the technogenic information society, which gave birth to a phenomenon like the Internet, replacing an increasing number of our contemporaries the real world. Today, we clearly observe the tendency of "withdrawal" of a personality from the sensible material world to the virtual one. He is less interested in consumption, in spite of the fact that society continues to impose immersion in the world of things and position itself, as "I am that what

I have". Escaping from environment, a man of the 21st century creates a new virtual world for himself where he tries to hide himself in a sink from intrusive calls for sensual hedonism (Rusavin, 2001).

P.A. Sorokin predicted the return of ideality, and today, analyzing the virtualization of the information society, we are convinced of this, revealing in it the pronounced ideological sociocultural tendencies. Modern virtuality is a category traditionally associated with computer and video games. The so-called, secondary environment created by means of computer modeling. But the term "virtuality", as noted by J. Borgos, became known in philosophy since the thirteenth century. It belongs to Thomas Aquinas, who asserted that after the destruction of the combination of the soul and the body, the potencies of the second kind, which constitute the beginning of the functioning of the sensory and vegetative parts of the soul, cannot remain, but they remain in the soul virtually as in their original or root (Borgosh, 1975). Therefore, before the appearance of technogenic computer technologies, virtuality was understood as an object or state that does not really exist, but can arise under certain conditions (Sorokin, 2006).

With the ontological approach, virtuality can also be considered as a potential state of being, with a certain active principle present in it and a predisposition to the appearance of certain events or states that can be realized under the appropriate conditions. That is, not as a reality, but as an opportunity.

In physics, for example, virtual particles are called those having the same quantum numbers as real particles, but for which the relationship between momentum, energy and mass is not fulfilled (Sorokin, 2006). These particles are carriers of the interaction that facilitates the transformation of real particles, i.e., a process that causes similar particles to occur in intermediate short-lived states, and virtual particles cannot be detected experimentally (with the help of an observer).

However, the environment created by means of computer modeling exists. It is already created as a result of programming electronic devices, and the user can enter it and immerse there. And this will be using, communicating or otherwise interacting with an already existing object of environment, but not creating it anew in your mind. In this case, the subject will not distinguish between things and events of the real and virtual world: the world is given to him directly in his sensations, and they are at this level indistinguishable (Sorokin, 2006). The virtual environment characterizes the state of consciousness, that is, it is secondary, or subjective environment. Thus, it differs from objective environment, including from the world of our daily life.

Therefore, the virtuality is understood as one of the aspects of the formation of the real being. Such an environment is created due to the interaction of individual consciousness in this or that information field, forming some kind of ideational virtual culture. From a similar point of view, virtual environment models that occur in psychology, aesthetics and in spiritual culture in general should be considered.

## ***VIRTUAL ENVIRONMENT MODELS***

A modern man, in order to preserve the ability of orientation in the artificial environment of countless information technologies, is forced to adapt to the heterogeneity of local meanings, truths and norms surrounding it. He also has to constantly adapt to the new, because the environment of his dwelling, the life path, landmarks and the very meaning of life vary according to the rapid changes in the symbolic information consumed by him.

In the concept of S.S. Khoruzhy the virtual environment is a disembodied anthropological environment that has not received a part of the properties of real, full-scale environment, as if swirling around environment of a full, non-virtual experience. In modern virtual strategies, he believes, the power of disinhibition of form-building and structural inferiority is realized (Khoruzhy, 2002).

Ontological concept of virtuality of F.I. Girenk is built on the knowledge of the elusive being of man. Really existing person is the ultimate person, in contrast to which virtual "excess" person (non-existent in objective environment) acts. But in every real, finite person there is a virtual side of a place for the unrealizable, which

was once called the soul, but today has turned into something empty. Being empty, the place of the unrealizable can be filled in two possible ways. In the first case, the emptiness of the soul is filled with a feasible that is conditioned things with properties (alcohol, drugs or aggression). In the second case it is filled with a virtual content based on the effects of modern information technology (Girenok, 2002).

If we follow the evolution of the development of virtual models of environment, then the first one can be considered as a traditional fantasy model that originated in the period of primitive society, when people worshiped the elements, totems and nature forces, explaining them with the help of myths and legends. Today this model has survived in some literature genres (fairy tales, fantastic, fantasy, etc.), in role-playing games of live action, in verbal and desktop story-role games.

A virtual model of the direct contact appears almost simultaneously with the first one and is associated with ritual practices of primitive magic and religious worship (meditations, prayers, shaman practices, etc.). K.G. Jung associated such actions with the concept of collective unconscious (Jung, 2006). Nowadays it is realized in religious and extrasensory practices as well as various kinds of meditations.

Interest in these practices arose at the end of the XIX century. So in 1888, E.P. Blavatskaya wrote "The Secret Doctrine", a work that has the subtitle "Synthesis of Science, Religion and Philosophy". The doctrine of E.P. Blavatskaya set out to unveil the unified basis of all religions, to indicate to man his rightful place in the universe, to affirm the universal divine principle – the Absolute, according to which the Universe, not being created, unfolds of itself, from its own Essence (Blavatskaya, 2004).

The continuation of Blavatskaya's ideas was made by E.I. Roerich, the author of fourteen books of "Living Ethics" – the religious and philosophical teachings of Agni Yoga, which is a synthesis of all world religions and the yogi. Agni Yoga united the occult and theosophical tradition in the West and the Eastern esoteric practices and justified the reincarnation of the immortal soul. The purpose of the teaching was to stimulate the evolution of mankind to ever higher forms of cosmic being of the infinite universe.

K.G. Jung was fascinated by mystical practices, sincerely trying in his studies to find all the real and mystical connections. Considering the psyche and everything that connected with it (including the immortal soul and God) really cognizable, he sought to scientifically justify it. With his ideas, Jung had a significant impact on the development of modern philosophy and esotericism.

Esoteric ideas underlie the concepts of many professional psychologists, such as S.V. Kovalev, L.V. Klykov, N.I. Kozlov, M.S. Norbekov, A.G. Sviyash and others, interested in self-knowledge, self-development, self-improvement, etc. So S.V. Kovalev develops ideas of the transpersonal psychology of S. Grof, studying the religious experience and altered states of consciousness, combining modern concepts of neuro programming with traditional spiritual practices of the East. L.V. Klykov deals with the study of the phenomenon of man, through the synthesis of consciousness and its products: religion, metaphilosophy and existential experience.

There are new esoteric concepts, the which authors are quantum physicists (V. Zeland "Transference of reality"), the existence of "supernatural" is recognized by well-known mathematicians, for example V.A. Voevodsky, Russian and American mathematician, laureate of the Fields medal 2002, narrating his mystical experience (Podosokorskiy, 2012).

Even doctors are beginning to show interest in the traditions of oriental medicine and esoteric practices. Interest in these practices is steadily increasing both in Europe and in Russia, and this is natural in the light of the expansion of ideas about matter. European medicine has always worked with the real form of matter, but the discovery of the field, as a form of matter, an alternative to matter, has provoked interest in Asian medical systems that act primarily on field forms of matter. This is the basis of the Qigong system with its energy flow along the meridians, and the concept of chakras, and other systems of the East.

The alternative environment, presented in the work of M. Petrosyan, "The House in which ..." (1991-2009), named by the author the "Inside of House", belongs to the same model. This virtual environment was created

by several generations of boarding school children for children, which parents refused. The Inside was created for teenagers themselves, whom the Big World (or Outwardness) did not accept. Inside of their real Gray House, they created a virtual Inside – a place where they can act, decide and take responsibility for their decisions, a place that educators cannot control, because they do not even know about it. It looks like a fairy-tale environment – there are fairy-tale creatures, elves and angels, the blind can see, and legless "carers" can walk. You can get into this environment only when you are in a state of altered consciousness. But at the same time, the Inside is not a product of individual subjectivity. It is common for everyone with access to it, which makes it a product of the collective unconscious House.

Such "products of the collective unconscious" can also be found in other literary works, for example, by Max Fry. Fry has a number of story cycles that are not even related by a common character. Different characters living different lives are named by the same name. But the author connects them as probabilistic models of the same personality. For example, Max from the cycle of Echo books is one of Max's probable destinies from the "Encyclopedia of Myths", which in turn may be one of Max's probable realities from the "Complaint book". Probabilistic models of environment here are not just an artistic device that ensures the commercial success of "continuations". This is an illustration of the infinity and multi variance of a single human life. And if the epic about the adventures of Sir Max in the Echo can be understood as a journey of consciousness, like a journey into a dream world that is much closer than we used to think then the next cycles of Max Fry are a more versatile model of environment.

"The Encyclopedia of Myths" uses the image of Key-keeper, who opens the doors between the worlds. When Max comes to his house, the House at the crossroads of the worlds, the Key-keeper Frank cannot open the door for him. It can only be done by Max himself. But when Max becomes a Key-keeper, the door is opened not by him anymore, but by his companion. The city she created is similar to the city of Max's dream, and he turns out to be their common world open to those wishing to enter. "Complaints book" is a narrative about nakhs that have reached immortality by living alien destinies or their own "unrealized" realities. Nakhis are people with paranormal empathic abilities. Their talent allowed them to live the lives of others, while weakening the emotions of their donors. Nakhis are fed periodically, contriving to "catch the emotional field" of a personality complaining about fate at the moment of hard experiences. Their "key" is the man's acute desire to avoid such experiences. Nakhis willingly "save" a person from painful emotions and at the same time from all others, experiencing it all for him. Thus, the Max Fry models are borderline between the first and second types. They demonstrate the transition from one type to another, from the virtuality to the virtual environment through the collective unconscious.

The third model of virtuality is the technogenic one, a product of the information society. This is a virtual environment, expressed through the sensually-emotional perception of consciousness. For example, watching movies in 3-D, 4-D, 7-D or immersing in computer environment with a virtual helmet and gloves. It also includes various games, realized through the Internet in real time, or on-line games.

The technogenic model of virtuality is illustrated in fantasy novels and feature films. On the technogenic virtual environment they begin to actively write and make films, starting from the second half of the twentieth century. Since this time, this model has managed to undergo an internal evolution. At the beginning of technology, the individual consciousness was influenced through the memory (F.K. Dick, "We'll Recall Everything to You", 1966), the stories of both films "Total Recall" (1990 and 2012).

In later works, the context of social interaction becomes an activity background. For example the Deeptown (S. Lukyanenko, "Labyrinth of Reflections", 1997) created by international corporations "Microsoft" and "IBM" as an analogue of the platform of virtual-computer communication. Instead of visiting sites, users went to different buildings. Their representation in virtual environment was opened by restaurants, banks, corporations and many others (Popov, 2007). Instead of forums users went to special moderated clubs for different types of communication, capable of satisfying a wide variety of human needs. Deeptown is an

exhibition of the "Imaginary Self" and "Desirable Self" (though sometimes carefully masked by the "Real Self"). The entrance is monitored by the IP addresses used, the staying is limited by the threshold of the human psyche capabilities, when exceeding the computer, which provides input through the "deep-program" of immersion, is automatically disconnected. In the event of a system failure, the exit from the "Depth" is carried out by professionals ("divers"), able to enter and exit the virtual environment independently. Deeptown in science fiction is presented as a way of modeling social interactions, which consequences can be transferred or not by the user to the objective environment. And the environment of the Deeptown is created as an image of a collective consciousness, consisting of interacting individual consciousness.

The authors of the American science fiction trilogy, consisting of the feature films *Matrix* (1999), *The Matrix Reloaded* (2003), *The Matrix: The Revolution* (2003), Larry and Andrew Wachowski go further: in their work, all human activities are represented as a model of consciousness created by a series of program shells. The story line of the films is based on the events of the future, in which the environment perceived by people as an objective environment is in fact a simulation (illusion) and created by intelligent machines with the aim of subordinating and pacifying humanity. The trilogy contains a number of philosophical ideas, illustrating the possibility of creating a subjective environment for a single human consciousness (solipsism).

## CONCLUSION

The materialistic worldview characteristic of the people of the 20th century is gradually changing to the idealistic, but it is little like the objective idealism of medieval culture. Modern ideality is associated with the development of computer technologies and information networks.

To date, it is proposed to distinguish between the concepts of "virtuality" and "virtual environment". Under the first are understood the fantasies of the subject, which are not reflected anywhere except his imagination (mainly the traditional fantasy model). Under the second – environment, expressed through sensory-emotional perception, mediated by technical means (technogenic model) or not mediated (model of direct contact).

The technogenic model of virtuality is a product of the information society. This is a virtual environment, expressed through the sensually-emotional perception of a person's consciousness. Technology depersonalizes a person in his virtual world, allowing him to avoid being mediated by a social system, but he cannot achieve real unification with the real world. Technique creates the illusion of this unity, playing the role of an intermediary.

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## NOTAS Y DEBATES DE ACTUALIDAD

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### The Role of Information Technology in the Formation of the Creative Thinking of the Future Engineer

*El papel de la tecnología de la información en la formación del pensamiento creativo del futuro ingeniero*

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#### ABSTRACT

The paper presents the research results on the role of information technologies in the formation of a creative type of thinking. Particular attention is paid to the formation of students' creative thinking at technical universities. The analysis is based on the paradigmatic approach, which allows us to identify the dynamics of educational processes and carries a multitude of heuristic possibilities for analyzing the current state of affairs. The ways and methods of forming the creative thinking by the future engineer are indicated. The formation of creative thinking involves the study of a new type of determination, namely, the teleological one.

**Keywords:** Essentialism; integrity; paradigm; philosophical anthropology.

#### RESUMEN

El artículo presenta los resultados de la investigación sobre el papel de las tecnologías de la información en la formación de un tipo creativo de pensamiento. Se presta especial atención a la formación del pensamiento creativo de los estudiantes en las universidades técnicas. El análisis se basa en el enfoque paradigmático, que nos permite identificar la dinámica de los procesos educativos y ofrece una multitud de posibilidades heurísticas para analizar el estado actual de las cosas. Las maneras y los métodos de formar el pensamiento creativo por el ingeniero futuro se indican. La formación del pensamiento creativo implica el estudio de un nuevo tipo de determinación, a saber, la teleológica.

**Palabras Clave:** Esencialismo; integridad; paradigma; antropología filosófica.

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## INTRODUCTION

A specialist in the technical area in the 21st century should be a subject of modern culture, a carrier of high morality and civic engagement. A high level of professional culture is characterized by a developed ability to solve professional problems, i.e. developed professional thinking and consciousness (Guseva, 2012), note the teachers. The main sign of the developed thinking and consciousness is its creative character.

The formation of cybernetics had a great influence on the improvement of teaching methods, which led to the consideration of the educational process in the "information aspect", i.e. consideration of the possibilities of applying concepts, methods and theoretical regularities of the transformation of information to the educational process of people. At the same time, information is understood as any knowledge, messages, signals and symbols. The information approach to learning required a rethinking of the content and methods of teaching (Bim-Bad, 1994). Now there are many concepts which characterize the learning process using information technology (Laird, 1993). For example, the concept of "learning system", "programmed learning", "step-by-step formation of mental actions" and "construction of algorithm for learning material". These new trends associated with the use of information technology in teaching, require their reflection.

## MATERIALS AND METHODS

The subject of study is the learning process. The subject is the impact on the learning process of information technology. The research methods are theoretical methods: the unity of the historical and logical, the ascent from the abstract to the concrete. Training is a purposeful process carried out by external management of the cognitive activity of the learner, leading to the acquiring of information, the formation and development of his/her cognitive potential. From the point of view of the information approach to learning, it is necessary to consider its both external (information processes that provide a communicative aspect of the system) and internal manifestation (information processes occurring in the head of the learner and not only in the head, but also in the mind).

Thanks to information technologies, a new educational space is formed. As V.E. Guseva notes, the concept of information technology is especially bright when using Internet technologies which promote the formation of a fundamentally new interactive educational environment for learning and communication (Guseva, 2012). In the educational process, it is important not only the information technology itself, but how much it provides development and educational purposes. We believe that in relation to the processes of using information technologies in teaching, it is possible to use the theoretical concept of investigating the dynamics of the change in rationality types, that is, the idea of T. Kuhn about the paradigm of scientific cognition. Since the paradigm as a model and a sample serves to characterize the rational knowledge, it is quite correct to resort to the teachings of V.S. Stepin about global scientific revolutions as a change in the types of rationality.

In the classical period of development of information technologies, the emphasis is placed on them as ways and methods of transferring the information. It is assumed that the use of new technologies leads to a new way of learning. Technologies were attractive, as they facilitated the ways of obtaining, storing and transforming the information. It is often possible to observe in high school that the professor's lecture turns into reading presentations which students have prepared for practical classes. The subject itself is eliminated from the communication process (Ingarden, 1983).

In the non-classical period, information technologies are recognized as a unique way of "feedback", that is, the subject becomes an observer, which determines the effectiveness of communications.

In the post non-classical period, it is necessary to develop a creative environment which will realize the creative potential of each student. Each type of rationality presupposes the formation of a certain type of thinking: the classical type forms a rational-empirical style of thinking; the post non-classical type of rationality

is based on the scientific and theoretical style of thinking, and the post non-classical type of rationality presupposes the formation of lateral or creative thinking.

In the synergetic world picture, information plays the role of order and that the negentropic factor. Accordingly, information technologies serve as a "measure of order" of the educational process. In such a section of physics as thermodynamics, it is customary to assume that order and entropy (a state of disorder, chaos and uncertainty) differ in the number of combinations, which will not change in the state of the system as a whole. According to Boltzmann's theory and entropy formula, the ratio of order and disorder, variability and stability is determined by the formula  $S = k \ln W$ , where  $W$  is the number of different micro-combinations which exist within the macroscopic system and do not destroy it. A certain number of information bits is needed to know the multi-variance of the process, and this circumstance can be expressed by the formula  $I = S$ , but the knowledge of all possibilities of system development is negative entropy or negentropy, which can be expressed by the formula  $N = -S$ ; as a result, we come to the following relation:  $I = -S = N$ .

It is known that every year the amount of information is doubled. Moral and theoretical aging of information is also a problem for education. The use of information technology makes it possible to withdraw the boundaries of the known and unknown as well as expand the zone of proximal development. To operate huge blocks of information is possible only if the student has the skills of philosophical reflection.

As V.V. Nalimov, to understand the intellectual activity of a person in fullness and breadth, it is necessary to assume that all possible senses are initially packed on an unlimited continuum, compressed as pressed numbers on the real axis (Zimbardo, 2010).

The person and the society in which he lives are super complex self-organizing systems, where the information of a special type namely meaning appears. There are many theories of the semantic sphere of human culture, but the most popular in our time is B. Nalimov's probabilistic theory of meanings (Nalimov, 2011). The basis of this theory is the belief that quantum mechanical processes are an analog of thinking processes and allow modeling the formation and evolution of meaning. As an argument, we give the correspondence (Table 1).

**Table 1: Correspondence between Probabilistic model of meanings and Quantum theory of measurements**

Probabilistic model of meanings	Quantum theory of measurements
$m$ is a variable which describes a set of meanings	$q$ is a variable which describes the freedom degrees of a physical object
Some text	Physical object state
$P(m)$ is a probability function that describes a set of meanings	$W(q)$ is a probability function that determines the parameters of the probable position of the particle

The use of information technology involves "folding" a huge number of information bits into meaning, that is, in other words, operations with information (storage, transmission and transformation) assume the semantic structure of the educational process. In order to clarify the mechanism of this process, let us turn to the concept of V. Allakhverdov. He distinguishes between the superficial and basic contents of consciousness. The idea, frankly speaking, is not new. We can remember the research programs of I. Lakatos. In the base layer there is information which was received, but at the moment it is not realized. The opposite surface layer works with the information which it only received, which is new and changeable. But, interestingly, consciousness works only with information which constantly changes. The content of consciousness cannot remain unchanged, as V.S. Allakhverdov (Allakhverdov, 2000). Information technology contributes to meeting this need. Consciousness "plays" with meanings, creating new ones. This is also the task of visualizing the information.

The most important feature of new information technologies which determine the revolutionizing impact on the learning process are new opportunities for providing the educational information in the form of images. The visualization of information allows us to represent the connections and relationships in the process under study, the trends of their development, which activate imaginative thinking, playing an important role in the cognition of reality (Guseva, 2012).

In general, pedagogy often meets a one-sided approach, for example, to the development of the intellect especially when it comes to the use of information technologies in educational process. It may appear that only the cognitive functions of the human psyche are developed. Such a philosopher and psychologist of the "Russian Abroad" period, Vasilii Vasilievich Zenkovsky, examines in detail the problem of the absolute priority of the cognitive approach in the educational system in the paper "On Pedagogical Intellectualism", published in the journal "Russian School Abroad" in Prague in 1923. He sharply negatively assesses both pedagogical and ethical intellectualism in philosophy, psychology and pedagogy and believed, that as a general pedagogical principle, this faith must be rejected without any hesitation. We must learn to look bravely in the eyes of the truth, do not be afraid to admit that the process of spiritual maturation is extremely complicated. The learning processes, and indeed the growth of intelligence goes somewhere "upstairs", in the bright and spacious part of the soul, and from the dark bowels of it arise such complex and strange movements (Zenkovsky, 1993).

In creating the classification of types of educational strategies and the study of their dynamics, we rely on the research of I.N. Stepanova, who uses a paradigmatic approach to the analysis of education and the principle of essentialism. She writes that the paradigms of philosophical-anthropological essentialism are regarded as generally accepted in the community of philosophers of different historical epochs of representations about the essence of man and at the same time as models for solving the main problems that make up the content of philosophical anthropology" (Stepanova, 2006). Relying on the idea of V.S. Stepin about global scientific revolutions as a change in the types of rationality, we, following the author of the study "Philosophical-anthropological paradigms and their role in the development of education" believe that every historical period of understanding the nature of man and his/her development is associated with a certain type of rationality. In philosophical anthropology, analogous to the scientific knowledge, there are classical, non-classical and post non-classical types of rationality. The meanings of universal universes which form a categorical model of the world in their connections are found in all cultural fields of a particular historical type in everyday language, in the phenomena of moral consciousness, in philosophy, in religion, in the artistic world mastering, in the functioning of technology and in political culture (Stepin, 2001). So V.S. Stepin notes such a culture feature that manifests itself in the resonance effect of new ideas. The same resonant interaction is characteristic of philosophical and pedagogical culture. The philosophers, culture experts, and historians noted the resonance of various spheres of culture in the period of the formation of new which that have a philosophical meaning, while analyzing the various stages in the development of science, art, political and moral consciousness in a synchronous section (Stepin, 2001), as Stepin in his article "Culture" in the philosophical encyclopedia. Consequently, pedagogical culture may also be classified as classical, non-classical and post non-classical. So, the classical type of rationality treats the nature of development as socialization and interiorization, whereas the non-classical type – as actualization and self-transcendence.

## RESULTS AND DISCUSSION

Within the framework of anthropological essentialism, classical, non-classical and post non-classical types of rationality are possible. For the post non-classical type of rationality in pedagogical thinking and culture, there is inherent recognition of multi-factority, non-linearity, self-organization, openness and dialogism of the pedagogical process. All these characteristics get a new sound in the context of programming training or use in the teaching of information technologies.

A distinctive feature of the post non-classical type of rationality is methodological and theoretical pluralism. In modern science this type of rationality finds its expression in synergetics and in the theory of self-organization. Under the self-organization, we mean the process of the system structuring managed from within of this system (Krivikh, 2002). The ideas about development, which exist today as a completely controlled, algorithm structured and projected process, come into conflict with the synergetic approach with its non-linearity, variability, paradoxical feature and unpredictability. But this contradiction indicates the need to develop new views on education. As S.V. Krivykh, the synergetic approach will allow to consider all the connections and relationships which the child enters into in the process of development. Considering the process of formation of the child's personality as a process of self-organization and self-development, it is necessary to bear in mind the contacts and inter-action of this child with the external environment (Krivikh, 2002). The opportunities for self-organization and self-development are increasing in the process of using the information technologies.

What is the value of synergetics in the approach to development and education? Can such a paradigmatic approach reveal new aspects and goals of informatization of education? We believe it can! First, it is its human dimension, as the comprehension of all the wealth of the world and culture is associated with the comprehension of the man's inner world of. Secondly, synergetics will allow us to overcome the opposite trend in the processes of education and development. Thirdly, it will allow not to be afraid of life, for example, of chaotic, unstable states, but to perceive the chaos of life as a necessary creative character of development. This is especially true for programming training or use in the teaching the information technologies. Fourthly, the value aspect of synergetics lies in the hope for the best and personal responsibility of everyone for the future of the country and all mankind. Perhaps the most important thing is that in synergetics a new type of relationship between pupil and educator is born.

What is the heuristic role played by the appeal to the types of rationality and to global scientific revolutions? What does such an approach for analyzing the role of information technology in education and training give us? In the post non-classical world picture, information plays the role of order in relation to the whole system. The post non-classical type of rationality allows us to look at the role of information technologies in the educational process. For example, the idea of integrity, as the ideal of any classical education, in the center of which there is an integral personality, and not a one-dimensional person.

As I.A. Bulgakova, a lot of interpretations of anthropological integrity in modern philosophy can be distinguished. But, in our opinion, the following concepts are particularly bright: a) an integrative essentialism, which is developed by I.N. Stepanova; b) energetic anthropology developed by S.S. Khoruzhy; c) ontological anthropology developed by Yu.M. Fedorov. In modern philosophical systems, there are different sections of the study of integrity, its nature and character (Bulgakova, 2015; Bulgakova, 2016). A new type of integrity allows a person to be inside the system, but not outside. Loss of integrity leads to self-estrangement, for example, if the development of intellectual and cognitive structures becomes dominant as well as if a part becomes more important than the whole. The payment for unilateral development is the alienation, and after it the regression and spiritual degeneration of the individual.

An important determinative factor of mental activity is target determination. This is a special type of determination (determination by the future), which is present in constructive thinking and in which social needs and interests are expressed.

The concepts of "goal" and "whole" are etymologically related, which can be traced in terms of "teleology" and "teleonomy". Synergetics creates a new type of holism. A synergetic approach to a person is a holistic approach, so (Kurdyumov, 1994). According to N. Wiener's remark, any system carries a goal. In domestic anthropology, the integrity of the inner world of man is set by spirituality, which focus is the heart. The "heart" in Russian philosophy conceptually acts as a form of contemplative comprehension of the world, being the focus of the spiritual integrity of the individual and his/her freedom. It determines the behavior of the individual. In contrast to abstract rationalism, which creates a world without will, without love, according to one logical necessity, the heart constitutes actions freely, as P.D. Yurkevich. The philosopher recognizes moral value only for actions which emanate from the free movement of the heart and from the love of the heart to good. Therefore, the act of the heart, without canceling the idea of causality, represents the manifestation of the personality in itself, from his/her spiritual nature, and not under the influence of a naked rational idea (Khoruzhy, 1994).

In the context of Russian culture, spirituality is the main system-forming factor and a measure of order which structures the entire inner space and harmonizes the relationship of man with the world. The creative process is conditioned by multiple factors, dominants and determinants. It can be spoken about a network or chain of determinants. If the main activities are determined by one or more factors, then creativity requires many factors and conditions. Features of engineering creativity consist in target or teleological determination (Enikeeva, 2018). An appeal to the peculiarities of the post-non-classical type of rationality presupposes a rethinking or "rediscovery" of time, as I. Prigozhin. We believe that the use of information technology generates a different attitude to the time. They are more oriented to the future. American psychologists believe that people oriented toward the future tend to be less depressed than others because they do not spend time thinking about the troubles of the past (Zenkovsky, 1996). This orientation in time allows the persistently moving towards the in-tended goal (Table 2).

**Table 2: Relationship between attitudes to the future, psychological characteristics and behavior**

Characteristics	People who focus on "Future"
Aggressiveness	Less aggressive
Depression	Less depressive
Energy	More vigorous
Drug use	Rarely
Alcohol consumption	Less
Friendliness	No differences
Honesty	More conscientious
Emotional stability	No differences
Openness	More open
Search for novelty	More pronounced
Preference for constancy	More often prefer constancy
Dependence on rewards	More dependent on rewards
Self-esteem	Self esteem is higher
General anxiety	Less anxious
Average score for study	High average score
Number of hours per week spent for study	More
Falseness	Slightly lie

In the context of these studies, the developing is a special form of social time, which immerses the educator and educated in historical reality. And for the national culture, the developing is a way of thinking about the future. A business game is a method of conducting a lesson, which is used in educational activities with the help of information technologies.

Psychologists found that when submitting material in the game form, about 90% of the information is absorbed. The activity of students is bright and as a rule of a lasting nature.

Currently, there are three areas of application of the game method:

- a) Educational sphere: the teaching method is applied in the curriculum for training and advanced training.
- b) Research sphere: it is used for modeling the future professional activity.
- c) Operational and practical sphere: the game method is used to analyze the elements of specific systems for the development of various elements of the education system.

In the process of preparing and conducting a business game, each participant should have the opportunity for self-assertion and self-development. A business game is a controlled system. Training is carried out in the Industrial University of Tyumen with the help of the system Educon. The advantage of using the active methods for conducting classes involves the use of information technologies. But it is in the business game that many kinds of modern technologies are involved: the Internet and films (documentary and artistic). As a result of a series of business games, students came to the conclusion about the need to create a computer game, where the main character will be philosophy.

## **CONCLUSIONS**

On the basis of the conducted research it is possible to state: the post non-classical type of rationality is connected with the formation of creative thinking. A huge role in this process is played by information technologies, as they set new principles for working with information. As the experience of pedagogical activity shows, as well as the use of active teaching methods, information technologies contribute to the formation of a new type of thinking.

The advantages of using the information technologies in educational processes are as follows:

1. Operating with huge blocks of information.
2. The special role of integrity, when the trainee is not outside the system of symbols, but inside of it.
3. Teleological determinism is the kind of determinism that is necessary for the formation of the creative thinking of the future engineer.

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## NOTAS Y DEBATES DE ACTUALIDAD

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### Trends and Patterns of Public Interest to Big Data in International Community

*Tendencias y pautas de interés público para el big data en la comunidad internacional*

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#### ABSTRACT

The issues of analysis of the dynamics of changes in public interest to the topic of Big Data in the world, the US and Russia are considered in the article. A research tool is a regression analysis of Google search analytics on the monthly activity of Internet users in the search for information on this topic. It is shown that, despite the relatively lower level of requests for Big Data in Russia, the growth rate of interest in this topic in Russia is higher than in the US. Phase analysis showed that the process under study is unstable.

**Keywords:** Analytical data; information technology; regression models; social interest.

#### RESUMEN

Las cuestiones de análisis de la dinámica de los cambios de interés público en el tema de Big Data en el mundo, los Estados Unidos y Rusia, se consideran en el artículo. Una herramienta de investigación es un análisis de regresión de Google Search analytics sobre la actividad mensual de los usuarios de Internet en la búsqueda de información sobre este tema. Se muestra que, a pesar del nivel relativamente más bajo de solicitudes de Big Data en Rusia, la tasa de crecimiento del interés en este tema en Rusia es mayor que en los Estados Unidos. El análisis de fase mostró que el proceso en estudio es inestable.

**Palabras clave:** Datos analíticos; tecnología de la información; modelos de regresión; interés social.

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## INTRODUCTION

The term "Big Data" was introduced by John R. Mashey, Chief Scientist, SGI in 1998 and was originally used to identify the socio-economic phenomenon associated with the emergence of technological capabilities for the qualitative analysis of huge data sets. It was fully accepted by the scientific community on September 4, 2008. It was then that a special issue of the authoritative journal *Nature* was published, entirely devoted to the future of technologies based on the processing of huge amounts of data (Campbell, 2008).

Nowadays, under the Big Data, we are meaning the set of approaches, instruments and methods for processing data of huge volumes and significant diversity (Agneeswaran, 2012; Avdeeva, 2016; Bhadani and Jothimani, 2016; Boyd and Crawford, 2012; Chernyak, 2011; Cukier, 2010; Jin *et al.*, 2015; Li and Lu, 2014; Manyika *et al.*, 2011; Meyer-Shenberger, 2014; Miller and Mork, 2013).

Big Data technologies are already the basis in technologies for analyzing information requests of all kinds (Chernyak, 2011; Meyer-Shenberger, 2014). A striking example – Internet search engines analyzing the statistics of visitors to various sites, their specificity and search for proposals in the field of interests (Agneeswaran, 2012; Cukier, 2010).

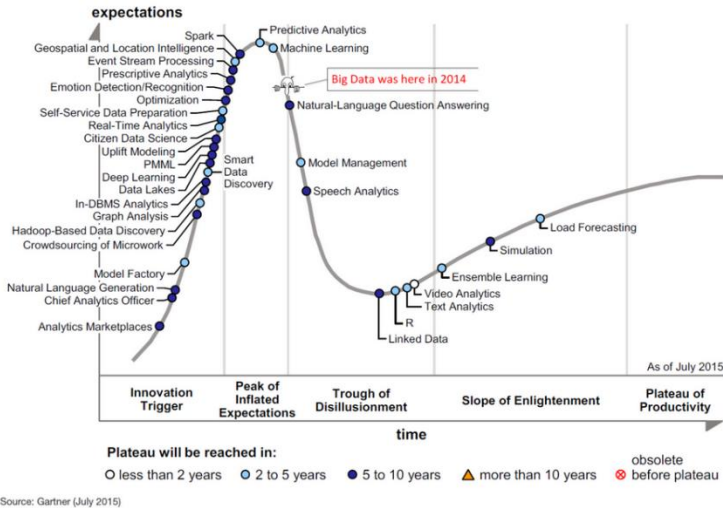
On the basis of the collection and processing of massive amounts of information, a variety of tasks are being solved, including the formation of appropriate political elections for voters (D. Trump during the US election campaign in 2016 (Von Grassegger and Krogerus, 2016)). In this connection, the question of tendencies (trends and patterns) of the development of Big Data technologies in Russia in comparison with the technologically advanced countries of the world is quite interesting.

In the modern world, the dynamics of technological change is extremely high. Annually there are innovative developments, which have all the chances for promotion due to venture funds (Agneeswaran, 2012; Avdeeva, 2016; Chernyak, 2011; Meyer-Shenberger, 2014). Not all of them in the end are successfully implemented; many ideas turn out to be foneys (Bhadani and Jothimani, 2016; Boyd and Crawford, 2012). In this regard, there was a need to track and then classify the stages of the life cycle "Idea – its study – investment – development – rush support – practical sobering – getting to the fork "development of techniques for practical use" or "oblivion". This is what the research and consulting company Gartner (Cukier, 2010; Gartner, 2015), specializing in information technology markets, does.

In the annual Maturity Surveys of IT-technologies prepared by Gartner specialists since 1995, Big Data was at the stage of a technological trigger for about 5 years (2008 – 2012), in 2013, they were on Peak of Inflated Expectation and since mid-2014 have entered the phase of getting rid of illusions (Trough of Disillusionment), when the shortcomings of technology are revealed, and the loss of novelty does not contribute to enthusiastic publications, and the community notes disappointment with the new technology.

For example, in an analytical review of 2015, Gartner no longer represents the Big Data technology on the Hype Cycle chart (Figure 1) (Gartner, 2015) even at the *Trough of Disillusionment* stage. According to the theory of technology development (Hype Cycle chart), then Big Data can wait for either a phase of oblivion, or the stages of *Slope of Enlightenment* and *Plateau of Productivity* (maturity of technology). The question arises, how fair is the disappointment (as of summer 2015) of Gartner's experts in Big Data technologies? Does this general disappointment in Big Data correspond to the situation in the Russian IT sector? The hypothesis that is proposed to be checked by query analytics in Google Trends can be formulated as following: "With the overall relatively lower level of development of Big Data technologies in Russia at the moment, interest in this technology in our country is higher than in the US and in the world".

Figure 1: Big Data topic fallout of the number of emerging technologies



**METHODOLOGICAL FRAMEWORK**

The purpose of the study is to establish the features of the dynamics of interest in the Big Data topic in the US and Russia regarding global trends through collection via Google Trends and subsequent regression analysis of relevant analytical data.

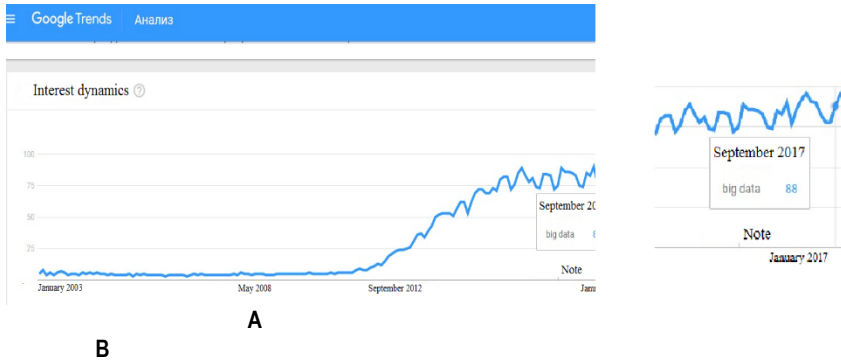
Using the Google Trends data (Google Trends), the following tasks were solved:

- The construction of regression models of the correlation of interest in the Big Data topic in the US and Russia with respect to global trends;
- The construction of time series characteristics of the frequency of queries for the phrase Big Data in the Google search system in the United States and Russia in 2012-2017;
- The construction of time series for changing characteristic  $K_{interest\ rate\ growth}$  in relation to the Big Data topic in the US and Russia in 2012-2017;
- Establishment of a pattern of the correlation of the level of interest in the Big Data in Russia in 2012 – 2017 in relation to the analogue in the USA;
- Formulation of conclusions on trends and patterns of public interest in the Big Data in the world, the United States and Russia.

**RESULTS AND DISCUSSION**

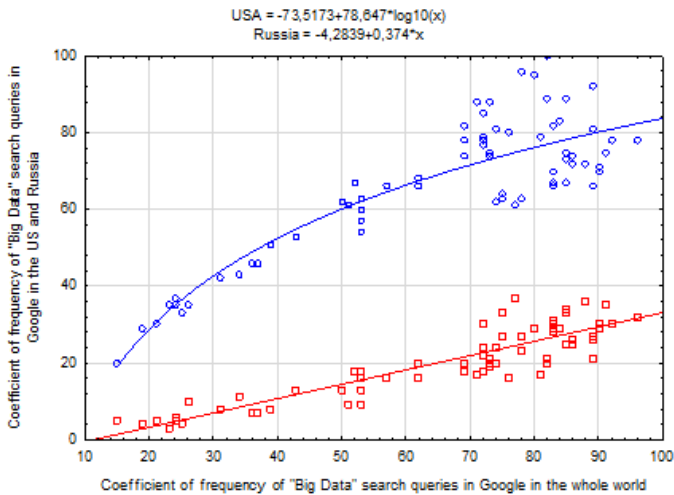
Figure 2 represents a diagram of the change in the frequency of queries of the phrase "Big Data" in the Google search engine in the world in the period from January, 2012 to September, 2017 (Google Trends).

Figure 2: Screenshot of the screen mode of Google Trends to identify the frequency of Big Data requests in Google in the world: A – time series data on the frequency of Big Data queries in Google; B – large scale of data



Based on similar data obtained for the US and Russia, regression models (Borovikov, 2003) were constructed that identify the correlation of interest in the Big Data topic in the US and Russia with respect to global trends (Figure 3).

Figure 3: Regression models identifying the correlation of interest in the Big Data topic in the Google search system in the US and Russia regarding global trends

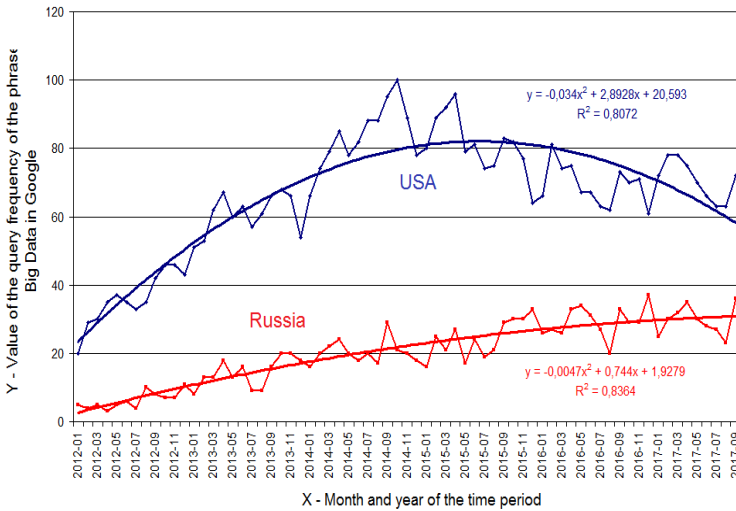


The models shown in Figure 3 show that the interest in the Big Data topic in the US is much higher than the analogues typical for Russia. However, there are two important features of the situation.

- At the initial stage, the frequency of querying Google for "Big Data" data in the United States exceeded the frequency of requests in the world (in 2012-2014), but since a certain time (2015), this trend ended, the situation leveled off, and today there are already signs of a turnaround.
- For Russia, there is a slow but steady increase in interest in the Big Data topic, although relative to the global level, the coefficient of interest in the topic in Russia is now equal to 0.3.

Comparative time series of the interest characteristic of the Big Data topic in Google for the US and Russia are presented in Figure 4. Regarding the maximum interest (100 points) to the Big Data topic, which was shown in the US in October 2014, today there is a drop in the number of search requests on the Internet by about 20 – 30%. In Russia, interest in this topic is continuously growing, and the growth rate of such interest, expressed by the coefficient  $K_{\text{interest rate growth}}$  (1), is already significantly higher than the analog for the United States (Figure 5).

**Figure 4: Time series characteristics of frequency of queries for the phrase Big Data in the Google search system in the US and Russia in 2012 – 2017**



$$K_{\text{interest rate growth}} = \frac{N_{\text{actual month}}}{N_{01. 2012}}$$

(1)

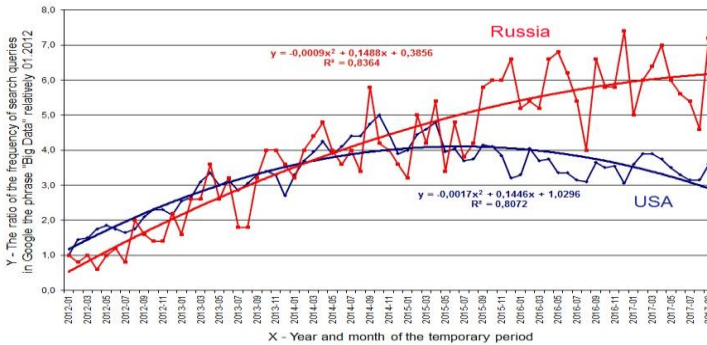
Where:

$K_{\text{interest rate growth}}$  – coefficient of interest growth rate to the topic in a certain period of time;

$N_{\text{actual month}}$  – the level of interest in the Google search engine to the topic, taking into account the highest score for a certain region and the time period. 100 points mean the highest level of popularity of the request;

$N_{01. 2012}$  – the level of interest to the topic in the Google search engine in January, 2012 (the initial period of tracking the frequency of user requests).

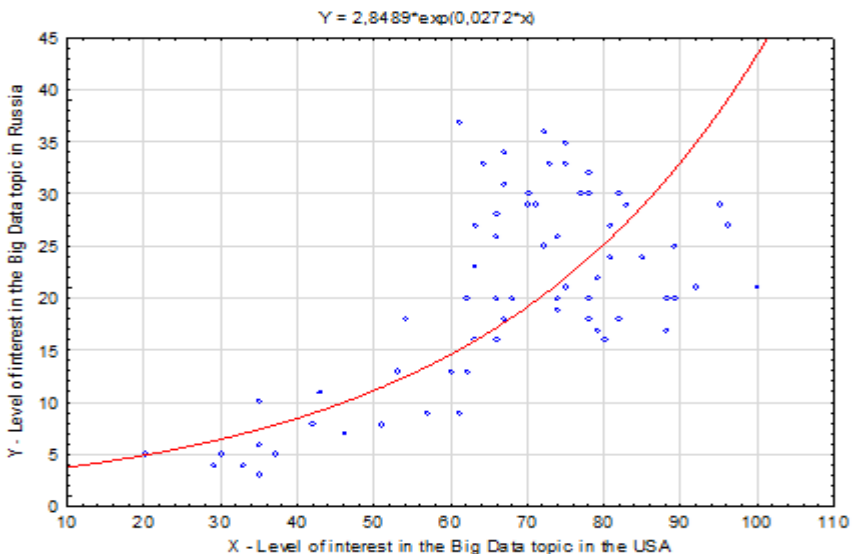
Figure 5: Time series of the change in characteristic in relation to the Big Data topic in the USA and Russia in 2012-2017



By the middle of 2014, the value of  $K_{interest\ rate\ growth}$  in Russia has reached the value of an analogue typical for the USA (about 3.5); in subsequent years, this indicator in Russia exceeds the analogue for the US and today there is already a two-fold gap between Russia and the US on this indicator (6 in Russia against 3 in the US). The graph in Figure 5 really shows that in the US, interest in the Big Data topic began to decline around the spring of 2015, which is in line with Gartner's data (Figure 1) (the phase of getting rid of the illusions *Trough of Disillusionment* on the Hype Cycle chart).

The model of changing the correlation of the level of interest in the Big Data in Russia in 2012-2017 in relation to the analogue in the USA is also interesting (Figure 6).

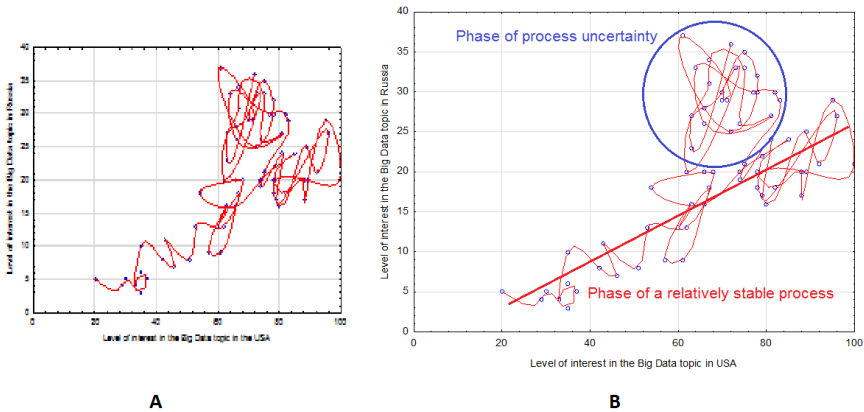
Figure 6: Model of correlation of the level of interest in the Big Data topic in Russia in 2012-2017 in relation to the analogue in the USA



Formally, this model is exponential. The coefficient of determination of the model  $R^2 = 0.448$  is relatively low, although the value of the Fisher test  $F = 54.27$  exceeds the tabulated one, which allows us to speak about the validity of using an exponential model for describing the process under study. Visual analysis shows that at the level of interest to the topic in the US = 70 and interest in the topic in Russia = 20 (approximately at the beginning of 2014), the model ceases to be exponential.

In order to find an explanation for this phenomenon, a spline plot was constructed (Figure 7). Spline is a function that, together with several derivatives, is continuous on the whole given interval  $[a, b]$ , and on each partial interval  $[x_i, x_{i+1}]$  is an algebraic polynomial. In fact, the spline shows the trajectory of the process under study in the phase space (Borovikov, 2003).

**Figure 7: Spline graph of the ratio of the level of interest to the Big Data topic in Russia in 2012 – 2017 in relation to the analogue in the USA: A – initial, for the entire period 01.2012-09.2017; B – final, two phases of the process of changing interest in the Big Data topic in Russia**



Analysis of the spline graph shows that up to a certain point the process developed relatively stable (phase 1), but over time the process passed to phase 2, which can be described as the "phase of process uncertainty". Despite the seemingly steady growth of interest in the Big Data topic in Russia (Figure 4) and even relatively higher growth rates in Russia than in the US (Figure 5), the phase portrait of the process shows that in Russia today there are times of loss of understanding of Big Data technology benefits and there comes a stage of stagnation. After this, it is quite possible that there will be a degradation of interest in this topic in Russia (as has already happened in the US, as noted by Gartner experts).

## CONCLUSION

Based on the results of the study, the following conclusions can be drawn.

1. In general, the assumption formulated as "with a generally relatively lower level of development of Big Data technologies in Russia at the moment, interest in this technology in our country is higher than in the US and the world" has good reason to be considered objectively correct. An important note is that this trend is supposedly coming to an end.
2. Regression models of the correlation of interest in the Big Data in the US and Russia with respect to global trends have shown that Russia loses significantly in this interest to both the world community



and the US, but Russia has a steady growth of this interest, while interest in the subject in the US decreases;

3. In terms of growth of interest in the Big Data in 2012 – 2017, Russia caught up and bypassed the US (approximately in mid-2014). In the fall of 2017, the growth rate of interest in the topic in Russia is about twice as high as in the US;
4. An analysis of the exponential model of the growth of interest in the Big Data topic in Russia regarding the US trend by plotting the spline showed that approximately from the end of 2015 the Russian trend ceased to be steadily growing and moved to a new phase – the uncertainty of the process.
5. In general, it can be stated that the public interest in the Big Data topic in Russia repeats trends and patterns typical for the US, but with a time lag. This explains why there is a relatively low level of interest in the topic in absolute terms and a higher rate of growth of interest in the topic in Russia regarding the US.

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### Trends in Social Transformations in the Discourse of Building the Information Society

*Tendencias de las transformaciones sociales en el discurso de la construcción de la sociedad de la información*

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#### ABSTRACT

The main goal of the empirical study was to study the possibilities of managing the process of levelling the negative consequences of social transformations of the social structure of modern Russian society in the information context. The empirical base is represented by the results of a sociological survey conducted in the northern territories of Russia by interviewing representatives of the social stratum, which in the long term of building the information society should disappear – low-income families. The study used a secondary analysis of the data of fundamental sociological research.

**Keywords:** Information inequality; information wars; leveling social polarization; social inequality.

#### RESUMEN

El objetivo principal del estudio empírico fue estudiar las posibilidades de gestionar el proceso de nivelación de las consecuencias negativas de las transformaciones sociales de la estructura social de la sociedad rusa moderna en el contexto de la información. La base empírica está representada por los resultados de una encuesta sociológica realizada en los territorios del Norte de Rusia por los representantes del estrato social, que a largo plazo de la construcción de la sociedad de la información debe desaparecer - familias con pocos recursos. El estudio se utilizó un análisis secundario de los datos fundamentales de la investigación sociológica.

**Palabras clave:** Desigualdad en la información; guerras de información; nivelación de la polarización social; desigualdad social.

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## INTRODUCTION

Among the many challenges to the humanity of the 21st century, researchers identify the threat of information security as the most important threat, putting it at one level with the problems of ecology, energy, etc. The situation is aggravated by the fact that the hurricane development and introduction of modern information and telecommunication technologies entailed a new stage of economic and scientific and technical progress in a very short time span, and therefore a significant step towards the development of human civilization as a whole.

Modern Russian society is characterized by the growing role of the information environment, which includes the entire set of various sources of information, infrastructure, entities that collect, form, provide and use information, as well as a set of systems regulating social relations. As the role of information grows literally in all spheres of life of modern society, there is a direct need to analyze the extent of its penetration, as well as its influence on the processes (both positive and negative) that take place in society.

Countries that are the most active in creating and developing the information industry certainly become the most successful in the field of transformation and economic growth. This is what determines a new stage in the development of states, with their renewed society, which has become known as the "information society". Influence of information on modern power structures whose activities are not possible without its collection, storage and distribution. The article examines the main trends in the development of modern Russia and the construction of a new information society, as well as its impact on social processes.

Modern Russia is experiencing changes that can dramatically change not only social being, but also cause social and economic transformations. Today, society experiencing a breakdown of traditional, habitual and established stereotypes of public consciousness does not have formed and universally recognized social interests. Studies show that this is due to underdeveloped communication systems, in particular, information systems, which strongly influences the activity of citizens and their participation in the political, economic and social transformations of society, which necessitates the creation of such a mechanism that would allow for effective management of social systems based on the use of information technology.

Russia is actively involved in the information space of the world; since its own experience in managing the information society is not yet great, it is necessary for the subjects of management to review and rethink classical management models. In this regard, at the state level, indicators of the effectiveness of power structures have been developed, to implement which, understanding of the management of social systems had to be radically changed (Zatuliveter, 2001). Introduction of such indicators for individual social systems has become quite painful since they required a deep rethinking and restructuring of the individual development trajectory. However, their introduction clearly showed the need to create a single all-Russian monitoring system based on indicators of management effectiveness of social systems.

The emergence of separate expert systems in the field of public administration and the widespread use of information technology in the field of social systems and public administration, as well as in the information and analytical services of the state apparatus, which is used in making managerial decisions, does not mean the systematic use of information technologies and the widespread expansion and introduction (Mironov and Pashuta, 2010). Awareness of the need for their application at all levels and in various social systems by the state and society exists, however, it is necessary to note the disparate goals and autonomy of their use. The desire of the state to build an institution of public administration on the basis of the use of information technologies is a priority task of searching for optimal ways of development of modern Russian society. The task is extremely complicated because Russian society is subject to deep transformational processes affecting its essential characteristics, to which the social structure belongs. Most researchers treat social transformation as a process of structural changes in the social status as changes in the entire social system, including all its components. To distinguish social groups, variables were used that, for a number of characteristics, allowed identifying a particular social group quite reliably. Thus, for example, the intelligentsia group (the intellectual

class) was distinguished on the grounds of education, qualifications, the nature of work and the level of well-being (Lyshova, 2001). To avoid overlapping of several groups identified by different criteria, the researchers used indicators on which their hierarchy was established: participation in business, participation in management, physical or mental work, social and sectoral work (management, industry, agriculture, commerce, social sphere, and services), level of education and qualification. This selection of indicators is based not only on the establishment of the social status of the respondents but also on the extent to which they influence the transformation processes. A working hypothesis of T.I. Zaslavskaya on the four strata of Russian society – upper, middle, base (below the middle) and lower, allows relating them to the following elements of the structure: the upper stratum – the elite (economic and political), large and medium-sized entrepreneurs, highest bureaucracy, generals, directors of large enterprises. The middle class includes small entrepreneurs, managers, business people, and intelligentsia. The base stratum includes representatives of the semi-intelligentsia, trade and service professions, high-skill level workers and peasants. The lower stratum is characterized by workers with low qualification, employees, hardcore poor. The researchers note that neither the upper stratum nor the lowest one falls into the survey base (Zaslavskaya, 2003).

The above factors, which influence stratification, are not finally established (Lezhnina, 2010). The dynamics of development, the processes of globalization of the modern world are increasing the scale of the influence of information on the forming systems of social transformation. The role of information in the society and its ubiquitous informatization is growing so much that extrapolating the rate of this growth gives grounds for asserting a qualitative change in the nature of social development. V. Mudrykh, speaking of the high degree of development of information and computer technologies, suggests "the formation of a real superintelligence". N.N. Moiseev argues that the collective intellect (collective intelligence) acts as a regulator of society. At the same time, there is an opinion that allows his supporters to assume that the laws of social development will be replaced by information laws that will fulfil the functions of self-regulation of social systems (Zaslavskaya, 1977).

The shift in the importance of individual resources of the economy towards scientific knowledge and information resources means that the whole structure of modern society begins to be reconstructed. At the same time, restructuring is proceeding in the direction of creating conditions in the society that allow us to work with information in full force.

The process of stratification in Russian society looks like a phenomenon of a sociocultural split, where the conflict social strata play the key role of social conflict (Zaslavskaya, 2003).

S.A. Dyatlov writes in his work "Principles of Information Society": "In modern conditions, scientific knowledge and information resources are the most important resource of the economy. The public significance of a person is increasingly determined not only by the availability of traditional goods, production conditions or money (capitals) but, above all, the availability of information resources, scientific knowledge, and information, social status. In modern society, the social value is increasingly identified with the information value." (Dyatlov, 2000).

## **METHODOLOGY**

The object of research is the social transformations of modern Russian society, the subject is the management of the negative consequences of modern transformation in the information society.

The empirical basis was the sociological study of one of the social strata of modern society, which, in the concept of the information society of E. Toffler and other sociologists-futurists, should be minimized, in particular, by the unprotected stratum of the population in the northern territories (the example of Noyabrsk). The study was conducted by interviewing representatives of low-income families. The sample population was 844 people, that is, 16.7% of the total population (4,400 people). The population of the city of Noyabrsk is

110,000 people, of which 4.6% are officially recognized poor in 2011. And since according to the norms accepted in sociological practice, a sample that is 3-5% of the general population is already recognized, a survey of 16.7% of the population is more than enough to prove representativeness (Rodionova and Bogdanova, 2014).

The purpose of our sociological research was to determine the specifics of poverty in the northern region, to identify the problems faced by the poor to develop an organizational and management mechanism for their solution.

The units of the study were families that at the time of the survey were low-income, that is, they have income below the subsistence minimum per capita established in the Yamal-Nenets Autonomous District. During the survey, respondents were interviewed who, at the time of the study, had the official status of needy (low-income), recognized their need, applied for state aid, confirmed its necessity and received assistance.

Secondary analysis of the data presented in the VCIOM (Russian Public Opinion Research Centre) research, whose goal was to study the social structure that is the basis of the transformation process, is another method for investigating the problem analyzed. At the same time, much attention was paid not only to studying one or another category of citizens but also to studying the influence of this stratum on the transformational processes as a whole, their role in institutional transformations. One category of citizens is characterized by the most successful adaptation to a constantly changing environment that can influence changes and adjust them, while the second category is those citizens who cannot influence the ongoing processes (that is why they are not subjects but objects) of fundamental changes in society. To see the dynamics and trace the transformations taking place in the social environment of our society, as well as to reveal the underlying causes that influence the processes of changing social stratification, we considered it logical to turn to the academic studies of modern sociologists.

## **RESULTS AND DISCUSSION**

Today, the information society is replacing the post-industrial society, which represents a natural stage in the technogenic history of the development of society. Its essence lies in the fact that any subject of a given society at any time and in any place can obtain the necessary information (personal or socially significant). And this means having such a wide infrastructure of information systems that ensures the development of society. This system, in turn, is capable of producing scientific information, forming an environment where communication networks and information technologies develop freely, thereby "pushing" the society to a single information space. In this situation, scientists talk about the formation of a new intellectual technology. In this case, for each subject of the same generation access to information is not the same, which generates such a social phenomenon as information inequality. This phenomenon is quite understandable for our country: large territorial dispersion, geographical distance of separate territories from administrative, economic and political centres and main communication channels, different financial possibilities of the population. Since the solution of this problem directly depends on the economic component, the solvency of the population in rural areas, even with technical projects being solved, the problem is not solvable. Here it is especially necessary to note the conservatism of the older generation, for the most part not motivated to master computer technologies. And, despite the desire of individual regions to eliminate this gap, the desire to overcome their own laziness, or simply fear of something new, is irresistible. (For example, in the Tyumen region there is a program of the Governor to increase the computer literacy of the population "Expanding Horizons", within which about 50 thousand pensioners learned computer literacy).

The other side of social inequality caused by the introduction of new value orientations in society and the shifting of the old ones is the erasure of the borders of the middle class, which arises from the insufficient qualification of the majority of representatives of this stratum (insufficient level of education, its depreciation).

And, at the same time, there is a "ruling class" – holders of knowledge and technologies that form the information environment. And here it should be noted that there is a category that fundamentally rejects everything new, considering innovations a priori a harmful phenomenon, corrupting youth, corrupting public consciousness, which affects the social structure and social stratification.

Such information inequality has the most negative impact on the interrelations of different generations, exacerbates social tension and is one of the reasons for social stratification and transformation. Information inequality also arises from the existence of different rights to access information (resource owners, administrators, network moderators), as well as the cognitive-semantic side of information technology that arises on the basis of the individual's ability to abstract thinking. Since information resources are mainly in English, most users cannot use them, finding themselves at a disadvantage because of ignorance of the language.

**Table 1: Needs of interviewed families in social assistance (%)**

No.	Family composition	Socio-educational	Socio-psychological	Socio-economic	Socio-legal
1.	Widow (widower), having many children			0.1	
2.	Widow (widower), one or two children		0.1		
3.	Multigenerational			0.1	
4.	Single mother (father), having many children			0.1	
5.	Single mother (father), one or two children	0.5	0.5	2.0	0.4
6.	Full family, having many children	0.1	0.4	1.0	0.2
7.	Full family, one or two children	0.1		0.6	0.1
8.	Divorced mother (father), having many children			0.4	
9.	Divorced mother (father), one or two children		0.6	3.0	0.2
10.	Family without children				

Low-income families are characterized not only by a lower level of wages but also by a large dependency burden, which in the future can lead to a decrease in their per capita income. A distinctive feature in the economic position of these categories of citizens is not only a different level of income but the level and quality of their lives. The property security of representatives of low-income families is modest, which indicates a fairly low level of their lives and their lack of sufficient resources for the future. In recent years, families have to gradually sell their previously owned property – apartments, garages to maintain their current standard of living (Rodionova, 2014).



As this study shows, the burden for families with underage children is less critical than the burden for families with non-working pensioners (invalids). Also, the situation in the family is very negatively affected by the presence of chronically ill family members who officially do not have a disability (Yadov, 2005).

## CONCLUSION

The result of the theoretical and practical research is the organizational and managerial mechanism for overcoming poverty in Noyabrsk, in which the emphasis is on the interaction of all socially important structures with the City Administration in order to conduct a permanent detailed control and analysis of the quality of social services provided to the poor, as well as synchronizing the work of social services to ensure the provision of equal opportunities for residents of the city in overcoming poverty.

The main goal of interaction between management bodies and the citizens when implementing the organizational and managerial mechanism will be to raise the financial and socio-cultural level of the poor by creating the necessary conditions for the self-sustainment and self-realization of the individual.

On the basis of our study, we can conclude that the poverty of low-income families is a consequence of interrelated factors: economic (low wages and its high differentiation, unemployment); social (disability, old age, marginalization, child neglect); demographic (single-parent families, families with a high dependency burden, the youth and the older generation); political (the break of the existing inter-regional ties, forced migration).

Obviously, in life attitudes of low-income families, there are more similarities than differences, which confirms the preservation of the internal worldview unity of the overwhelming majority of this category of families.

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## NOTAS Y DEBATES DE ACTUALIDAD

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### The Activity of the Social-Democratic Group 'Yedinstvo' in 1918-1919

*La actividad del grupo socialdemócrata 'Yedinstvo' en 1918-1919*

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#### ABSTRACT

G.V. Plekhanov was a cut above like-minded people of the "Yedinstvo" by his authority, the last stage of its existence remained practically unreported in the historical literature. It was established in the process of research that at that time activity of the group was crowned with an extremely curious historical paradox. As the supporters of Plekhanov, who was the founder of the National Social Democracy at his time, the "Reds" during the Civil War and stood on the other side of the barricades and supported Denikin, the "white" general and the worst enemy of their former party members, in 1919.

**Keywords:** Bolshevism; civil war; Menshevik party; political opposition.

#### RESUMEN

A diferencia de G.V. Plekhanov fue un corte por encima de la gente de ideas afines del "Yedinstvo" por su autoridad, la última etapa de su existencia permaneció prácticamente sin ser reportada en la literatura histórica. Se estableció en el proceso de investigación que en ese momento la actividad del grupo se coronaba con una extremadamente curiosa paradoja histórica. Como partidarios de Plekhanov, quien fue el fundador de la Democracia Nacional Social en su tiempo, los "Rojos" durante la Guerra Civil se mantuvieron al otro lado de las barricadas y apoyaron a Denikin, el general "blanco" y el peor enemigo de sus antiguos miembros del partido, en 1919.

**Palabras Clave:** Bolchevismo; guerra civil; partido menchevique; oposición política.

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## INTRODUCTION

There is no special work, which covers the activity of the All-Russian Social Democratic organization "Yedinstvo" in 1918-1919, in historiography, and the purpose of this article is to fill this gap. Probably, the inattention to the last period of existence of the "Yedinstvo" is connected with the fact that firstly, G.V. Plekhanov, the group leader and "father of the Russian Revolutionary Social-Democracy", had to leave Russia in January 1918, and in May of the same year, he died in Finland. It would seem that if the charismatic leader of the "Yedinstvo", overshadowing the scale of his personality and the intellect of his associates, left this life, and publication of the newspaper "Nashe Yedinstvo (Our Unity)", which was the central organ of the group, was discontinued on January 20, 1918, due to the lack of money and Plekhanov's illness, there is nothing to right about. As a result, the main biographers of G.V. Plekhanov finished his works with his death, not paying attention to the fate of the organization, directed by him, after departure from life (Baron, 1963; Tyutyukin, 1997).

Secondly, inadequate attention on the part of researchers can also be attributed to the fact that the group "Yedinstvo" had a very insignificant influence on the minds of representatives of the Russian revolutionary democracy. In the elections to the Constituent Assembly, candidates won less than 2 thousand votes from the "Yedinstvo" in Petrograd. The number of votes was 0.2% of the total number of election participants (throughout Russia – 20 thousand votes and 0.04%) (Tyutyukin, 1994). And arguing about the general course of the revolution in August or in September 1917 at the conference of the "Yedinstvo" in Tsarskoe Selo, G.V. Plekhanov remarked himself: "The masses are not following us, and this is our grief, but this is Woe from Wit". And thirdly, in editions devoted to the political parties of Russia in the first quarter of the XX century, attention was given to the "Yedinstvo" few or wasn't given at all, because the group had an independent status and stood without the organizational framework of the Menshevik Party (Spirin, 1984; Zevelev, 1994; Zevelev *et al.*, 2000).

## CHARACTERISTICS OF THE MAIN STAGES OF THE ACTIVITY OF THE SOCIAL-DEMOCRATIC GROUP "YEDINSTVO" IN MOSCOW

However, despite the loss of the leader and the repression of the Bolsheviks, the "Yedinstvo" continued its activity to defend its views. The majority of the Third All-Russian Congress of Soviets was awarded unflattering characteristics in the "Nashe Yedinstvo" from January 17, 1918. It was named "the mute clique of Lenin's indulgers": "Having shouted a loud "hurray", to the separate peace and civil war, the Bolshevik Congress of Soviets goes to long rest", the article "Opposition of His Majesty" said. "The delegates depart to places to carry the news about the betrayal of Russia for flow and plunder to the German imperialism and occupational troops of other neighbours (Galili *et al.*, 1999).

The application for termination of publication of the "Nashe Yedinstvo" was published in No. 22 of the newspaper from January 20. Characterizing causes of her death, R. Plekhanova wrote: "The small funds of the newspaper were taken by the authorities under the register and were difficult to obtain from the bank, and it was often difficult to satisfy the workers' demands for the money owed to them. From time to time, the Red Army soldiers honoured the typography... with a personal visit and scattered the font... In a word, the newspaper died of starvation shortly before the death of its editor-in-chief... "The "Yedinstvo"", Rosalia Markovna summed up the activity of the newspaper, "was a torch that indicated the right way to salvation, and a bell that sounded the alarm at the slightest danger" (Plekhanova, 1991).

After returning the status of the capital of the state to Moscow, the centre of activity of the "Yedinstvo" also moved to Belokamennaya (Moscow). It was functioned by the Moscow Committee and 6 district committees there. In spring 1918, it was planned to convene a conference of the group and to develop the publishing activity. However, the enemy didn't doze – the Bolsheviks were keeping wary eyes on the activity

of their opponents. So, the weekly newspaper "Yedinstvo", which began to issue on May 1, quickly ceased to exist under the hail of repressions (Dalin, 1988).

In early 1918, G.A. Aleksinskiy, one of the leaders of the group, moved to Moscow from Vologda to wage a fight with the Bolsheviks. He was sent by the Central Committee of the "Yedinstvo" to carry out the election campaign for the Constituent Assembly. On April 27, he was arrested and put to the Taganska Prison "alone" for characterizing the Brest Peace as "shameful" one at the meeting in the Great Hall of the Nobility Assembly. On January 1919, in connection with the typhoid fever, Aleksinskiy was released on bail, after which he worked in the Office of Information of the Central Council of Trade Unions and in the Main Archive Directorate. In spring of the same year, M.I. Kalinin, the chairman of the All-Russian Central Executive Committee (VTsIK), offered him a job in the Soviet government, but Grigoriy Alekseyevich refused. In May 1919, Aleksinskiy moved to Petrograd and fled to Paris through Estonia and Denmark together with his family (Aleksinskaya, 1968).

### **FEATURES OF RESOLUTIONS ADOPTED BY THE "YEDINSTVO"**

The meeting of the "Yedinstvo", where several important resolutions were adopted, was held on August 23-27, 1918. The lion's share of attention in the resolution "On overall policy" was given to the Treaty of Brest-Litovsk. It was noted that withdrawal of Russia from the coalition of countries fighting against Germany, significantly increased the chances of the latter to win in the war, which would be the triumph of imperialism. It was emphasized in the resolution that the Brest peace and the events following it have actually turned Russia into a German colony, whereas not only the working masses in Russia are interested in restoration of its independence and state unity, but the international democracy is also interested: "The success of this case is prevented by the policy of the current authority, contributing to implementation of the predatory plans of the German imperialism under the flag of neutrality", the document said. "On the other hand, the refusal of the Allies to recognize the Brest Peace and their unceasing war with the Germans create objective conditions, conducive to revival and liberation of our homeland. In the name of this great goal, the Russian socialists... are obliged to fight for destruction of the Treaty of Brest-Litovsk and for renewal of the close alliance with the Western democracies". However, considering that this fight will be extremely hampered by inertia of the population, its political passivity and lack of knowledge, the "Yedinstvo" put propaganda activities among the working masses, one of its main tasks – explaining to them the perniciousness of the victory of the German imperialism for Russia, discovery of the role played by the Bolshevik government in successes of this imperialism and in the all-Russian collapse, and also awakening among the masses of sympathy for the Entente. Even necessity of "using external forces" wasn't denied for the cause of revival of Russia. Whilst, Germany was excluded from the number of possible options: "Malice and hatred causes among them the desire to get rid of it in any way, not excluding the German orientation", the resolution said. "The organization "Yedinstvo"... is expressed against any actions in the spirit of this orientation..." (Galili *et al.*, 1999).

D.B. Pavlov confirms that the "Yedinstvo" ceased to exist under the hail of repressions in autumn 1918. The group wasn't saved also in the fact that G.V. Plekhanov was included in the list of "great people", to whom the Council of People's Commissars intended to raise monuments (Pavlov, 1999). However, this confirmation requires clarification that the organization completed its activity not in general, but in the territory of Soviet Russia. Because it's known that in autumn 1919, the Kyiv Committee of the "Yedinstvo" adopted the declaration with explanation of views as to current political moment. On August, 1919, Kyiv was taken by Denikin and, of course, this fact affected the content of the document.

### **DISAPPEARANCE OF THE “YEDINSTVO” FROM THE POLITICAL ARENA**

It was started from an indication of proximity of the 2-year anniversary of Soviet power, the anniversary of those days when “...the Bolshevik Communist Party took... the power, dispersed... the Constituent Assembly... and concluded an ignoble peace with Germany in order to prolong its reign. Being in contradiction with reality, we read further in the declaration, “initially, communism was doomed to powerlessness and could give the people... only such “equality in poverty” that set aside Russia to the times of rushlight, impassability and barter economy. ... The great country lay in the ruins as easy prey for strangers. ... Bolshevism betrayed Russia headlong to all predators of international capital for two years of its reign. Therefore, the Kyiv Committee of the “Yedinstvo” encouraged the workers “to give support to the state formations in the territory of Russia with the whole strength of their assistance. The state formations put overthrow of the Soviet power, restoration of the state unity and free organization of the state through the National Constituent Assembly with their objective”, and it also encouraged in their declaration “to recognize Kolchak, the admiral, as a temporary carrier of the supreme power, and to see the mighty lever for the re-establishment of the Russian state and ensuring its external independence in the armies under its supreme command”.

Soon the episodic speeches of the “Plekhanovites” were also ceased. The “Yedinstvo”, as an organization, finally disappeared from the political scene towards the end of the Civil War (Dalin, 1988). The group, living by personal influence of the leader, was doomed to die slowly after his death.

But not only G.V. Plekhanov’s departure from life and repressions of the Bolsheviks were the reasons for such a rapid movement of it into oblivion. The equally important reason was inopportunity of advancement to the foreground by “some persons” in the “military” platform of 1917-1918 of slogan of the need to bring the war to the victorious end over the German imperialism. By 1917, people were tired of participating in the protracted war, the purpose of continuation of which weren’t realized and accepted by them, and the achievement of which didn’t seem to them to be a matter of primary importance. In 1917-1918, the basic needs of the soldiers were the immediate cessation of the war and the return to home fires, in order not to delay the redistribution of land by the new revolutionary authorities. All the political slogans that contradicted these aspirations were doomed to failure, and their authors – to the very political loneliness, in which G.V. Plekhanov found himself “old, sick, not accepted by the events, and didn’t accept the events” after his arrival to his homeland in 1917 (Sukhanov, 1992).

The thing that even more aggravated sad situation for the “defensively” inclined politicians was the constant advancement, even to the sphere of theoretical policy, by the leaders of both the revolutionary authorities – the capital’s Council of Workers’ and Soldiers’ Deputies, the Provisional Government, and the Bolsheviks – the slogan of necessity, in the short or long term, the conclusion of peace. This discouraged the Russian soldier, convincing him that there was no need to continue the war. In the conditions of frequent use of pacifist slogans by power-ridden politicians, the protracted war seemed to the Russian soldier incomprehensible and senseless. No one agreed to go on the offensive and to die when the statesmen talked about the need for peace, interrupting each other. The soil, richly sprinkled with blood spilled in 1914-1917 in order to achieve the goals soldier-peasant, couldn’t produce harrowing crops in 1917-1918.

As a whole, all these reasons determined the small number of the organization “Yedinstvo” and its weak influence among the masses. In summer 1917, there were no more than 800 persons in it, and the meetings of the Moscow group “Yedinstvo” gathered only up to 30 participants, who were arranged by G.V. Plekhanov three times in August (Tyutyukin, 1994; Valentinov, 1991). If in May 1917, the group held 5 representatives into the Petrograd Duma, in July – only 2 ones. All these figures help to understand why Nikolai Sukhanov (Himmer), who became the Menshevik at this time, called the “Yedinstvo” not otherwise than a circle, a microscopic, insignificant and worthless group, and David Anin, a historian, wrote that this group “remained only a voice crying in the wilderness” in 1917 (Sukhanov, 1992; Anin, 1971). R. Plekhanova also didn’t deny

the obvious things. She testified that "except for the small, although active group "Yedinstvo", unfortunately, there were few supporters of Plekhanov's views around him" (Plekhanova, 1991).

### CONCLUSION

There is a certainty that G.V. Plekhanov perfectly understood futility of the propaganda of such views in the realities of revolutionary Russia of 1917-1918. Otherwise, he wouldn't be Plekhanov. However, being alien to such concepts as populism, demagoguery, political mercantilism, and also believing that the role of the leader consists not in adaptation to prejudice of the majority, but in the struggle against them for the sake of the triumph of their convictions, neither he nor his adherents of the group "Yedinstvo" still could make a deal with their conscience and sacrifice their patriotism for the sake of momentary confession on the part of people misguided on the topic of the war and the revolutions of masses. Fidelity to the assimilated principles, in the correctness of which Plekhanovites had no right to doubt if it was more important for them than anything else either in 1917-1918 or earlier. An example, quite worthy of all imitation.

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### Philosophy of Ecological Crisis and two Forms of Modern Dialectics

*La filosofía de la crisis ecológica y dos formas de la dialéctica moderna*

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#### ABSTRACT

The rapid development of science and technology results in a change of human lifestyle. The main purpose of the work is to study the philosophy of ecological crisis and the forms of modern dialectics. The idea of "intersubjectivity" will function as our methodological basis. Continuation of Hegel's ideas and essays of existentialists are related to dialectical processing of thought and technology. The authors note that the modern ecological crisis is connected to the destruction of free thinking. In order to understand the causes behind ecological crisis, it is necessary to distinguish between the philosophy of nature and transcendental nature-teaching.

**Keywords:** Ecological categories; existentialism; metaphysics; transcendental entity Hegelian dialectics.

#### RESUMEN

El rápido desarrollo de la ciencia y la tecnología da como resultado un cambio de estilo en la vida humana. El objetivo principal del trabajo es estudiar la filosofía de la crisis ecológica y las formas de la dialéctica moderna. La idea de "intersubjetividad" funcionará como nuestra base metodológica. La continuación de las ideas de Hegel y de los ensayos de los existencialistas se relaciona con el procesamiento dialéctico del pensamiento y de la tecnología. Los autores señalan que la crisis ecológica moderna está relacionada con la destrucción del libre pensamiento. Para entender las causas detrás de la crisis ecológica, es necesario distinguir entre la filosofía de la naturaleza y la enseñanza de la naturaleza trascendental.

**Palabras Clave:** categorías ecológicas; existencialismo; metafísica; la entidad trascendental de la dialéctica hegeliana.

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## **INTRODUCTION**

There exists one understudied topic in the historical-philosophical literature in which both goals of creating philosophy of ecological crisis as a science and reflections on the idealistic philosophy converge. We will explore what attitude powerful currents of idealistic thoughts of the 20th and 21st centuries had towards Hegelian and existential dialectics. We will attempt to analyze the arguments of representatives of philosophy of ecological crisis from the perspective of Hegelian dialectics and existentialism regarding the content of Hegelian and existential dialectics.

Hegelian dialectics and existential dialectics aim to comprehend ecology as a new paradigm of politics and culture. But spiritual history still acts as the foundation for comprehending ecological crisis. The ultimate cause of ethical cycle of categories is a reflection over ecological crisis itself. This is a discussion about the economy and ecology as a science about the human environment. Political cycles originate from the awareness about ecological crisis, which is a systemic crisis of spirit, culture, philosophy and morality (Hösle, 1991). However, systemic crisis can be overcome if humans and society are focused on adoption of universal human values.

Existentialists have repeatedly declared their intention to dispose of the metaphysical interpretation of the subject of philosophy of ecological crisis. Whenever philosophers tried to find the ultimate cause of the systemic crisis, they always encountered such cause that stopped any research. The marginal (or ultimate) cause of the systemic crisis of today lies in the question of whether I think in the modern society. Good society becomes truly dialectical if there is existential dialectics gradually growing in its soil. This dialectics is not opposed to transcendentalism, according to which a "critically"-minded researcher, even before grasping "objects", is occupied with analyzing the mind's ability "to lay claim of significance" (Hösle, 1992).

In this respect, philosophy of ecological crisis must find not only the positive in Hegelian dialectics from the standpoint of existentialism, but also reveal the "negative" in this dialectics, thereby revealing the true essence of existential dialectics and myths of its existing forms.

## **METHODOLOGY**

The methodological basis of the study of philosophy of ecological crisis is the idea of "intersubjectivity", which allows to explore the modern ecological crisis as a systemic crisis from the general philosophical positions and to identify ways of overcoming it. In this respect, philosophy of ecological crisis is occupied with examining the ecology as a new paradigm of politics. Spiritual history alone serves as the way to overcoming environmental crisis (Grishay, 1999). We believe that the true way to overcoming ecological crisis is the idea of the mosaic, which enables various spiritual worlds and philosophical systems to evolve on the basis of its own beginnings. In this regard, Hegel's dialectics and "existential dialectic" are complementary to each other, which increases the degree of artistic comprehension of the modern ecological crisis.

Reflection over the causes of ecological crisis increases the relevance of studying ecology as the science about human environment. In the process of reflection the heuristic potential of modern science gets highlighted, the structure of communicative practice of the scientific community, which is clenched between Hegelian dialectics and existential dialectics.

So-called existential dialectics cannot be without any preconditions; after all, existentialists themselves, when describing ecological crisis, rely on the past achievements of dialectics. Of course, there is the question of how, in general, existential dialectics of ecological crisis relates to classical Hegelian dialectic.

Presenting an analysis of ecological crisis from a position of a particular worldview will only help maintain an ideological stalemate among people. Since ecology, as the science about human environment, joy of human existence, has always been associated with many interpretations of the crisis of the modern Russian science, as well as with forms and methods of exploring the world itself.

## RESULTS AND DISCUSSION

### The idea of complementarity in Hegelian dialectics from the perspective of existentialism

Continuation of Hegel's ideas and essays of existentialists identified in principle should essentially consist in a dialectical processing of thought and technology. The history of formation and development of the idea of "additionality" provide us with a wealth of material for this kind of dialectical comprehension of culture. It is worth noting that the modern methodology of science is multi-level (Kedrov and Ovchinnikov, 1975). The science of ecological crisis contains, in addition to a philosophical, existential level, a specific level of individual methodological principles. Although Hegel took the idea of "self-movement" of the "Concept" as the starting point, this innovation, according to Kierkegaard, is still a "Berlin invention" of Schelling, which hides the "despair of thought". Hegel's desire to create a universal system of categories is, as a result, opposed the subjectivists' "dialectics of soul" (Kierkegaard, 1961). Even though Hegel himself quite logically "organized" spirit and nature, art and religion, person and state, the very idea of ecological crisis appears to be utopian until the idea about the priority of development of the human personality, their freedom will be placed at the forefront of the study of nature and society.

Hegel completed a rupture from the formal-logical and metaphysical way of discovering nature. J.-P. Sartre and M. Heidegger considered the undying achievement of Hegel the fact that he had a deep grasp of the sense of an objectified philosophical version of the world and, consequently, the science about human environment. K. Jaspers saw Hegelian dialectics as the highest display of thinking. He approved Hegel's desire to establish a dialectical, philosophical logic, which overcame the "school logic" of forever defined concepts; this "school" logic in view of "its formal sense" has, according to K. Jaspers, "limited field of action" (Jaspers, 1958). Jaspers draws attention to the fact that Hegel created dialectics that "should be comprehensive, having a true understanding of the integrity of existence and, at the same time, qualitative heterogeneity of its levels" (Malinin, 1989).

It should be noted that Hegel's philosophy comes alive and imbued with the deepest meaning only if it is additional to other philosophical systems (including existential ones). From the point of view of the theory of development, such elements of self-organization as "cooperative" evolution of structures of living systems, spontaneous nature of the bifurcation are especially worthy of philosophical reflection, meaning that when the philosophical system reaches the extreme point of its development (as, for example, Fichte's system), it then rolls back, in the direction of metaphysics before Kant, or transitions to a position of transcendental philosophy, where nature itself (especially in Fichte's "Doctrine of Science" of 1794) is understood as the "border of I". The evolution of Fichte's philosophical system suggests cooperative cycle between the system and external parameters. Without this condition, it becomes impossible to elevate the philosophical system to a state far from balance. At points close to the bifurcation, Fichte's philosophical system loses its vector of further development. Philosophy of ecological crisis is virtually isolated from external theoretical influences (especially from the philosophy of nature of F.V.J. Schelling) and begins to fluctuate and self-cooperate.

Moreover, thought "cycles" begin within Fichte's "Doctrine of Science", which delaminates into early and later. The philosophy of ecological crisis, in this case, would also delaminate.

Thinkers, engaged in production of a system of ecological crisis, often imagine only themselves, which limits them to the sphere of reflection and completely excludes existence, in the hope that grasping the ultimate causes of ecological crisis is easier than understanding crisis existence. However, it is just an illusion! Lively discussions about the purpose and appropriateness of knowledge about ecological crisis in the development of philosophical systems are clarified when we try to realize the idea of complementarity in the interpretation of "Doctrine of Science" (Wissenschaftslehre) of J.G. Fichte. The one who accepts transcendental idealism is neither in Absolute nor in factually phenomenal existence, but is at the point of their unity (Girndt, 1997).

Neither humans nor the "Omega Point" (P. Teilhard de Chardin), i.e. Absolute, satisfy theoretical potentials of the philosophy of ecological crisis.

### **Features of existential dialectics of ecological crisis**

The philosophy of ecology as a science about the human environment is, apparently, a form of free art. Therefore, we need to discuss existential dialectics.

The problem is that today we should ponder over the idea of limitless progress. People construct their own independent world using the theory of "productive imagination (Einbildungskraft) (I. Kant). They rely on the idea that one can grasp only what one produces. Nowhere is this principle realised with such completeness as in the act of "self-consciousness". This, which requires "contemplation" of themselves from a philosopher, thanks to which the "I" gets born, is called intellectual intuition (intellektuelle Anschauung). Nevertheless, it is necessary to proceed from experience, from the fact of existence of things, phenomena, i.e. not to replace existence with a concept. A purely rationalistic philosophy proceeds from cognition to existence, while a "positive" one, i.e. existential philosophy, – from existence to cognition (Schelling, 1977).

Existential dialectics, linked to the comprehension of ecological crisis, is aimed at the affirmation of the "whole" individual, its essential strengths. However, the "non-wholeness" of the individual, which is a reality today, is not a "primary origin". The existential approach to humans often derives from the recognition of non-wholeness, i.e. chaotic public relations that deepen the systemic ecological crisis as a crisis of spirit, culture, philosophy, morality. It is worth noting that when N.A. Berdyaev states that it is possible to get rid of the tragedy of existence through "spiritual self-absorption", he doesn't notice that such "self-absorption" just smooths but does not eliminate the tragedy of our existence. Humans, according to Berdyaev, get thrown into the objective environment, which puts them in very limited conditions for existence in the world (Berdyaev, 1952).

It should be noted that existential dialectics' authors' claims to an adequate interpretation of ecological crisis resulted in negligible results. Apart from everything else, they faced the "ghost" of intuitivism. It is worth noting that intuitivism is only effective in regards to "spiritual" reality. But the object of comprehension is, in fact, broader. While Hegelian dialectics resolves disputes through the knowledge of spiritual philosophy, existential dialectics is linked to the understanding of ecological orientation of human existence, freedom. It should be noted that a solution to social issues is not connected with decent conditions of existence, with overcoming ecological and moral crisis. Even if we imagine such solution to social issues, it will only increase the tragic sense of life; many will then be consumed by mental and spiritual longing. In general, it should be noted that in its philosophical sense existential dialectics is just a subjective variant of idealistic dialectics.

### **Features of dialectics of ecological crisis**

The philosophy of ecological crisis is not limited to social criticism of its characteristics. Criticism of existing theories of crisis is expressed in the phenomenon of champions for truth and democracy. One myth of dialectics of ecological crisis is associated with animal irrationalism, with apologetics of political violence. It is impossible to overcome ecological crisis by relying exclusively on Weber's explanation of ideology as a sphere of false consciousness (Adorno, 1964).

Ecological crisis cannot be overcome while being guided by the positivist philosophy. Overcoming this crisis is linked to the development of existentialism, which builds on the idea that "positivism and existentialism in their understanding of the world and humans 'differ and yet are complementary to each other'" (Adorno, 1963a).

It should be noted that the modern ecological crisis is linked to the destruction of free thinking. The philosophy of crisis is tightly bound to vague images of the old romantic philosophy. Draw to irrational is one of the myths of dialectics. The drive towards irrationalism, nevertheless, has the potential for self-destruction. When a person is seriously interested in the idea of ecological crisis, they usually imagine that exactly here

lies the ground of philosophy. But ecology in its source is a doctrine where philosophical, political, cultural, spiritual highways converge. The creators of ecology see something in contradictions of reality but, trusting in any one form of dialectics, turn to the hopeless blind-alley of irrationalism and even mysticism.

When Th. Adorno commented that Hegel's "phenomenology of spirit" has a skeleton of "negative dialectics", he obviously indulges in wishful thinking (Adorno, 1963b). The philosophy of ecological crisis must not connect in the "cult of logic", which is in opposition to free thinking (Adorno, 1957).

The magic of denial, reminiscent of the vague images of romantic philosophy, is often erected in place of the cult of logic. Adorno asserts that the "rational" possesses immanent capacity for self-destruction, for transition into the sphere of the irrational.

The discussion, related to the comprehension of ecological crisis, is linked to the immanent capacity for self-destruction. Philosophers should not be embarrassed by these "transitions", but instead they should search for these transitions of existence into thought. We believe that the modern philosophy of ecological crisis is connected to the concepts of the thought structure. But more often than not W. Heisenberg "used the notion of a boundary, by which he meant some kind of horizon, i.e. something that limits not a specific area in the world of nature or culture, but a special world, a special 'everything'" (Akhutin, 1989; Lukjanow, 2007).

J.G. Fichte believed that only by rising over nature we can grasp nature. Without this "rise" we will find ourselves immersed in nature. Without "nurturing" "endless individual" in our personal "I" we will understand neither nature nor ourselves.

The debate itself, focused on the understanding of the causes of ecological crisis, becomes connected to the distinction between the philosophy of nature and transcendental nature-teaching (Lauth, 1984). R. Lauth developed the transcendental teaching about nature and implemented it through the principles of "Doctrine of Science". In addition, R. Lauth sought to build "time in consciousness", so that nature "in Doctrine of Science" was not presented as a "dead" shell of consciousness (Fuchs, 1981). R. Lauth highlights in his works the transcendental philosophy of nature, which, if viewed through the principles of "Doctrine of Science", through the problem of "building" time in consciousness, appears as a philosophy of mind (Lauth, 1981).

## CONCLUSION

The philosophy of ecological crisis rests against the undefined categories, although we should note that in Hegel's works "formation" is not formation at all, but the emergence of something new, to whom the future belongs. But if the person is focused on the "future", the latter apparently destroys material existence.

Ecological crisis, its comprehension are not related to the problem of self-movement of ecological categories. Dialectics of opposites cannot act as an inherent idea of the subject as such. We should not reflect the tragic hopelessness of human existence in the categories of dialectics. The spirit of technical rationalism is indicative of both capitalism and socialism. Both systems therefore should be subject to criticism due to their mutual "inadequacy". Any social system that suppresses hope for a better world is quite unproductive. In this regard, there are attempts to find a new theory of Absolute. But these attempts eventually arrive at the synthesis of the later systems of J.G. Fichte and F.V.J. Schelling. The human dignity demands a protest against any knowledge system, even though this protest does not lead to anything positive. We should not proceed from apologetics of a philosophical system since any theoretical system is more durable than its denial of human personality. If the human personality is destroyed, the recipes of "just" social practices become ineffective.

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### New Solution of Psycho-physiological Problem

*Nueva solución de un problema psico-fisiológico*

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#### ABSTRACT

Three currently known versions of the formulation of a psycho-physiological problem are presented in the introduction. In the second part of the article, facts, known for today, which contradicted at least one of the accepted statements of the psycho-physiological problem were considered, and the sum of these facts contradicts all three initial versions of the statement of this problem. In the third, main part of the article, with respect to already existing, a different view of author on a possible solution of a psycho-physiological problem is given.

**Keywords:** Psycho-physiological identity; psycho-physiological interaction; psycho-physiological parallelism; psycho-physiological problem.

#### RESUMEN

En la introducción se presentan tres versiones conocidas de la formulación de un problema psico-fisiológico. En la segunda parte del artículo, hechos, conocidos por hoy, que contradijeron por lo menos una de las declaraciones aceptadas del problema psico-fisiológico fueron consideradas, y la suma de estos hechos contradice las tres versiones iniciales de la declaración de este problema. En la tercera parte, principal del artículo, con respecto a lo ya existente, se ofrece una visión diferente de los autores sobre una posible solución de un problema psico-fisiológico.

**Palabras clave:** Identidad psico-fisiológica; interacción psico-fisiológica; paralelismo psico-fisiológico; problema psico-fisiológico.

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## **INTRODUCTION**

The psycho-physiological problem in its scientific sounding was first posed by Rene Descartes in the XVII century (Aleksandrov, 2014). In due course this problem began to be considered within the limits of one of three possible decisions (Zhdan, 2004). These variations of solutions today recognize psycho-physiological parallelism (coming directly from R. Descartes), psycho-physiological identity and psycho-physiological interaction (Gippenreiter, 2002).

Each of these principal directions today is represented by numerous theories and views, partially confirmed by experiments (Shvyrvkov, 1978), but still leading only to palliative evidence of their verity and admitting, among them alternative interpretations of the results of experiments.

## **GENERAL CRITICISM OF BASIC APPROACHES TO SOLVING A PSYCHO-PHYSIOLOGICAL PROBLEM**

Unfortunately, all three basic approaches to solving psycho-physiological problems, called scientific, today no longer meet the most important criterion of science character, which is that the hypothesis under consideration covers all currently known facts and become internally not contradictory.

Consider the facts, which, when fully considered all of them within the framework of each paradigm, give rise to the internal inconsistency of each of them.

The authors in (Datskovsky, 2018b) showed (following a series of publications by other authors) that the technical capabilities of the human brain for many orders are not enough of magnitude both for processing and storing those huge amounts of information that must "be" in the brain during the paradigm of identifying the mental and physiological (psycho-physiological identity). This is contrary to the paradigm of psycho-physiological identity.

The French sociologist and psychologist G. Le Bon (1995), at the end of the XIX century, showed that a person carries a lot of information from previous generations (not only from parents, but also from many generations, in fact, from everything that has been stably emerging over many years by generations of the people), which largely determines the mentality of a person regardless of the conditions of his upbringing in a different environment, fundamentally different from the social environment of the society in which his parents live, even if the child is raised in this different environment from an early age. G. Le Bon individualized this unconscious by way of a mental inheritance, received by an individual from the pyramid of direct relatives of the probands, which is expanding into the depths of generations. The volume of this information clearly does not fit into the genetic apparatus that is physically transferred from parents to a child and, at the same time, is a hidden force, in many respects influencing the views and behavior of an already grown up person. The initial availability of this initial information in a newly born child contradicts both the paradigm of psycho-physiological identity and the paradigm of psycho-physiological interaction.

Following the publication in 1976 of Raymond Moody's book 'Life after Death' and the avalanche of similar publications that followed this book (which is still continuing today), it became impossible to deny the independent existence of the "soul" (we are not defined this concept here) outside the life of the material body. Although all data on this non-material (in the categories of primitive materialism) is obtained by the method of introspection, which in modern science is not considered the most reliable way to collect information, partially the authenticity in this information, which is at disposal of the "soul that separated from the body", is checked by the knowledge of a person who came back to life after an unconscious state of clinical death (and not any unconscious state at all) about subjects that being in the room and which a person in principle could not see from the place, where he was located, and only from a higher point above the body, moreover with the freedom of movement around the room. This fact contradicts both the paradigm of psycho-physiological identity and the paradigm of psycho-physiological interaction (Moody, 2000).

Today we know, on the basis of the enormous amount of data, about the connection certain parts of the brain with certain mental phenomena, properties, manifestations (Shirochin, 2004). The destruction of certain fragments of the brain leads to a complete or partial loss of the corresponding mental function (sometimes partially restored with time due to the plasticity of the brain, due to the redistribution of the lost function between other fragments of the brain) (Yakhno and Shtulman, 2001). This cannot but contradict the idea of an independent existence of soul and body, that is, it does not fit into the Cartesian paradigm of psycho-physiological parallelism.

It is impossible to deny the presence and the huge role of ontogenesis. This removes the question (or requires additions in the explanations) about the presence of an existing soul before the birth of a child, which has previous experience and previously accumulated knowledge, which a born child receives in ready-made form. The unconditional presence of ontogenesis sharply contradicts the paradigm of psycho-physiological parallelism.

So, it turned out that all three initial solutions to the psychophysiological problem when considering all the facts accumulated up to a given time turn out to be internally contradictory.

Consequently, a way out of this situation can be found either on the path of constructing a fourth, which has no internal contradictions when covering all known facts of the paradigm, or on the path of constructing a complex paradigm from some combination of the existing ones. We will go the second way and try to offer a model that combines the paradigms of psycho-physiological interaction and psycho-physiological parallelism, completely rejecting the paradigm of psycho-physiological identity.

### ***A POSSIBLE INTERNALLY NON-CONTRADICTIONARY SOLUTION TO A PSYCHO-PHYSIOLOGICAL PROBLEM***

We postulate the construction of the "psyche – body" structure, consisting not of two, as usual, but of three components – an eternal and all-knowing soul created from it for the period of the life of the material organism of *epidusha* and the material brain that is in the organism existing during the period of its life in our material world, was given to us in sensations. All three structures are in sequential interaction – the soul contacts and interacts only with the *epidusha*, the *epidusha* just with the brain. At an early stage of development, the developing material organism receives again and exclusively for it a formed *epidusha*, clear from the accumulated knowledge, which is just beginning its ontogenesis (in the state of *tabula rasa*).

The human brain is, in fact, a computer that has only two functions – the entire set of sensitive capabilities and their primary organization (in connection with the corresponding receptors – sight, hearing, tactility, taste, etc., at the level of sensitivity. Sensation and perception are no longer in the brain, but in the *epidusha*) and by control systems of the body's motor complex according to commands from the *epidusha*. In addition, the brain can exchange information with the *epidusha* – transmit sensations to it and receive control commands for the motor complex from it. In the brain, the programs of the simplest unconditioned reflexes (which can disappear with the destruction of that part of the brain where they are stitched) are also rigidly "stitched" (entered, fixed and permanently present). But it is possible that the programs of these simplest unconditioned reflexes are "in the *epidusha* without their withdrawal into consciousness and disappear (cannot manifest) upon the destruction of that part of the brain through which they are realized due to the disruption of the connection "transmitter" (*epidusha*) – "receiver" (the corresponding part of the brain that controls the execution of this reflex).

Even when performing unconditioned reflexes, information about deviations that require more complex (reasonable) actions is brought to the attention of consciousness, for example, unconditionally doing a quick pulling of his hand away from the fire, *epidusha* relatively slowly transmits information about the entire event into consciousness and especially about the pain.

The automatic control of internal organs (receiving information from them, constant analysis of the data obtained by given "stitched" programs and return of commands on functioning of the complex of internal organs) is carried out mainly by the autonomic nervous system with minimal inclusion of the lower (in relation to the cortex) parts of the brain (first of all, of the gate and cerebellum) (Voronova *et al.*, 2005), but it is possible that and the programs for assessing the condition and control of internal organs (analyzing and controlling functions attributed to the autonomic nervous system) "stitched" in epidusha without output them into consciousness.

Information enters the consciousness only when there is a sharp deviation in the functioning of the internal organs, when the available programs bring to the attention the information about the deviation and about their inability to cope with the situation – pain, discomfort.

Everything that we refer to consciousness and higher mental activity is located in the epidusha (a "processor" that implements all these functions, is located there). There also situated a full, with a huge volume, the human memory, which is manifested in consciousness (through the "processor") only partially, with the realization of the function of forgetting and unexpected "floating" of parts of previously memorized, but forgotten information (Datskovsky, 2018). In this thought we rely on the opinion of W.G. Penfield, which we cite from the book by Oliver Saks (2017). Canadian neurosurgeon of American origin U.G. Based on the observations of patients, Penfield concluded that the brain saves *an accurate record of all human experiences throughout his life* (visual, auditory, tactile, gustatory, olfactory, emotions, mood, all the volume of thinking, etc.). The stream of human consciousness, considered by W.G. Penfield, is registered *in full* and can then be reproduced both in normal life circumstances, and as a result of epileptic or electrical stimulation (Saks, 2017).

Sometimes abnormalities in the brain affect the functioning of epidusha. For example, epileptic (natural or artificial) stimulation of some parts of the temporal lobe of the brain can cause reminiscences to consciousness from the full amount of memory stored in the epidusha, but hidden behind a veil of forgetting.

Subconsciousness, intuition, enormous intellectual capabilities, complete information about the previous and accumulating in this life of the experience, knowledge, skills are located in the soul, which can, as necessary (unclear how determining), transfer part of its information to epidusha and continuously receive from it the whole volume of accumulated experience.

Exactly the epidusha walk through the full process of ontogenesis known to us, in particular the process of developing thinking and learning, and is in contact with the brain in accordance with those parts of the brain that are designed and executed to transfer to the body a certain functions of the psyche. Accordingly, the epidusha receives sensations from the brain from the sensors in accordance with those parts of the brain that receive information from these sensors and transmit it to the epidusha. That is why at the destruction of a certain part of the brain epidusha loses the ability to implement a psyche function "associated" with this part of the brain – the "transmitter" (in the epidusha) exists, and the "receiver" (in the brain) collapsed. The opposite is also true - when a particular sensor (for example, an eye) dies, the "receiver" (in the epidusha) exists, the "transmitter" (in the brain) is healthy, but the information to the "transmitter" is not transmitted.

Or the "transmitter" (in the brain) can also be destroyed, and then the information from the sensor will also not reach to the "receiver" (in the epidusha). As is customary in computer science, it can be assumed that the transfer of information between the "receiver" and the "transmitter" (in both directions) is carried out with the active participation of the "processors" on both sides.

At the time of death of the material brain the epidusha, transferring all the accumulated material into the soul (perhaps all the accumulated material is transferred from the epidusha to the soul not once, but constantly upon receipt) the epidusha or merges with the soul (possibly remaining in its structure as a separate block of information, for example, among other things, information about those realities of the historical period in which a person lived, whose brain was associated with this epidusha during his lifetime. Perhaps the soul may include a number of epidushas from different historical eras of our world) or whether ceases to exist.

Most likely, at the time of clinical death, in time of near-death experience, the person's consciousness already goes to the soul, but then for some reason returns to the epidusha along with the "revitalization" of the body. It turns out that during the near-death experience, the soul or epidusha has a very short and temporary location in our material three-dimensional world with the possibility of limited movement over the body, namely, in the same region of space where the dying material body is located (above the body in the room, above body at the scene of a car accident, etc.).

The parts of souls A, B, and C described in (Datskovsky, 2018b) are wholly related to the structure, which in this text is called epidusha. Such a hypothesis, which is combining the paradigms of psycho-physiological interaction and psycho-physiological parallelism allows one to explain all the existing facts without internal contradictions, and does not resort to the need to include the paradigm of psycho-physiological identity directly contradicting this hypothesis. The paradigm of psycho-physiological parallelism in this hypothesis is realized by the soul, and the paradigm of psycho-physiological parallelism is realized by the epidusha (Datskovsky, 2018a).

## CONCLUSION

A hypothesis for the construction and functioning of the "mind – body" structure, which is uniting the paradigms of psycho-physiological interaction and psycho-physiological parallelism, is proposed. This hypothesis combines all the facts known to date and at the same time is internally consistent.

From the proposed hypothesis of the construction and functioning of the "psyche – body" structure, it is rather clear follows the need of the conscious realization of the goal of life.

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## NOTAS Y DEBATES DE ACTUALIDAD

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### Legal Regulation of Socially-Oriented Legal Eechnique

*Reglamentación jurídica de la técnica jurídica de orientación social*

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#### ABSTRACT

The authors defined conceptual provisions of the modern classification and specification of legal technologies. The legal tools of law enforcement technology are investigated, its concept and structure are revealed, typologies of law enforcement and law enforcement technology are defined; the forms of expression of law enforcement technology are investigated; the features of the use of law enforcement technology in various types of legal activity are revealed; the author's model of law enforcement technology of arbitration proceedings is developed; the problems of law enforcement monitoring are analyzed. The authors have proposed the ways of using judicial practice in law enforcement monitoring.

**Keywords:** Legislation; modernization; regulation; technology.

#### RESUMEN

Los autores definieron las disposiciones conceptuales de la moderna clasificación y especificación de las tecnologías jurídicas. Se investigan los instrumentos jurídicos de la tecnología de aplicación de la ley, se revelan su concepto y estructura, se definen las tipologías de la aplicación de la ley y la tecnología de aplicación de la ley; se investigan las formas de expresión de la tecnología de aplicación de la ley; se revelan las características del uso de la tecnología de aplicación de la ley en diversos tipos de actividad jurídica; se desarrolla el modelo de autor de tecnología de aplicación de la ley en los procedimientos de la cotidianidad; se analizan los problemas de la vigilancia de la aplicación de la ley. Los autores han propuesto las formas de utilizar la práctica judicial en la vigilancia de la aplicación de la ley.

**Palabras clave:** Legislación; modernización; regulación; tecnología.

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## INTRODUCTION

As an alternative to the name of the law enforcement monitoring procedure provided for by the Regulation on law enforcement monitoring in the Russian Federation, it is advisable to use the more General term "monitoring of the implementation of the right", otherwise the direct forms of the right implementation can be included as objects of study in the framework of the generalization of law enforcement practice only optionally. It is interesting that Chapter 12 of the Federal law of 28 June 2014 No. 172-FZ "on strategic planning in the Russian Federation" applies the term "monitoring of the implementation of strategic planning documents" (Houlgate, 1998).

Monitoring of enforcement should be considered in conjunction with the powers of law enforcement authorities. The monitoring carried out by state bodies and their officials by virtue of their duties differs from similar actions carried out by other bodies and persons by virtue of their will (desire), as, for example, the official interpretation of the law differs from its informal explanation. The main difference is the legally significant legal consequences of these actions: in the first case they occur, and in the second – no (Errera, 2007).

Monitoring of law enforcement should become an integral part of public administration, the results of which should be taken by the authorized bodies of the relevant management decisions. Therefore, the dissertation fully shares the point of view of those scientists and practitioners who believe that the organization and implementation of monitoring should become the authority of the state. The same position is evident in the arguments of some researchers about the nature of the state control, which "is designed to ensure the regulatory activities by analyzing and verifying the implementation of laws and other legal acts and the validity of the actions". Thus, in the exercise of control, the legality of the adoption of legal acts is considered, the actual situation is studied and the assessment of the actions taken is carried out. A similar view is shared by other researchers, believing that one of the stages of the control procedure is the stage of making a decision on the application of coercive measures to the controlled object (Samuel, 1991).

However, the technical and legal aspect of law enforcement monitoring remains out of the field of view of legal experts. It should be emphasized that the objects of law enforcement monitoring as a kind of legal activity have technical, legal and technological and legal components: a set of tools used to achieve the goals and objectives of law enforcement monitoring. The main focus should be on law enforcement monitoring technologies (Goodrich, 1985).

## LITERATURE REVIEW

At first glance, the technology of law enforcement monitoring appears as a set of tools used in the technology of observation, analysis and evaluation of legal information, as well as criteria and indicators of the effectiveness of laws and practices of their implementation. However, as the monitoring of law enforcement is institutionalized and the phenomenon is understood, the content of this technique is becoming more complex and its elements more diverse, more clearly showing technological features (Errera, 2007).

At the initial stage of a kind of technological and legal techniques that make up the technology of law enforcement monitoring, there are relatively few, elements of rule-making or law-enforcement technology are adapted for it. However, this assumption, as suggested by N.N. Chernogor does not exclude the possibility of independent technological methods and technical means, for example, techniques of drawing up plans, references to other plans, techniques of approval of plans and monitoring programs, techniques of registration of proposals of Federal Executive authorities in the draft consolidated plan, that is, it is a question of structural and substantive rules for monitoring of law enforcement (Errera, 2007).



When monitoring enforcement, legal and technical means used in specific technological frameworks should be used in accordance with certain technological strategies, tactics, methods, rules and techniques aimed at specifying the purpose and object of monitoring. Thus, the collection of information is carried out by sending instructions, requests to the subordinate territorial bodies of state power, Federal services and agencies and etc. At the stage of generalization and analysis of information using such technological tools like "file law", the criteria and indicators of the effectiveness of laws and practices of their application. In the design of the monitoring results, special methods are used for preparation of the outcome document of the report contains sound proposals for improvement of legislation, etc.

### **DATA AND METHODOLOGY**

Thus, the technology of law enforcement monitoring is quite multifaceted and complex in content and structural terms, which, in our opinion, requires the most serious study and application of the relevant methodology. The following definition can be adopted as a working one: the technology of law enforcement monitoring is a set of methods and methods, rules and techniques for the use of monitoring planning tools, obtaining the necessary information, recording it, summarizing, analyzing and evaluating it, processing and publishing it, as well as implementing its results (Broekman and Backer, 2013).

Research of law enforcement monitoring technology, formation of positive scientific knowledge about this phenomenon require the application of the methodology of legal science. The concretization of the used cognitive means, the determination of the set of methods and methods of their use, methodological approaches used to study this phenomenon, is based on the characteristics of the subject of research, its forms of existence and the specifics of the scientific problems to be solved.

### **RESULTS AND DISCUSSION**

Currently, in legal science there is a research paradigm, according to which the issues of monitoring technology in law, its technique and methodology are not distinguished and formulated as the problems of the latter. This approach seems to be unproductive and, in our opinion, can lead to erroneous conclusions (Hellebuyck, 2009).

The category "methodology of legal monitoring", so fashionable today, as well as the calls of some scientists to actively develop it, seems quite controversial. Moreover, the reasoning about it is reduced to the formation of positive theoretical knowledge about monitoring – the development of applied concepts, goals, principles, subjects, stages, methods of its implementation. The task of the theory is to form a positive knowledge of the subject. The methodology is responsible for organizing the formation of this knowledge. From this point of view, we can state that there is a substitution of concepts – the theory and methodology of monitoring in law (Leith and Hoey, 1998a).

The methodology of legal monitoring, defined as a set of methods, methods and means to ensure a rational and effective organization of the activities of monitoring subjects to implement the inventory, forecast, to assess the effectiveness and efficiency of regulatory legal acts and law enforcement practice, in the process of perception and study is mixed with the technology, technique and methodology of its implementation (Alder and Wilkinson, 1999). However, it is easy to note that in this case out of the field of view of the technical and legal means of drawing up programs and plans of monitoring activities, criteria and indicators of the effectiveness of laws and practices of their implementation, the technique of maintaining the dossier of the law, registration of the results of monitoring, etc.

Representatives of this approach distinguish as the most important methods of legal monitoring the observation, analysis, synthesis and evaluation of the information. The mentioned techniques and methods of scientific knowledge are really used in the course of monitoring of law enforcement, and, at least, at the level of scientific hypothesis, we can say that they, along with other technical and legal means and techniques are covered by the concept of "legal technique of legal monitoring". However, their totality cannot be qualified as the methodology of the latter (Leith and Hoey, 1998b).

The main difference between the methods of law enforcement monitoring technology and the methods and principles of scientific knowledge is characterized by the sphere, goals, objectives and results of their application. Methods of scientific knowledge are used in research conducted to obtain new theoretical or empirical knowledge, to expand the content of the General theory of law or other legal science. The techniques of law enforcement monitoring technology determine the way, the correct movement of thinking not in the scientific but in the practical sphere related to the monitoring, analysis and evaluation of legislation and its application. Therefore, if one or another part of scientific methods can be applied in the process of monitoring, the rules of law enforcement monitoring technology are ineffective in scientific knowledge and cannot contribute to new scientific knowledge about the law, the laws of its functioning and development.

The results of the application of scientific methods and technologies of law enforcement monitoring are also fundamentally different. If the combined result of the first are scientific knowledge in the form of a theory of law or other legal science, the total result of law enforcement monitoring technology is characterized by its operating system and the degree of achievement of its main goal – to provide feedback between the society and the legislator (Grabowski, 2013).

The task of further progress in conducting theoretical and applied research of this phenomenon and equipping of the subjects and participants of monitoring enforcement of scientifically grounded recommendations on optimization of the established practice of its realization, to improve its efficiency requires to overcome the above-mentioned paradigm of research. The limitation of the research objectives development of methodology of monitoring enforcement does not allow to cover all issues related to the topic and is able to fully satisfy practical needs of the organisation and monitoring of enforcement across the state (Legal Argumentation..., 2007).

It should be noted that in recent years the role of social technologies used in various spheres of non-production, primarily legal, has increased significantly. The experience gained to date in monitoring the law enforcement in the public authorities of both the Russian Federation and its subjects, as well as the achieved level of scientific understanding of this phenomenon allow us to assert that legal monitoring is a kind of legal and, in particular, law enforcement technology (Binder and Hofbauer, 2017).

The progressive process of institutionalization of law enforcement monitoring, quantitative and qualitative growth of rules, methods, techniques, methods of its implementation cause the emergence of an objective need for their harmonization and systematic use. Consistent implementation of law enforcement monitoring in the practice of state bodies is associated with the complexity of its mechanisms, requires more developed forms of legal mediation of this activity. All this has historically and logically led to the emergence of law enforcement monitoring technology (LoPucki and Weyrauch, 2009).

It is the "technological" view of law enforcement monitoring that allows us to bring the empirical and logical in scientific research as much as possible, to cover and link together not only the methods of studying legislation and law enforcement practice, but also the organizational, administrative blocks, its components, institutional, functional and instrumental in its nature and content (Kosielińska-Grabowska and Grabowski, 2015).

The law enforcement monitoring system should include:

- authorized entities;
- objects of law enforcement monitoring;

- regulations;
- certain procedure;
- information block, including social information;
- analytical and evaluation block.

This understanding of law enforcement monitoring allows us to broadly interpret its objects—the dynamics of the legal sphere, legislation and other legal acts, state and public institutions, legal conflicts, lawful and illegal behavior of citizens. This can be attributed to objective processes, and the contents of which are incorporated into institutions and legal norms (Mäntysaari, 2017).

Consequently, all of the above indicates that law enforcement monitoring is technologically sound, allowing for the improvement of law enforcement technologies. The detection of the technological effectiveness of law enforcement monitoring is a consequence of the progressive study of the phenomenon, which has not been previously subjected to special research in the aspect of legal technology and technology, the discovery of new monitoring parties, which, although previously recorded in the studies, were considered as elements of the methodology for monitoring law enforcement (Pascuzzi, 2016).

Special studies of law enforcement monitoring technology should start not only with the collection and understanding of empirical facts, but also with the implementation of a critical analysis of the concepts of legal monitoring of law enforcement, clarifying the links and patterns of its implementation. The specificity of knowledge of this type of law enforcement technology is that first there was a theory of monitoring, in which were developed separate technological and legal tools (criteria and indicators for assessing the effectiveness of the law and its implementation), and then it was regulated. The desire to theoretically comprehend, to reveal the laws of law enforcement monitoring involves the solution of a number of epistemological problems (Frändberg, 2014).

In particular, since the technologies of law enforcement monitoring are heterogeneous, they can be classified on several grounds:

- stages of monitoring enforcement can be identified planning techniques, collect the necessary information, it is fixed, compilation, analysis and assessment, design and publication and implementation of results;
- for the roles (functional load), you can highlight the technology of preparation of documents (plans, reports, dossiers of the "law", etc.), evaluation of the monitoring object and information about it (benchmarks and performance indicators);
- depending on the quality of the structural elements, it is possible to identify the technology of strategy or tactics, the choice of method or method, rules and techniques that ensure the use of legal and technical means for the optimal achievement of the goals and objectives of law enforcement monitoring.

The last classification shows that the structure of law enforcement monitoring technologies in General is identical to the basic structure of legal technology, which consists of technological strategies and tactics, methods, methods, rules, techniques of optimal use of legal and technical means aimed at servicing activities to monitor the process of application of legal norms with a view to further improvement and adjustment of the current legislation in accordance with the realities of legal reality. It is important to note that procedural forms of law enforcement technology are not included in the structure of this type of technology due to the lack of strict procedural regulation of this activity.

## CONCLUSION

The content of the object, subjects, aims and objectives of law enforcement monitoring determines and confirms the need to develop law enforcement monitoring technology. Based on the previously identified essence of legal technology, it can be concluded that the technology of monitoring of law enforcement as one of its varieties is a systematic use of technological tools to ensure that the subject of monitoring the desired result.

Therefore, the structure of the law enforcement monitoring technology in General is identical to the basic structure of the legal technology and law enforcement technology, that is, it consists of the technological strategy and tactics, technological methods, methods, rules, techniques for the use of technical means. The technology of law enforcement monitoring is focused on the service of activities to monitor the process of practical implementation of legal norms with a view to their subsequent improvement and adjustment in accordance with the realities of legal reality. Procedural forms are also included in the structure of this type of technology due to the strict procedural and procedural regulation of this activity.

Thus, the basis of the content of technological means of law enforcement monitoring should be the means, rules, techniques, methods and techniques from the field of statistics, sociology, mathematics, Cybernetics, formal logic, serving the analytical intellectual and volitional activities to track the objective laws of the implementation of law. Moreover, most of the components of the technological means of law enforcement monitoring cannot have regulatory regulation and do not need it, unlike legal and technological means serving various types of legal activities.

Based on this, we can formulate the following definition: law enforcement monitoring technology is a system of knowledge about the optimal use of social, technical and technological means within the framework of certain strategies, tactics, methods, methods, rules, techniques used in the implementation of law enforcement monitoring aimed at analysis, evaluation of the effectiveness of legal norms and law enforcement actions with the prediction of their subsequent optimization. At the same time, the law enforcement monitoring technology implemented within the framework of the law enforcement technology is aimed not only at identifying defects in the law with the aim of their normative correction (which is inherent in the monitoring and technology, when the latter is its element), but also to study the peculiarities of the implementation of certain groups of law norms in order to develop the most effective and optimal technologies for their application.

In the scientific literature, a different term is used: "the mechanism of law enforcement monitoring "as" a well-established movement of information on the action of legal norms between the links involved in monitoring research, the gradual transformation in the course of analytical and evaluation activities and subsequent use to adjust the rule-making and law enforcement, as well as forecasting the needs for legal regulation". We believe that the analogy with the mechanism of the state in solving purely technological problems should not be, although the author and "stipulates that under the elements of the monitoring mechanism of law enforcement in this case refers not only to the actors and other participants in this activity, but the recipients of the information received by results of carrying out monitoring (not only the legislator but also the enforcers of all types)".

Development of technologies for monitoring enforcement will improve the effectiveness of this activity as a whole, because now the real results of the monitoring of law enforcement practices is not yet obvious. For example, in The State Duma of Russia as a justification for the introduction of draft laws monitoring of law enforcement is not called. In the messages of the President of the Russian Federation to the Federal Assembly in 2012, the topic of monitoring was raised only in relation to the quality of medicine, education, scientific results, the demand for cultural institutions, and in 2013 the word "monitoring" was not used at all (Lind, 2015).

However, the experience of law enforcement monitoring is accumulated, so it is necessary to generalize and promote the positive, and the technology of law enforcement monitoring-to improve. At present, a number of problems have been found in the law enforcement monitoring technology, the solution of which will significantly improve the efficiency of this technology.

There is a problem of fixing of subjects of monitoring of law enforcement. The main subject of law enforcement monitoring is the Executive authorities, the role of legislative bodies in the Regulation on law enforcement monitoring in the Russian Federation is reflected optionally. The principle of separation of powers determines the problem of inclusion of judges in the monitoring of law enforcement. Local governments were previously reflected in the "header" of the table of Federal law enforcement monitoring Plans, but none of them are named as performers, and now they are mentioned only as one of the possible subjects of proposals to the law enforcement monitoring Plan (though not independently, but only "through the public authorities of the Russian Federation"). Civil society institutions are designated only as a source of information for the authorities. Probably, these problems are caused by the complexity of the domestic legal system and the principles of its construction, however, they can be solved by improving the technology of law enforcement monitoring. In particular, this paragraph will provide some information on the implementation of law enforcement monitoring by legislative authorities (for example, the legislative Assembly of the Nizhny Novgorod region), and in the next paragraph – participation in this technology of courts.

One of the problems in the implementation of law enforcement monitoring is the technology of collection (and selection) of information. In accordance with paragraph 6, the Methods of monitoring law enforcement in the Russian Federation should be used:

- a) practice of courts of General jurisdiction and arbitral tribunals;
- b) the practice of the Federal Executive bodies, public authorities of the constituent entities of the Russian Federation and other state bodies;
- c) information on the practice of application of normative legal acts of the Russian Federation, received from the Commissioner for human rights in the Russian Federation, the Commissioner Of the Russian Federation to the European court of human rights, the Commissioner for the rights of the child under the President of the Russian Federation, as well as from the Public chamber of the Russian Federation, state corporations, funds and other organizations established by the Russian Federation on the basis of Federal law;
- d) information received from public, scientific, human rights and other organization;
- e) information obtained from the media;
- f) information from citizens;
- g) information received from other sources.

In accordance with paragraph 7 of the Methodology, additional information can be used:

- a) statistical information derived from statistical data for the time being-and supplemented by industry statistics of public authorities and other state bodies;
- b) sociological information formed on the basis of sociological researches'.

However, experience shows that not the whole range of information that requires generalization is collected and studied. For example, when monitoring the law enforcement Of the law of the Nizhny Novgorod region of December 27, 2007 № 196-Z "on public events held in the Nizhny Novgorod region", the working group considered the materials presented by the state Ministry of internal Affairs of Russia in the Nizhny Novgorod region , on the results of work on the implementation of the law for 2012 and 2013 and decided to summarize information on the practice of the law of the region from other sources, in particular

information on scientific research on the problems of legal regulation of the right of citizens to conduct public events.

Generalization of scientific research on the problems of legal regulation of the right of citizens to conduct public events allowed to draw conclusions, important both in the doctrinal key and to improve the technology of law enforcement. In a doctrinal vein, it was found that scientific research of such a specific problem is characterized by:

- complexity, as legal relations are at the "junction" of the basic branches of law-constitutional, administrative and municipal;
- exclusively applied value-closely related to the practice of law enforcement, however, mainly do not precede the implementation of citizens' right to hold public events, and there are post factum;
- a detailed study of the actions of law enforcement officers during public events.

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### La política de aumento de la inversión en las entidades municipales de Ucrania

*Investment Rising Policy in Ukrainian Municipal Entities*

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#### RESUMEN

El artículo propone una metodología para atraer inversiones para las instituciones municipales de Ucrania. Se analiza la eficacia del autogobierno local de Ucrania en el desarrollo socioeconómico de las comunidades locales (sistema organizativo). A fin de garantizar los flujos de inversión a los municipios, deben incidir los siguientes factores: la interacción constructiva con las administraciones locales; garantizar la relación óptima riesgo / rendimiento de las inversiones en la economía local entre el número máximo de inversiones alternativas.

**Palabras clave:** Inversiones; autoridades locales; comunidad local; métodos de organización.

#### ABSTRACT

The article proposes a methodology for attracting investments for municipal institutions of Ukraine. The effectiveness of local self-government of Ukraine in the socio-economic development of local communities (organizational system) is analyzed. In order to guarantee investment flows to municipalities, the following factors should be influenced: constructive interaction with local administrations; guarantee the optimal risk/return ratio of investments in the local economy between the maximum number of alternative investments.

**Keywords:** Investments; local authorities; local community; organization methods.

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## **INTRODUCCIÓN**

Los inconvenientes del sistema moderno de la actuación del gobierno local de Ucrania en el desarrollo socio-económico de las comunidades locales, consisten en un excesivo formalismo (burocracia), nada propicio para la atracción de inversiones a los municipios. En este sentido, es conveniente desarrollar metodologías, basadas en un conjunto de herramientas, enfoques y principios, para promover la aplicación de técnicas de control por parte de las correspondientes entidades territoriales de los gobiernos locales en tiempos de inestabilidad y la perplejidad del entorno externo.

Cabe señalar, que los científicos canadienses P. Smith y P. Moore (1993), así como el norteamericano L. Rees (1997), investigadores de la metodología de la organización de la actuación de los gobiernos locales en el desarrollo socio-económico de las entidades locales, hicieron las correspondientes aportaciones a las respectivas administraciones municipales de sus países. Los investigadores rusos A.N. Shirokov (2000), V.V. Ivanov y A.N. Korobova (2006), analizaron la posibilidad de aplicación en el sistema del gobierno municipal ruso de un sistema de organización particular para el desarrollo de la comunidad local de la ciudad rusa Tolliatti.

La particularidad del funcionamiento y el desarrollo del sistema nacional del gobierno local es muy diferente a los modelos occidentales y estadounidenses.

En Ucrania, falta revisar y racionalizar el desarrollo socio-económico de las comunidades locales, especialmente – en la parte de las inversiones extranjeras directas en los municipios.

El objetivo de este estudio es la elaboración de la metodología de la organización de la actuación de los gobiernos locales de Ucrania en el desarrollo socio-económico de las comunidades locales, enfocada a la captación de inversiones para los municipios.

## **PRIORIDADES ESTRATÉGICAS DEL DESARROLLO DE LAS COMUNIDADES LOCALES**

Para determinar las prioridades estratégicas del desarrollo de las comunidades locales es oportuno analizar las fortalezas, debilidades, oportunidades y las posibles amenazas del entorno externo. Mientras, bajo las oportunidades comprendemos las alternativas, que a su vez pueden contribuir, por ejemplo, al desarrollo de un producto nuevo, captación de nuevos usuarios de los servicios gubernamentales, la introducción de nuevas tecnologías, la reforma y la mejora de las cadenas de valor, la optimización de las condiciones de vida de las comunidades locales, el desarrollo de la industria local.

Sin embargo, cualquier actividad está expuesta a amenazas que pueden causar daños al sistema de gobiernos locales en su conjunto, privándolo de sus ventajas (Ivanov y Korobova, 2006).

En relación con esto, se puede proceder a examinar las alternativas estratégicas reales de las acciones a realizar, sólo después de una valoración interna y externa de la situación de la comunidad local. A su vez, hay que tener en cuenta, que a medida que cada comunidad local vaya enfrentándose a las diferentes oportunidades y amenazas, adquiriendo sus propias fortalezas y debilidades, la estrategia resultante y la política de cada una serán únicas.

Por lo tanto, el análisis, así como la aplicación de cualquier otro instrumento en la gestión municipal, requiere la participación de un gran número de expertos para mejorar su calidad, así como la determinación de las opiniones (ideas) de todas las comunidades locales (por ejemplo, en forma de encuestas sociológicas).

Los factores que influyen favorablemente en el entorno interno de la comunidad local pueden ser los siguientes: pertenencia al centro de la región; la magnitud de las áreas forestales (párques forestales); un equipo calificado de empleados del gobierno local; la posibilidad de administrar un gran número de locales no residenciales; la existencia de un gran número de asociaciones, lo que crea las condiciones favorables para las innovaciones; altas capacidades administrativas del gobierno y la estabilidad socio-político del

entorno; ausencia de conflictos entre la administración pública y el gobierno local; la situación geográfica ventajosa; una amplia infraestructura turística y del ocio en funcionamiento; la riqueza en recursos naturales; una amplia red de transporte; una base económica sólida y diversificada; mano de obra calificada; desempleo relativamente bajo; alto potencial científico; saldo positivo en el balance de los ingresos y gastos corrientes; estabilidad fiscal; bajo endeudamiento del presupuesto; la independencia del presupuesto de las comunidades locales de otros presupuestos y de las administraciones locales del Estado (Administración Pública).

Estos factores pueden crear nuevas oportunidades para la comunidad local: el uso de las herramientas financieras y de marketing para el desarrollo de la pequeña empresa; elaboración de estrategias y desarrollo de proyectos de la comunidad local; construcción de viviendas nuevas y la mejora de las ya existentes, aumentando su atractivo para las inversiones; el uso de herramientas científicas; captación de las inversiones extranjeras mediante el incremento de su atractivo en las comunidades locales.

En cuanto a los principales factores adversos, éstos son: viviendas en estado de emergencia; la estructura demográfica específica: 1/3 – pensionistas, 1/3 – niños; empeoramiento de la situación demográfica (disminución de la población, disminución de la población activa y envejecimiento de la población); la estructura de las comunidades locales poco atractiva para pequeñas empresas; la crisis de las grandes empresas industriales; personal poco calificado en la mayoría de las unidades estructurales de los órganos ejecutivos de las entidades locales, así como en las empresas; falta de escuelas de formación profesional; la degradación del medio ambiente; el empeoramiento de los indicadores del nivel de vida; la reducción de los ingresos de tesorería debido a la necesidad de invertir importantes recursos presupuestarios en la economía municipal; una alta dependencia del control presupuestario de la voluntad y de los intereses de los Jefes de las Administraciones en base a una débil gestión del presupuesto institucional y sistémico de los factores de administración presupuestaria; la falta de producción competitiva; cartera de propiedades ineficientes en las grandes empresas industriales; la reducción de la base de ingresos presupuestados a todos los niveles de la economía; la falta presupuestaria de programas del desarrollo de la producción; el clima desfavorable para la inversión; la falta de regularización legítima de comercialización de las viviendas y otros sectores (áreas) estructurales de los municipios; los programas ineficaces del desarrollo de las PYMEs; la falta de armonización de los intereses de los diferentes grupos sociales de las comunidades locales; la falta de decisiones estratégicas aprobadas sobre la reforma económica en su conjunto, así como de las actividades de los principales sectores productivos y de la economía municipal.

Los principales riesgos y amenazas, asociados a los factores de adversidad pueden ser: la reducción de la base de los ingresos debido a las correspondientes decisiones de las administraciones locales del Estado; la eliminación de los fondos no presupuestarios y la transición a una financiación presupuestaria rígida; el crecimiento de la corrupción y de la delincuencia; la falta de estrategias de desarrollo a largo plazo de la región; la amenaza de abolición de las leyes de incentivos fiscales para los inversores.

### **CARACTERÍSTICAS DE LAS ACTIVIDADES DEL GOBIERNO LOCAL**

En consecuencia, el crecimiento de la inseguridad social de las comunidades locales provoca un aumento de los costes, mientras que los ingresos en términos reales disminuyen. Este hecho, es debido a la crisis presupuestaria y la reducción de sus propias fuentes de financiación poco diversificadas.

Además, puede surgir una diferenciación de los ingresos no proporcional al número de la población del municipio. Sin embargo, la asistencia social real depende del lugar de residencia, por ejemplo, de un jubilado o un discapacitado (Shirokov, 2000). Por lo tanto, el principal objetivo estratégico del gobierno municipal es la creación de múltiples recursos en los gobiernos locales, lo que, a nuestro juicio, debe incluir

tres áreas: reducción de los costes de las partidas existentes, incluyendo el ahorro y la búsqueda de fuentes de financiación no presupuestarias; el aumento de los ingresos a través del uso eficaz de las bases de recursos existentes y de la prestación de servicios; la formación de las fuentes alternativas de financiación del presupuesto en su conjunto, a través del desarrollo de proyectos municipales y la distribución eficiente entre las comunidades locales.

En todos los casos, el gobierno local debe utilizar herramientas de marketing. Por ejemplo, el desarrollo eficiente de las empresas comerciales del municipio, que es una de las principales fuentes de ingresos del presupuesto local, no es posible sin el uso del marketing territorial.

Con el fin de desarrollar un plan estratégico para el desarrollo de la comunidad local (municipio) y la organización del trabajo en su implementación, incluyendo la interacción del gobierno estatal y el local, así como de las empresas y asociaciones que tienen un impacto en el desarrollo municipal se puede establecer un organismo independiente con funciones apropiadas: análisis de recursos naturales, demográficos, industriales, financieros y de otra índole de las comunidades locales; el análisis del macro entorno de la comunidad local (Economic Policy Research con datos de previsiones macroeconómicas del Ministerio de Economía de Ucrania, las principales instituciones financieras internacionales, definiendo las condiciones del entorno externo de la municipio); el seguimiento continuo de la economía municipal; elaboración de modelos del desarrollo económico a largo plazo de las comunidades locales, una evaluación general de los gastos y de los efectos de su implementación, la preparación de propuestas para el modelo más apropiado (Smit y Morre, 1993); el análisis de la experiencia actual en la reforma de los servicios municipales, incluyendo los esquemas de financiación de determinados proyectos; confección de políticas de inversión, que determinen las prioridades sectoriales y de otro tipo en la búsqueda y aplicación de proyectos de inversión en beneficio de la comunidad local y de los posibles inversores; informar a los posibles inversores de todas las ventajas del municipio, así como de las perspectivas de su desarrollo, las condiciones legales, perfil de inversión de la comunidad local y de las determinadas finalidades de las posibles inversiones; la elaboración y la implementación del plan estratégico para el desarrollo socioeconómico del municipio y la captación de inversiones para su aplicación, lo que prevee la participación de los inversores y empresarios en la etapa de planificación (Reese, 1997); el control de la ejecución del plan estratégico y su ajuste, teniendo en cuenta los cambios de los factores externos e internos; la interacción durante este trabajo con las autoridades estatales competentes, empresas, instituciones bancarias, asociaciones, instituciones científicas y educativas, para desarrollar recomendaciones para la gestión de: planificación y manejo de los recursos del presupuesto municipal, de políticas de préstamo y garantías presupuestarias; implementación y mantenimiento de proyectos relacionados con la reforma de la economía urbana, los programas específicos y proyectos para el desarrollo de determinadas empresas de la ciudad; mejora del clima de negocios en el municipio: en cuanto a los procedimientos burocráticos de determinados medios de captación de inversiones y asistencia en la implementación de los correspondientes proyectos; análisis de los proyectos, en cuanto a las prioridades básicas del desarrollo estratégico de la comunidad local.

El correspondiente organismo (estructura) puede estar formado por 9-11 personas, entre ellas: un jefe, capaz de combinar la independencia de la organización con las cualidades de establecer contactos con administración pública local, el ayuntamiento, las empresas, las asociaciones; un analista-economista, experto en previsión y modelación; un demógrafo-sociólogo; un experto en planificación, así como en delimitación de zonas de las comunidades locales y determinadas áreas; un especialista en finanzas; un experto en gestión de proyectos; un abogado; un equipo técnico de 2-3 personas (Ketchen *et al.*, 2013).

La forma jurídica de la organización puede ser la de una asociación sin ánimo de lucro, ya que corresponde a sus fines – la organización de la implementación de los propósitos de la comunidad local.

Las principales fuentes de financiación de esta estructura pueden ser: las aportaciones de los socios; cuotas de entrada de personas físicas y jurídicas más adelante; aportaciones anuales.

Entre los fundadores han de estar: la administración estatal local; la correspondiente autoridad local

competente (consejo local); empresas industriales, financieras, comerciales y de otro tipo que operan en el municipio, así como las que provienen de fuera; las instituciones de investigación y educación; las organizaciones regionales; los posibles inversores, así como los que ya están invirtiendo en el municipio; las organizaciones internacionales interesadas en apoyar la elaboración de la estrategia del desarrollo económico del municipio; las empresas inmobiliarias y sus asociaciones; los jefes de las asociaciones; medios de comunicación locales (Hadani *et al.*, 2016).

En adición a esta estructura se puede crear una fundación para el desarrollo socio-económico sin ánimo de lucro para llevar a cabo una serie de tareas, como: la formación y el uso de la propiedad municipal; la acumulación de recursos para la ejecución de los programas sociales; la formación de un sistema de gestión de proyectos, que corresponda a la estrategia de la comunidad local.

### **LA ORGANIZACIÓN DEL DESARROLLO SOCIO-ECONÓMICO DE LA COMUNIDAD LOCAL**

La Fundación y la correspondiente estructura (organismo/organización) pueden interactuar de la siguiente manera (ver Fig. 1). La fundación, aprobada y controlada por una autoridad competente, administrará los bienes inmuebles y recursos financieros, elaborará e implantará proyectos, llevará a cabo la selección de personal y formará un equipo ejecutivo. Al mismo tiempo, la fundación, junto con las autoridades locales y otros socios igualitarios, formarán la Junta Directiva/la Junta de Fundadores (de toda la estructura), la cuál llevará a cabo las tareas de estudio y análisis, análisis de recursos, interactuando con los representantes de la administración, las empresas, las asociaciones, recopilando toda la información necesaria para la elaboración de los verdaderos planes de acción, que tendrán en cuenta los recursos disponibles, las posibles inversiones y participantes.

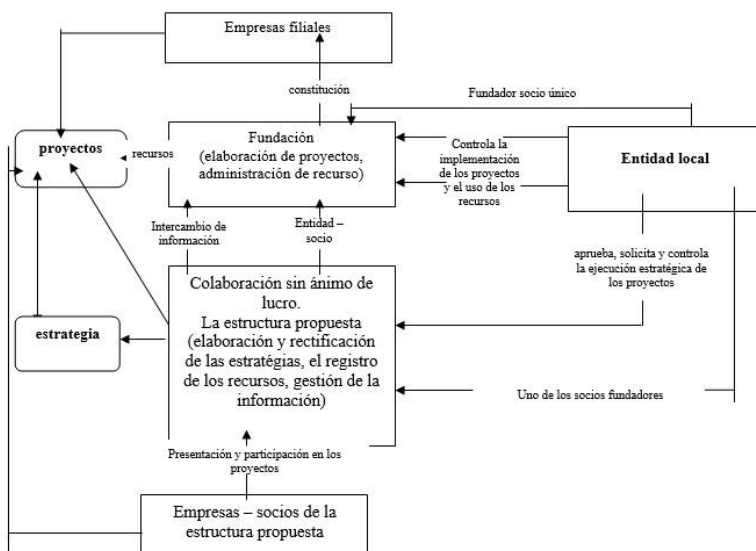
En base al intercambio de propuestas y los esfuerzos conjuntos, las empresas asociadas a la estructura, pueden ofrecer sus propios proyectos (White y Breckenridge, 2014). Al mismo tiempo, la estructura que proponemos y la fundación pueden crear proyectos en el marco de la estrategia elegida, y formar un equipo de profesionales para su implementación. Sin embargo, todos los proyectos que se llevarán a cabo, deben pasar un examen de conformidad, en cuanto a la estrategia y vías de su rectificación.

En consecuencia, como resultado de la interacción entre la estructura aquí propuesta y la fundación, obtenemos un sistema de planificación táctica, estratégica y operacional aprobado por el consejo local (Walter, 2017; Anderson y Whitford, 2017). En efecto, la fundación ha de formar una "cartera" de proyectos que divida la implementación de estrategias en etapas y acciones relacionadas entre sí. Al mismo tiempo, en el control de los flujos financieros de los proyectos durante su implementación y el uso de los recursos sólo deben participar los socios de la estructura propuesta o empresas constituidas por la fundación (Busemeyer y Garritzmann, 2018).

A su vez, el sistema de gestión de proyectos modelado por la fundación ha de ser lo suficientemente flexible para adaptarse a los cambios de los socios de los proyectos para lograr sus propósitos.

En definitiva, cabe señalar que la metodología de la organización de la actuación de las entidades locales en el desarrollo socio-económico de los municipios está vinculada: a las medidas adoptadas por las administraciones públicas y de los consejos locales para la captación de las inversiones; o, directamente, a la economía del municipio, influyendo en las decisiones tomadas a través del "voto por acciones", subvenciones, participación en las negociaciones, búsqueda de contratistas, elaboración de proyectos, financiación con préstamos, aportación de garantías.

Figura 1: La organización del desarrollo socio-económico de la comunidad local (municipio)



## CONCLUSIONES Y RECOMENDACIONES

Por lo tanto, la metodología de la organización de la actuación de los gobiernos locales de Ucrania en el desarrollo socio-económico de las comunidades locales, contribuirá a la captación de las inversiones de los municipios. Lo que dará lugar a la intensificación de la competencia por las inversiones de las entidades locales del gobierno vecinas y de las respectivas comunidades territoriales. Hay que señalar, que este hecho dependerá de: la actitud de ciertas Administraciones locales respecto a determinadas comunidades territoriales; las relaciones entre las entidades locales y Administraciones Provinciales del Estado; el atractivo de inversiones en otros ámbitos, no relacionados con las respectivas entidades locales; inversiones en sectores, que están indirectamente relacionados con las respectivas entidades locales, aquellas que no tienen una influencia directa en su desarrollo (por ejemplo, inversión en una empresa registrada en otra región, lo que en consecuencia lleva a la exportación de capital).

A fin de garantizar el flujo de inversiones a los municipios hay que influir en los siguientes factores: interacción constructiva con las administraciones locales; garantizar una correlación "riesgo-rendimiento" óptima de las inversiones en la economía de la comunidad local entre el número máximo de inversiones alternativas.

La perspectiva de las futuras investigaciones en el marco del desarrollo de la problemática aquí expuesta consiste en un camino más amplio – la elaboración de una metodología estratégica en la administración del desarrollo de las comunidades locales en Ucrania.

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## NOTAS Y DEBATES DE ACTUALIDAD

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### Succession and Correlation of Ancient Greek, IX-XII Centuries. Central Asian and XIV-XVI Centuries European Philosophical Thought

*Sucesión y correlación del griego antiguo, siglos IX-XII. Asia central y siglos XIV-XVI en el pensamiento filosófico europeo*

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#### ABSTRACT

The paper considers issues dealt with Central Asian philosophical thought of the IX-XIII centuries and its interdependence and interconnection of the XIV-XVI centuries European Medieval and Renaissance philosophy. The author tries to find out appropriate answers to the questions put by sharing a bit of historical excursion in to the history of the East-West philosophy succession and correlation. The focus is to discover a major contribution of classical Central Asian philosophy of the IX-XII centuries to further development of the Middle Ages and the Renaissance philosophical thought of Europe.

**Keywords:** succession; correlation; philosophic outlook; globalization.

#### RESUMEN

El artículo examina cuestiones relacionados con el pensamiento filosófico de Asia Central de los siglos IX-XIII y su interdependencia e interconexión con la filosofía medieval y renacentista europea de los siglos XIV-XVI. Los autores intentan encontrar respuestas apropiadas a las preguntas hechas al hacer un poco de excursión histórica en la historia de la sucesión y correlación de la filosofía este-oeste. El objetivo es descubrir una contribución importante de la filosofía Central asiática clásica de los siglos IX-XII para el desarrollo adicional de la Edad Media y el pensamiento filosófico del renacimiento de Europa.

**Palabras Clave:** sucesión; correlación; perspectiva tesorosfica; globalización.

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## **INTRODUCTION**

Due to rapid development of science and technology, today the whole world is led to a process of globalization; we're witness of the fact that our globe has become a common house for all of mankind irrespective of race, nationality and convictions of peoples inhabiting it, in the meanwhile, there's an urgent invitation to all cultures, both Western and Eastern, to contribute, each in its own way, to the mosaic of world civilization through mutual enrichment (Shadmanov, 2010). At present, as we hope, philosophers as well should work out problems and serve peaceful creative and smooth trends in global processes (Coseru, 2017, Shadmanov, 2003). Broadening and deepening of the latter leads to a multiple increase of contacts - oral and written. Throughout the world these contacts should solve common task and, at the same time, make communications easier. To cope with this task one must not sit in his recess, but widely communicate with colleagues throughout the globe. Globalization of world processes should be followed by globalization of communication. All the above mentioned requires necessity to form a new Weltanschauung, i.e. philosophical outlook, reconsidering at the same time the former values standards. So, what are the ways and means of new philosophical world outlook? How do we know whether the novelties will work in our lifestyle? What factors should be taken into consideration when making our choices?

In this paper we'll try to find out appropriate answers to the questions put by sharing a bit of historical excursion into the history of the East-West philosophy succession and correlation. The focus is to discover a major contribution of classical Central Asian philosophy of the IX-XII centuries to further development of the Middle Ages and the Renaissance philosophical thought of Europe (Hoerz, 1986; Gow, 2016). The main concern here is to try to present that both Central Asian (IX-XII cc.) and European (XIV-XVI cc.) philosophical complexes were quite indispensable parts of the history of world philosophy. Central Asian philosophical thought and natural science of IX- XII centuries represented by such bright encyclopedically educated thinkers as al- Beruni, al-Farabi, Avicenna, ar-Raziis considered to contribute great in XIV-XVI cc. European philosophical outlook. Cultural-philosophical influence of that region on general evolution of world civilization and culture is, as is known, outlived the historical time itself. That is why Central Asian civilization, its culture, philosophy, spirituality, literature and science, which ensured its medieval renaissance, excites lively interest in our contemporaries. This traditional cultural-spiritual heritage of our greatest ancestors - scholars, enlighteners of the past - exert powerful, incessant influence on ideology of sovereign Uzbekistan in general, and its national consciousness which put forward new education strategies including also cardinal change or transformation towards philosophy knowledge as the most important component of universal and individual culture.

## **FEATURES OF DIFFERENT CULTURES**

In the light of the above mentioned, a number of urgent problems become actual, and their solution is dealt with objective interpretation of history as the main source of formation of national ideology (Shadmanov, 2003). What we mean is, first of all, the necessity of adequate realization and preservation in modern spiritual culture and in our daily practice of a peculiar value of classical philosophical heritage including that of the European one, capable to influence fundamentally on formation of high spirituality process on individual level and on the level of a social group, nation and society (Shadmanov, 2010). This is a very important question put forward if we take into consideration the fact that the XX century was characterized by awfully active attacks from the side of philosophical dilettantism on really classical philosophy content and their numerous attempts to substitute genuine philosophical knowledge by its arbitrary subjective interpretations (Ströing, 2018). At the same time it is known far and wide that in globalization period the Central Asian culture and its philosophical-spiritual thought known as the Muslim Renaissance (IX-XII cc.) attracts deep attention of various specialists, scientists and broad sections of the

public all over the world in the light of the succession and correlation as integral factor of development of world philosophy, in general, and fundamental basis of flowering of the modern Uzbek philosophy of the XXI century, in particular (Nazarov, 2004; Kondorse, 1936; Skirbekk, 1996; O'Shea, 1996; Akhmedova, 2004). Such an interest, in our understanding, is not considered to be accidental as ties joining modern culture with that of medieval are becoming much closer and strengthened. Image of medieval scholars, philosophers, their highly humanistic and spiritual qualities are of ever growing interest of the XXI century representatives. As a result, many traditional, many-sided investigated problems of the medieval culture, including philosophy, appear before us by their new aspects, which were hidden for observance during the totalitarian soviet regime period.

The Middle Ages Muslim culture, philosophy and natural science of Central Asia (IX-XII cc.) opens wide scientific investigation perspectives for those who're interested in history and spirituality heritage of the Central Asian region. Comparative-historical analysis of the East-West culture takes an important place in the world comparative typological studies. The significance of such an analysis is particularly urgent in wide historical perspectives which stimulate generalizations of universal-historical character. From this point of view, the researchers of sovereign Uzbekistan pay a special and serious attention to comparative analysis of the East and West especially in the domain of the philosophy history. Some important principles of comparative investigation of objects of cultural-historical processes have been generalized by the Uzbek scientists in these very branches of knowledge starting from 1991. What we mean is, on the one hand, the differentiation of various types of comparative research depending on the source origin of objects under comparison; on the other hand, it is of urgent importance to know whether this generalization is conditioned by common origin, different interrelations or in the presence of some general functional laws, regularities and objects development (Belief, 2017).

Though a considerable progress in work-out of methodological issues of comparative investigation of philosophy history has been achieved in the last decades, there are still a number of fundamentally significant problems to be solved. Among them, first of all, is the question of comparing objects' equivalence. Urgent need for the solution of the abovementioned is clearly seen in comparative investigation of the East-West cultures, bringing to light their typological specificity.

Central Asian, mainly Avicenna's, philosophical thought and science of the IX-XII cc. is considered to be a natural stage of development of European and the world culture in general; it was the stage with its peculiar unique typological specificities. In order to single them out the following factors may serve as important reference points i.e. the common character of stable linguistic situation and confession of faith within the limits of common statehood (though multi- ethnical by nature, Caliphate had one main ethnic nucleus - Muslims, and the Arabic language dominated in its cultural life) existed in the IX-XII cc. Central Asia; the only Muslim religion predominated there; the entire region was notable for its relative statehood stability and centralized rule. In contrast and to medieval Europe the eastern philosophical thought of the IX-XIII centuries was distinguished by its closer link with science and scientific ideas of the epoch. Besides, philosophy itself was notable for its bright spirit of rational way of thinking and common sense. Due to its geographical, ethnical and economical location Central Asia was a kind of peculiar 'golden bridge' between the East and the West; also, in cultural-philosophical development of Europe of Middle Ages it served a link between the East and the West, thus, leading to their mutually beneficial cultural synthesis (Shadmanov, 2010).

### **FEATURES OF THE CULTURAL RISE OF THE MIDDLE AGES AND EUROPE**

All the above mentioned allows us to conclude that due to the achievements of philosophy, spirituality and science in IX-XII cc. Central Asia as well as the East-West correlation and inter-conditionality, it naturally became possible to precipitate formation development and further evolution and cultural upraise of the Middle Ages and the Renaissance Europe (Kondorse, 1936; Chaloyan, 1979; Chikolini, 1989). Historical inter-conditionality of traditions proves it to be true to the fact that the IX-XII cc. Arab scholars' works including that of the Central Asian thinkers, served as one of the main sources of learning philosophical and scientific knowledge gained directly or indirectly by all the prominent European philosophers of the Middle Ages and the Renaissance period. Getting to know the treatises written by the Arabic, mainly the Central Asian, philosophers of the IX-XII cc. by Europeans was a compulsory stage of assimilation of fundamentals of philosophical knowledge. For example, basic works of philosophical and scientific character of al-Farabi and Avicenna were existent in the IX-XII cc. libraries of the Oxford and Cambridge universities of England. The school of translators shaped up and flourished in Spain (VII-XII cc.,) contributed great to spread of the works of ancient philosophy of Greece and Rome; it, as a matter of fact, opened not only the majesty of the original Greek philosophy, but also propagated the science and philosophy of the IX-XIII cc. Maverunnakh scholars like al-Khwarizmi, al-Ferghani, al-Beruni, Avicenna, and made it the European property. Meanwhile, the Central Asian scholars of IX-XIII cc. preserved much of the science and philosophy of ancient Greece and Rome; they carefully translated and originally interpreted many of the Greek and Roman texts into Arabic. Many major Arabic scientific works thus were introduced into Europe and translated into Latin, the language of learning in the West (Laasik, 2017). As a result, achievements of philosophical thought of the Muslim East of the IX-XII cc. turned into the West's intellectual-spiritual property: those were assimilated, developed further and raised to a much higher level.

During the 1100's the first European universities were established. In time, universities were to play a vital role in the growth of science and philosophy. And the Chartres and Paris universities, educational centres of Bologna, Padua, Genoa and especially the Oxford university of England and Roger Bacon, the Franciscan religious order member and the Averroes teaching follower, played such a vitally important role in further development and general evolution of science in the Medieval and Renaissance Europe. As its most distinguished representative Roger Bacon ranked as one of the leading figures in the development of science and philosophy during the Middle Ages, and he helped lay the foundation for the revolution of science and spirituality that occurred in Europe in the 1500's and 1600's. Critical analysis of the works of Roger Bacon shows that Roger Bacon was greatly influenced by the Greek philosopher Aristotle, the Christian theologian Saint Augustine and Avicenna, the Central Asian philosopher. He urged the study of languages, esp. Arabic as he believed that such study would enable scholars to improve their interpretation of the Bible and to discover more about Arabic and Greek scientific-philosophical knowledge.

### **CONCLUSION**

Eastern Muslim scholar's works exerted great and fruitful influence on the European philosophy development including such bright figures as Peter Abelard, Roger Bacon and Saint Thomas Aquinas. This powerful influence was disseminated by the three great philosophers of the East - al-Farabi, Avicenna and Averroes (Ibn Roushd). As to the philosophy of IX- XII cc. Central Asia itself, we may constitute that it, having been contiguous to the antique philosophy, primarily with that of the Greek one, became the successor of Aristotle teaching and the systematizer of natural sciences of the period. Philosophical thought and science of the Muslim period (IX-XII cc.), in our deep conviction, enabled mutual enrichment of the East-West cultures, and thus strengthened Renaissance humanism development as the common European phenomenon. Also, antiquity culture itself, to a certain degree, lived on the Eastern sources as the

Mediterranean, joining together civilizations of Europe, northern Africa, the Middle East and Central Asia, despite to their regions' peculiarities, was the common cradle in the history of the East and West nations. Concluding the paper, we strive to emphasize that deep search into the present-day philosophical-spiritual processes and prognosis making of future is impossible without maximal and full-range knowledge of the past and the methodology of interpretation of historical-philosophical knowledge enables us to cope with such a task. One more remark: we are to remind that the philosophical concepts we're getting acquainted with have practical relevance to the ultimate goal, i.e. cultural adjustment and successful experience: once we are aware of how philosophy determines our life styles and behaviors, we are all in a better position to overcome our many borders.

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