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Archetypal (socio-cultural) coding of governmental organization

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Abstract: The article deals with the socio-cultural foundations of the modern state and legal development. Psycho socio-cultural analyzes of the socio-political organization features in the data it space-temporal conditions, as well as to ensure the stability of the organization of the basic institutions, quality properties are able to be stored in the conditions of transformation. As part of the article is given a model analysis of the socio-cultural conditioning of state-legal development, which has a number of levels, as discussed in more detail archetypal level (moral and cognitive intuition archetypal codes, images, symbols, baseline scenarios and the odds of political activity), considered the leading encoding dominant social relations.

Key words: Archetypes; Governance; Political process; Public relations; Socio-cultural factors

1. Problem statement

Legal and cultural patterns of development, the archetypal dominant successive reproduction of the legal culture of society, as well as the spiritual, moral, and other sources of political and legal institutions are really organizing and regulatory factors in the: movement of various social and political forces; the development of political and legal ideology; legal life style and understanding of the law, order and justice; formation and development of public-legal institutions, their interaction regime. These factors and the views are inherently impersonal, supra-individual and at the same time to experience and lives of all members of the historical social system.

In the current political and legal studies is a well-established theoretical proposition that in the process of assimilation of legal experience in other culture, borrowing the political and legal institutions required searching for common, single-root cultural grounds, similar socio-legal and ethno political archetypes (Ovchinnikov et al., 2009). "As long as the new culture finally" sprout, has conquered the social space. Do not acquire regulatory and institutional characteristics will not become a true spiritual (informal) imperative of human behavior and there is no technological or organizational changes are not fit organically into the social reality. That is why, in particular, "the market, democracy and law" - the slogan of our changes - may be left for Russia meaningless or meaningful perverse landmark series if ... they have no reinforcement in the supporting substrate, the spiritual (Mostovaya and Skorik, 1995).

The greater the social and legal interaction is structured and regulated by interconnected legal cultural (archetypal) images, ideas, ideas to the specific conditions and factors to give their institutional and legal fixation, primarily at the level of the general political and legal principles of public order, the more a company acquires a sense of confidence, national and political unity and stability sequencing their life-world (Geddes and Favell, 1999). For example, within the framework of legal regulation of social relations, we should mark "legislator", the creator of "rule of law". Must have in mind the image of the rule of law, before it will begin to implement the law-making tasks; law enforcer must have a pre-established, well-known to him the norm. Before enforcing in order to bring a particular relevance in the right way (Maltsev, 2007), said on this occasion G.V. Maltsev. As you can see, all the stages are interconnected, intertwined and go back to the general legal and cultural core of the nation.

2. Review of the literature

In modern literature can be identified a sufficient number of works aimed at the reconstruction of the legal basis of certain phenomena of political and legal, socio-economic and spiritual life of society (Agamirov et al., 2015). As a rule, in the field of scientific reflection updated search sociogenic matrix corresponding to a particular community, group, social class, that characterizes the differences in systems of behavioral orientations, interests and needs, value and world outlook (Darn, 1996). The whole tradition of research-based public-legal development can be grouped into four main areas (Baranov et al., 2015). First, a group of researchers who have analyzed political and legal process of development in the structural and functional point of view, those should be attributed to the work of authors such as G. Almond, K. Deutsch, E. Durkheim,

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D. Easton, H. Kelsen, Marx, R. Merton, T. Parsons, P. Sorokin and others. Second, it is a conceptual version focuses on the institutional and regulatory coding state-legal development from the pen of authors such as Hannah Arendt, M.I. Baytin, I.N. Homer, A.F. Small, D. North, J. Wallace, V.E. Chirkin and others.

Thirdly, it is political, and sociological and political doctrine, are guided by the understanding of the state-legal development as a complex and dynamic system of public power relations (Lyubashits et al., 2015). This approach to the interpretation presented in the works of N.N. Alekseeva, P. Blau, V.Y. Vereshchagin, Luhmann, G.V. Maltsev, L.S. Mamut, V.A. Podoroga, O. Kharkhordin, E. Junger and others. Finally, in the fourth tradition of political and legal development is given a specific type of political rationality (J. Agamben, Weber, P. Bourdieu, C. Crouch, M. Foucault and others) or as a socio-psychological units (B. de Jouvenel, I.A. Ilyin, M.N. Korkunoff, L.I. Petrazhitsky, Solonevich), a massive political way state legal reality (real or virtual), the dominant representations, simulacra, archetypal predispositions society, etc. (Jean Baudrillard, D.V. Ivanov, I.A. Isaev, J. Evola, Eliade, J. Ellul), Organizing social and political actors thinking activity and processes of institutionalization of public-powerful space (Ovchinnikov et al., 2015).

In addition, a number of current researches recently devoted to public-legal evolution, the development of various forms of political and legal organizations, individual governmental institutions and practices within a specific socio-cultural environment (Lyubashits et al., 2015). However, these fundamental developments, theoretical and methodological innovations, formulated trends of public power relations rarely subjected to analysis of the current state and prospects of legal systems and their transformation into account socio-cultural coding of their evolution. All this calls for a comprehensive study of the bases of state and legal development of the socio cultural factors and directions of its transformation (Ovchinnikov et al., 2015).

3. The main content

It is extremely important task for the modern arrangement of the political and legal spheres, as well as economic, cultural, spiritual and moral, becomes a reconstruction of invariant models and institutions, technologies and socio-legal organization (Hoppe, 2002). No less important, however, it is the question of what is really exposed to a qualitative change, based on which they occur and the purposes for which carried out the resource, organizational and administrative support of the latter. Undoubtedly, in society as a coherent totality, the system of relations can manifest and develop these or other properties of individuals, who in their daily practice are not disclosed at all, or partially disclosed.

The main thing is that no new properties of the functioning of society national psychology cannot create; it can only contribute to a more or less complete identification of the fact that this psychology has initially (Schyuts, 2004). In this context, the urgency and relevance of studies of national dominant political and legal development of the Russian society, which have become crucial for public-legal tradition and continue to have quite a significant impact on the organization of socio-legal and ethno political interaction between the state, society, the individual and on the very course of the modernization process, it is difficult to be overestimated.

In addition, the formation of an optimal model of functioning of the state and law, their development and improvement depends ultimately on how this national model will be adapted to the requirements of today's challenges and conditions with respect to open a worldwide perspective to innovation, but at the same time derive their identity (“national self”) and the stability of the national state and legal tradition. Because of this, one of the priorities is the preservation of their (national) dominant archetypal (cultural codes) political and legal development, the protection of their deep national interests, restoration and reproduction of the nation's identity, accompanied by the need to create adequate national ideology and the latest implementation of the appropriate legal policy.

It should be noted that the archetypal themes and subjects in the political process and publicly-imperious management can identify and isolate as unchanging dominant concrete historical transformation of the past, present at all stages of social and cultural transformation, despite the various twists and turns in the evolution of the social system. Despite the fact that the specific content of the public administration and the political process as a whole, their institutional and regulatory configuration, procedural, and activity-related aspects may be very varied, however, an archetypal form of development is maintained and reproduced from generation to generation.

The theoretical and practical level of this the question of the relationship between archetypal encoding legal and cultural development and direct political and legal experience of the nation, emerging from the internal legal and political process as well as in the context of comparative legal research, i.e., theoretical doctrines and practice of immediate implementation. Answering the question of the relation of the archetype and specific experience, Jung notes that there is a systematic relationship between them.

In other words, this interaction is a feedback system - the repeated experience creates certain unconscious (collective) factors and the dominant interaction that become archetypal structures or cultural codes (archetypes) of the people's soul (psychostructure) and activities (forms and interaction models). At the same time, these archetypal structures influence our ideas and experience in an effort to organize them in accordance with existing models (i.e., models of

perception and evaluation of the interaction in the identity of the system - society - state, which forms the uniqueness and specificity of the national political and legal processes, It affects the crystallization of a particular type of civilization state, the legal system and so on.).

From this theoretical position, you can make a number of practical conclusions that are essential for the research:

- Firstly, the archetypal structures and models - a crystallization of political, legal and management experience over time, retaining the basic scenario of the legal and political thought, the regime of interaction between the individual, society and the state, shaping trends in the institutional and legal organization of society;

- Secondly, the data structures and models focus of experience in accordance with birth charts and authorize subsequent experience, "make" the right, power, politics, implicated being Culture, the national outlook and self-awareness, and direct the development of the legal life of the society in accordance with the archetypal images and dominants;

- Thirdly, images, ideas, values and evaluation of characteristics derived from archetypal structures, involve us in search of analogies in the world. The interaction between the innate and structures surrounding political and legal reality becomes positive or negative (legal nihilism, legal anomie, etc.) value, depending on how well, adequate correspondence between them.

We note one more important theoretical and methodological remark that makes Jung. So, from his point of view, the theory of the archetype involves two research strategies. Firstly, the study of archetypes can go on the way down, and then in the field of scientific reflection includes questions of ethnology and biology, whose goal is knowledge - what it means to be human. Secondly, the study of archetypal structures aimed at the reconstruction and analysis of the world of spirituality, an analysis of ascending up, i.e. that there is a human institution.

Thus, the heuristic value of the concept of the archetype is that it reflects historically, the most powerful and stable structures of national consciousness, feelings, and behavior. In this regard, it highlights the social and cultural conditions that create motives, as well as to mediate a system of representations and the style of thinking of people. It is no coincidence, and examining the specifics of evolution of a given society (ethnic group), institutional design trends of socio-economic, political, legal and other interactions of many scientists link to the national character. At the same time, substantially revealing the essence of abstract concepts, they point out that it is based on some stable set of images, symbols, ideas and so on. Moreover, the appearance in the minds of each culture medium of these symbols, ideas, images, sets in motion all their related range of feelings, emotions and cognitive readiness, which are the impetus for a more or less typical activities, interaction.

Hence it is believed that the archetype is transmitted to humans by inheritance, as cultural code (artificial in nature, in contrast to the natural there is the genetic code governing the interaction in the environment) of previous generations, exists in his mind nonverbal level. In turn, the value structure of personality "immersed" in its archetypes, and those elements that the person is in contact with the outside world - "typical actions" - and make it an ethnic (national) character, which lies in the basis of the nature of the individual. Therefore, concludes K. Kasyanov, the archetype is inextricably linked with the mentality, with the processes of socialization, speaking base and prospect of development of culture, i.e., is inseparable from the historical process. It is primary and in relation to the socialization of the individual, and to the processes of institutionalization as the archetypal codes of culture "need" to consolidate its symbolization and social institutions.

Taken in relation to the legal culture of society archetype retains the uniqueness of the state-legal tradition at all, it would seem, global transformations of legal-political organization of society. It significantly affects the adaptation of the external political and legal institutions to the national system of conventions, images, informal rules and behaviors and relationships.

Consequently, the legal archetype is conscious and successively reproduced from generation to generation of the primary legal and political ideal, built by the spiritual and moral norms and legal cultural priorities or socio-political development of the canon, conditioning system of values and socio-legal code (typed template) socio-legal personality of interactions in the system, society-state. In this case the primary legal ideal passed from one generation to the next as the unconscious great-ideal power-legal organization of society, participate actively in the formation and organization of the state and legal society in accordance with the new needs and challenges.

In turn, the involvement of "archetype" category in the context of the current political and legal studies is quite high heuristic potential, since it contributes to the identification and analysis: firstly, social and cultural factors, to ensure stability of the national state and legal tradition, succession mechanisms in state-legal evolution nation; secondly, the mental-emotional warehouse, having its meaningful expression in the structure of feelings, thoughts, beliefs, convictions, values; Thirdly, cultural civilization limits and prospects of various institutional innovations in state-legal organization of society.

Summarizing the practice of state and legal transformation of post-Soviet states there are several strategies for a qualitative change in the political and legal organization. And the data transformation strategies are several political and ideological projects of renovation of the Russian legal system. The first strategy reflects the orientation of the entire legal policy of the state, as

well as all public institutions in the development and institutionalization of the universal values of liberal democracy. The transformation vector in this case is aimed at copying the Western European model of social, political, legal and economic organization. In the context of the transformation project every traditional identity of citizens, a national system of values, the axiom of legal consciousness of the dominant legal culture of society are leveled and replaced theoretically articulated by Western ideals, interpreted as universal, common to all mankind. The second strategy is aimed at adequate fixation on the institutional and legal level of legal and cultural forms and interaction models, historical personality in the system - society - state, the protection of moral and spiritual and other cultural landmarks of the development of social cohesion and order.

4. Conclusions

It's not the most important factor how ambitious were transformation processes that entail the creation of new public institutions, the establishment of the latest regulatory and structural configuration, causing new principles of legitimization, in the end they lead to the fact that "half-baked" institutional regimes or adapt to the traditional forms of self and methods of social and legal interaction, or even fully digest the last, without changing fundamentally the nature and content of these processes, or a new institutional order even distorted beyond recognition, when confronted with the traditional context.

Therefore, any evolution of the right culture of a society is, occurs in certain, defined archetypal aisles. Perception of a new political and legal or institutional experience, received the nation in those or other transition (transformation) periods carried the light of succession-reproducible emotional and psychological readiness and cognitive flared, adapted and applied in accordance with the established style of legal thinking, reproduced in practice (in everyday legal the behavior of citizens) in accordance with the basic forms, modes and models of social and legal interaction. Therefore, the existing legal reality more legal society cannot be considered culture as a result of only rational-volitional efforts, and any one generation. It is formed and develops together with the formation and development of the society, has similar laws, principles and specific features. It is a stage in the development of legal culture regarded as a relatively independent, solid (socio-cultural sense) stage of development of the society, on the other hand, it is necessary to ascertain the integrity of national legal evolution, supported by the archetypal nucleus (legal cultural codes and dominant development) of the social system, despite all the twists and turns in the historical destiny of the national state and law.

Speaking of prospects for further development of the research topic, we can mention the present analysis of the archetypal encoding based on publicly-imperious control allows further implement complex specifics of consideration (modern classical, atypical, multimodal forms and technologies of power-management activities), the social and cultural legitimating of national political institutions, the impact of formal and informal (shadow, extralegal, hidden, and others) factors on the transformation of the modern public power organization and the evolution of the ideological and state doctrine, concrete historical functioning of public institutions of power. On this basis, the next essential step is the formulation of public policy priorities in the field of sustainable development of public power organizations in the twenty-first century and to implement political simulation projects of social and political integration in the national political space.

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Archetypal bases of governmental administration: Socio-cultural paradigm of research aspects

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Abstract: The article proposes and discusses the need for socio-cultural development (archetypal) political research strategy aimed at the reconstruction and interpretation of public government institutions and management practices as sustainable and successively reproducing political phenomena in a certain socio-cultural environment. The author proves that the social and cultural basis of the study should be considered as the content, and the political system and the relationship (as socio-cultural phenomena) are a form of political and legal life of society, where the first - it is essential, qualitative characteristics of public power organizations, and the second is external, specific and concrete hysterical (Conventional) representation and execution of social and cultural content. The contents of the paper present the author's multilevel system of coding the archetypal political process of transformation of public power of social organization and management practices.

Key words: Archetypes; Governance; Political process; Political and legal organization

1. Introduction

Central to modern studies of social and cultural conditioning of the government and public management is a powerful socio-cultural reconstruction of codes (archetypes, the dominant socio-cultural), causing the development of the political system and culture of the society, as well as levels of conditionality. However, the levels of content and forms of social and cultural conditioning of the political process are one of the controversial issues.

The complexity and ambiguity of such research is, on the one hand, excessive "psychologizing" of the research project, which is not always meets the challenges of political analysis; and on the other in particular "restraint", "caution" with whom the researcher refers to the deep social and cultural structures of political culture, which is due to lack of theory sufficiently clear and authoritative position to study national bases of power, politics, law, and other political and legal phenomena.

At the same time theoretical and practical terms, it should be noted that the pursuit of a number of trends in contemporary political thought to "purify" authoritative political communication with all national, cultural, religious, leads to a dumping political knowledge, and therefore the conscious care researchers from solving complex problems organization of public-legal space as a highly organized and many systems of the company; from understanding the ethno-national and other mechanisms to ensure the sustainability of public power organizations, and especially the political process; from identifying the real causes deformations public authorities, legal, social and cultural institutions and practices of interaction in the system of the person - society - state.

2. Review of the literature

Research status and the existing contradictions at the end of XX beginning of the XXI century. Western European political science and public practice proves imperious and provides dramatic dismantling of national identity and socio-cultural (political, ethnic, spiritual, intellectual and so on.), specificity (Lyubashits et al., 2015). Thus there is a "build" a new community in which many other unique and deviations are not the basis for the identification of (U. Beck).

However, the practice of this project, at least in the Eurasian space, causes a lot of problems and inconsistencies (Baranov et al., 2015). "Cleansing" of Political Studies of sustainable socio-cultural dominant causes. To the widespread crisis of values and normative foundations of public power organization (J. Gray, E.A. Lukashev, A.Y. Mordovtsev, V.N. Sinyukov, V.V. Sorokin, etc.); to the political culture of the strain (Y.S. Pivovarov, A. Soloviev, P. Sztompka), sense of justice (P.P. Baranov), distorting the functioning of political institutions and public law institutions (I.N. Igoshin); to destroy And political traditions that provide stability and reproduction of socio-political integrity and ethno-political stability (Ovchinnikov et al., 2015); as well as the pragmatism and the bureaucratization of the rights (G.V. Maltsev, A.G. Kravchenko); spiritual and

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moral collapse and degarmonizatsii social and regulatory controls (G.V. Maltsev, N.A. Narochnitskaya, M. Remizov, Y.A. Tikhomirov and others).

Generalizing the latest achievements in the field of scientific research there are two main areas that are developing or innovative (neoliberal) forms of political communication, where public authorities and publicly-imperious given to a very small space management as an institutional structure that ensures national-cultural unity and ethno-political stability (Agamirov et al., 2015); or revolutionary (neo-Marxism, cosmopolitanism) forms of socio-cultural unity, depriving it of any social value in the future (Lyubashits et al., 2015).

However, these two contradictory directions, each of them is problematic "reflexive field", "producing" quite controversial practical projects of public power organization (Ovchinnikov et al., 2015). In this connection there is a problematic issue, and perhaps whether the national-cultural and ethno-political stability is state-legal forms of organization, can whether the global civil institutions (dynamic and constantly changed in structure) to ensure a stable and predictable evolution of social systems and political relations.

3. Methodological bases and tools

The aim of this work is to develop the socio-cultural (archetypal) political research strategy, which advocates "the legal successor of" the civilization approach of state and aimed at the reconstruction and interpretation of the public institutions of power as a sustainable and successively reproducing political phenomena in a certain socio-cultural environment. In this aspect of the socio-cultural basis of the study serves as a content, and the political system and the relationship (as socio-cultural phenomena) are a form of political and legal life of society, i.e., First - this is essential, qualitative characteristics of public power organizations, and the second - external, specific - concrete hysterical (Conventional) representation and execution of social and cultural content.

This methodological turn in the study of political culture and the political process is based on a systematic analysis of all the factors and patterns of development of the specific social and cultural environment. In this case the main thing in these studies becomes an analysis of behavioral patterns (cultural models) and clichés and stereotypes of thinking characteristic of the representatives of a particular culture (Moses and Sorokovikova, 2003). In this context, holds the position of Sapir, voiced at the Congress of the British Association of ethnographers, according to which the culture on the socio-psychological level imposes certain style of political thinking and behavior, including the typical political rituals and symbols, even postures and gestures (Mead, 1988).

At the same time as the leading methodological principles are used: 1) the principle of "knowing interpretation", i.e. the concept of the archetypal foundations of public power organization and management methods built understanding and explanation, which generally corresponds to the heuristic settings post non-classical (understanding) of science. It is this approach and allowed to consider the scope of the socio-political subjects of everyday politics, especially their political activity, to identify the factors of sustainable development of Russian statehood and civil society institutions, to evaluate the criteria for determining the efficiency of political doctrines, programs and activities in their socio-cultural dimension; 2) socio-cultural conventionality, meaning that the value-regulatory system in force in society have a specific historical and social-communicative nature. At the same time knowledge of the past is due to socio-cultural and historical context, any political event or process theoretically and ideologically loaded and driven by socio-cultural factors and the dominant (Mamychev et al., 2015).

4. The main content

Repeated political experience forms a certain unconscious (sustainable, collective) dominant factors and interactions that become archetypal structures or socio-cultural codes (archetypes) of the political life of society. At the same time, these archetypal structures influence our ideas and experience in an effort to organize them in accordance with existing models. Socio-political structure and the archetypal model, according to our definition, is a crystallization of the political experience of the nation, retaining the basic scenario of political thought, the regime of interaction between the individual, society and the state, shaping trends in the institutional power of organization of society.

In this aspect it seems appropriate to highlight the following structure archetypal conditioning of political culture and public overbearing control.

1. The archetypal level of political society is the primary, basic level of formation of political culture of the society, in fact, represents the foundation. He is a carrier of social and cultural reinforcement that determines the specifics of how the institutionalization of certain phenomena and processes of legal livelihoods, and forms a "congruent meaning and activity-perspective" (Mead, 1988).

Some researchers propose to call this level of primary, to particular cultural layer, which "is formed mainly at the level of the mass of the unconscious manifesting itself in the movement of private life in the local socio-cultural psyche of the human community and vice versa. At the same time there is a particularistic culture as a phenomenon of the individual unconscious, reflecting general trends of private life and in many ways causing the formation of personality and her social roles and the nature of the interaction with other individuals" (Bridge and Skorik, 1995). Substantially

characterizing this level, we can distinguish the following components: moral and cognitive intuition; supranational value (archetypal codes); archetypal images and ideas; archetypal pre-legal norms.

2. Quasi dimension of archetypal *structures* are socio-cultural space where their roots and are the main social and political archetypes of the local community (ethnic, minority, ethnic, etc.). It is at this micro level, is continuous and quite slow formation of social and cultural landmarks that reproduce the specificity and originality of the political culture of a particular society and its special power-legal practice of interaction.

Therefore, this dimension reflects the so-called "derivatives" "social" factors and sources. In other words, the derivation means that the social and political codes and factors that contribute to the national political reality, expressed in customs, traditions, style of perception of political and legal processes and phenomena, moral and spiritual dominants and stereotypes of interaction in the system of the person - society - state, other ethnic and religious artifacts, causing the particular political culture, forms and practical schemes meet the spiritual and material needs, accompanying rituals.

The ratio between the archetype and its derivatives are not informative, and energy-motivation. For example, K. Jung himself pointed out that the archetypal foundation of society "does not refer to the inherited ideas, but to the internal dispositions that produce the same performance". The first level leads to no content, and streamline shape pravokulturnoy society.

3. Empirical level of political society is the level of everyday political engagement in the context of which the everyday (practical) the behavior of subjects on the basis of established and successively reproducing the forms and models of socio-typed powerful interaction to achieve the subjective interests and needs. Essential to this level is, of course, not only the "behavioral tradition", but also "oral tradition" and also formed at the previous levels of moral and cognitive readiness and installation in the perception of the current reality, as well as legal emotion and installations (emotional and psychological component of everyday political engagement). It is practical (usually-daily) behavior reflects the real, as opposed to, for example, authorized (officially recognized) customs, the specifics of the socio-political life of the nation, ethnic groups, specific groups.

In turn, the emotional and psychological side reflects the internal component of everyday social and political. This relationship between individuals is based on the emotional and psychological experience.

4. Doctrinal (theoretical) level of political society is the deep, essential (conceptual, axiological, symbolic) characteristics of political and legal phenomena and processes related to their performance and assessment in political thinking. This level of integrative, rallying the existing cultural content with basic, tipoformiruyuschimi installations dominant socio-political development, etc. It includes the following elements that characterize this level in terms of archetypal conditioning: axiological (normative value), conceptual (political and legal theory, doctrine, concepts and categories) and symbolic (the existing state-legal symbols and rituals) components.

5. Institutional level of political *life* respectively embodies the historical patterns of development of a particular political environment institutionalizes established, typed forms and models of positive interaction in the system of the person - society - state. Rightly considered in this regard P. Berger and T. Lukman stated that institutionalization occurs whenever carried out mutual typing habitual action figures of all kinds. In other words, any such typing is an institution, "in turn", logic (institutional development - auth.) Is not peculiar institutions and their external functionality, but a process of reflection (the style of political thinking, cognitive settings of their perception and evaluation - auth.). In other words, the reflective consciousness carries logic property to the institutional order. Therefore, the researchers conclude, "Institutions always have a history, the product of which they are. It is impossible to adequately understand the institution is not aware of the historical process in which it was created" (Berger and Lukman, 1996).

This level, in addition to the existing political institutions and structures that reflect, in fact, a static element of the institutional level, also includes such dynamic elements such as institutional and regulatory activity (legal, law enforcement, judicial and other political and legal practice) as well as institutional and regulatory activity of citizens and various social institutions and structures (Mordovtsev, 2002).

6. Quasi dimension of political life is a level that reflects the positive (having socio-political approval) and negative (harmful, dangerous) political and legal phenomena and processes. At this level, there is an interaction of the existing institutional and legal power organization with real behavioral practices, refraction of existing institutions in the national political thinking.

In addition, it should be assumed that the political and legal space is a certain sphere of life of the society in which the interaction of social actors about the organization and the exercise of political power, the implementation of specific interests and needs, direct management of public affairs and the organization ordering the political and legal interaction of individual individuals, their social communities, organizations, institutions, etc.

Thus, political and legal space includes institutional structure, its political, legal, cultural, spiritual and moral foundations of providing certain public-legal regime. In the public mind formed definite ideas about the individuals social space, predetermining thus the political and legal organization of the latter, and the very political cooperation subjects within this space defines the

true meaning and importance of the political and legal establishments, institutions in the existing conditions of the place and space (Mordovtsev and Popov, 2007).

7. The level of socio-political integrity characterizes the culture of a particular society itself as a holistic phenomenon reflects its specificity and adaptive capacity to the challenges of modern times (Rulan, 2005). It expresses the three main elements that characterize the specificity of a particular political culture, institutional development prospects, adaptation to external borrowing of certain institutions, importing any ideas and doctrines, as well as stable forms and ways of perception and evaluation of the political and legal phenomena reality, socio-cultural standards and models of interaction in the system of the person - society - state (Ovchinnikov et al., 2009). These elements include:

a) The dominant type of social and political thinking, reflecting, respectively, condition (linguistic, communicative, historical), which reveals the existence of a political and updates to the subject as a special "background", the context of the existence of real political and legal phenomena;

b) Socially important and legitimate standards and models of social and political interaction, reflecting the prevailing level of institutional organization and in the daily political activities sustainable patterns of interaction in the identity of the system - society - state, as well as existing and shared by the majority of perception and evaluation system (national cognitive matrix) occurring within society and outside of the political and legal phenomena and processes. This component represents the highest form of human activity that has a collective origin (Durkheim), as well as the dominant current in the society political and legal ideology;

c) Social and political psychology of the nation is reflected in the form of integrative socio-political sensitivity and social and political stereotypes powerful interaction. And this political sensitivity, cognitive and installation readiness (define style storylines and value predispositions) are reflected in the prevailing patterns of behavior, moral norms, mass estimates and judgments regarding various political and legal phenomena and processes (Duby, 1991).

5. General conclusions

To understand the political trends of public administration development is necessary to analyze the social and cultural conditioning of power relations, as well as the reconstruction of social and cultural codes (archetypes, dominant). The socio-cultural conditioning of the latter is related to the crystallization of the political experience of the nation, retaining the basic scenario of political thinking activity, the regime of interaction between the individual, society and the state, shaping trends in the institutional power of organization of society.

In this aspect of the socio-cultural basis of the study serves as a content, and the political system and the relationship (as socio-cultural phenomena) are a form of political and legal life of society, i.e, First - this is essential, qualitative characteristics of public power organizations, and the second - external, specific - concrete hysterical (Conventional) representation and execution of social and cultural content.

Following a multi-level model for the description of the social and cultural integrity of the development of political events and processes in the work developed: 1) the archetypal level (moral and cognitive intuition supranational values, archetypal images and symbols, socio cultural prelegal norm of social interaction; 2) socio dimension archetypal structures (social and political codes and dominant, which are expressed in the political customs, traditions, style of perception of the political and legal phenomena, moral and spiritual dominant stereotypes and interaction in the system of the person - society - state); 3) empirical level of political society ("behavioral tradition" and "oral tradition", the socio-political and legal emotion, installation); 4) Doctrinal level - axiological (normative value), conceptual (political and legal theory, doctrine, concepts and categories) and symbolic (the existing state-legal symbols and rituals) components; 5) the institutional level - existing political institutions and structures (static measurement), the institutional and regulatory activity of the state (legislative, law enforcement, judicial and other publicly-imperious activities), institutional and regulatory activity of citizens and various social institutions and structures (dynamic elements); 6) socio dimension of political life -positive (with socio-political approval) and negative (harmful, dangerous) political and legal phenomena and processes; 7) the level of socio-political integrity - the dominant type of social and political thinking activity, socially relevant, legitimate standards and models of social and political interaction, as well as existing and shared by the majority of perception and evaluation system (national cognitive matrix), social and political psychology of the nation.

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Classification of crimes in the sphere of administration of justice

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Abstract: This article investigates different classification of crimes in the sphere of justice, highlights the concept of "classification of crimes". As well as the author developed the classification of crimes in the sphere of administration of justice. The relevance of the topic of research is determined by the fact that the formation of state power in the Russian Federation in the post-Soviet period is characterized by the primary rights and freedoms of the individual, the securing of guarantees of mutual responsibility of the government and the individual. Thus, not only recognition but also respect and protection of the rights and freedoms of man and citizen are direct responsibility of the government. As a legal category, the state power is a socio-legal environment by the means of its organization, functioning and activity engaged in the socio-political, economic and legal space and the ordering of social relations. The judiciary has its specifics, as is a form of government, which is being institutionalized in the justice system. And under Chapter 7 of the Constitution of the Russian Federation judicial system, which is designed to administer justice in the country and represents a form of state activity, aimed at the consideration and resolution of various social conflicts related to actual and alleged violation of the law and legal regulations. Thus, the social purpose of courts is to ensure the legal regime in society. And in administering justice, as bearers of authority the courts themselves operate on the basis of the laws governing them.

Key words: Crimes against administration; Crimes against justice; Criminal code; Criminal-law protection

1. Introduction

The formation of state power in the Russian Federation in the post-Soviet period is characterized by the primary rights and freedoms of the individual, the securing of guarantees of mutual responsibility of the government and the individual. Thus, not only recognition but also respect and protection of the rights and freedoms of man and citizen are direct responsibility of the government.

As a legal category, the state power is a socio-legal environment by the means of its organization, functioning and activity engaged in the socio-political, economic and legal space, and the ordering of social relations.

2. The main part

The integral part (branch) of state power is the judicial power that is contained in article 10 of the Constitution of the Russian Federation, designed to administer justice.

Judicial power is characterized by certain signs, the totality of which reveals its concept. First of all, it is special state bodies - the courts, the special position of which in the state mechanism is defined by tasks, responsibilities and the specific nature of the activities in which rights and freedoms of citizens, rights and legitimate interests of the various bodies, institutions and organizations are affected. The judicial power implements their powers through constitutional, arbitration, administrative, civil and criminal proceedings.

Thus, the social purpose of courts is to ensure the legal regime in society. And, in administering justice, as bearers of authority, the courts themselves operate on the basis of the laws governing them.

Occupying a special position in the state mechanism, which is determined by the specific conditions and procedure for its activities and peculiarities of the functions it is not included in any other system of state bodies. Although the authorities make the laws according to which courts are organized and work their activity has only organizational and procedural nature and carried out in strict compliance with the principle of independence of judges and their subordination only to the law. The independence of the judiciary is determined by the fact that in the administration of justice the courts are independent from the legislative and executive power. They perform their functions independently, guided only by the powers vested in them by law. And their decision in the matter shall be binding throughout the Russian Federation.

A mandatory feature of the judiciary is the authoritative nature of court powers which manifests itself in the compulsion of all

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requirements and court orders for all state bodies, other legal entities and citizens. Enforcement of court decisions and compliance with its requirements is ensured by the power of the state. And if justice is the work of courts on consideration and resolution of the court cases, the judicial authority is the right of the judiciary to which they are entitled under the law, i.e. the exercise of authority.

Administering justice in the form of procedural activities, the judicial power is intended to exercise judicial review that follows from the content of article 46 of the Constitution of the Russian Federation, according to which every citizen is guaranteed a judicial protection of his rights and freedoms. The judiciary has its specifics, as is a form of government, which is being institutionalized in the justice system.

Administering justice, the judiciary is in need of state protection from undue interference in the exercise of its functions, but on the other hand, it has to be guided only by law. In this regard, an important role in the protection of the legitimate activities of the judiciary plays a criminal law, designed to protect normal functioning and authority of the judiciary from criminal attacks. Meanwhile, as practice shows, criminal assault in the justice system is not excluded.

Providing a legal basis for the normal functioning of the judiciary, the state provides its criminal-legal protection from criminal attacks. The current criminal legislation dedicated a separate Chapter 31 of the Criminal code "Crimes against justice", which includes norms defining criminal assault that is likely significantly affect normal functioning and authority of the judiciary. However, without singling out the judiciary as an independent object of criminal-legal protection, these rules, as it should derive from the title of this Chapter basically equate it to a procedural law enforcement, which, although contribute to the administration of justice, but they are unable to carry it out. At such approach of the legislator, the judiciary loses its independence that it could hardly be considered correct.

Reflecting the position of the legislator and theoretical research of problems of protection of the normal functioning and authority of the judiciary are held together with procedure activity of law enforcement bodies. There were no independent studies of criminal-law protection of the judiciary. And the desire in some measure to correct the inaccuracy of the legislator, the researchers are trying to get out of the situation by introducing the concepts of justice in the narrow sense and justice in the "wider sense" that it is impossible, in our view, to recognize persuasive because justice can be neither "tight" nor "wide" concept. It is only the judiciary and nothing more. And therefore the judiciary as an object of criminal legal protection is a separate problem to be in its independent study.

Political power like any other power means the ability and right to exercise their will against the other, to command and control others. However, it is unlike other forms of power has its specificity, which in:

1) The supremacy and binding effect of its decisions for all society and for all other forms of government, putting them in reasonable limits or eliminating them;
2) Universality, i.e. publicity, when political power operates on the basis of law on behalf of the society;
3) The legality of the use of force and other means of ruling within the country;
4) Monocentricity, i.e. the existence of a national centre, i.e. a system of government bodies of decision-making;
5) The widest range of methods of conquest, retention and realization of power.

The state power is materialized through state bodies which is organized part of the state mechanism with the authority defined by the competence and necessary means to implement challenges facing the state in the specific area of state leadership of society. However, their system, the formation order, the competence, the interaction process is subject to the features of forms of the state.

The public authority has a number of features which allow relating it to the state. So, only public authority is created and operates on behalf of the state in accordance with the laws and regulations and performs only his peculiar tasks and functions with its own competence.

The Constitution of the Russian Federation in article 3 determines that the state authorities act as a mechanism to implement democracy and usurping state authority shall be prosecuted by law. Thus, the constitutional principles of organization and activity of state bodies are: the principle of separation of powers, according to which unified state power in the Russian Federation is based on the separation of legislative, executive and judicial (article 10), but the bodies of these branches, though independent, but closely interact with each other; the principle of differentiation of subjects of conducting and powers between Federal public authorities and subjects of Federation (article 5 and article 11); the principle of checks and balances arising from the content of the Constitution of the Russian Federation, manifested in the legal interpenetration of the bodies of the various branches of government within the competence of each other.

Therefore, as a socio-political organization, the state exercises public power, i.e. affects what is happening in the society processes and the behavior of people in the public interest. At the same time, the Constitution of the Russian Federation establishes that the person, his rights and freedoms are the supreme value, ensuring the state protection of the rights and freedoms of man and citizen. It follows that the law enforcement functions of the state, the purpose of which is to ensure and protect the right and freedoms of individuals and legitimate interests of public and private organizations are among the most important. But, however, the performance of these functions presupposes the establishment of

legal rules governing not only the behavior and implementation of guaranteed to all citizens of their rights and freedoms but also establishing for them the duties.

For the implementation of its functions, the state creates the system of state bodies, forming the state power in its essence exercising it in different forms.

According to the part 1 of article 11 of the Constitution of the Russian Federation the state power is exercised by the President of the Russian Federation, Federal Assembly (the Federation Council and State Duma), the government of the Russian Federation and the courts.

The judiciary in accordance with the provisions of Chapter 7 of the Constitution of the Russian Federation is represented by judicial system, which is designed to administer justice in the country, presenting a view of state activity, aimed at the consideration and resolution of various social conflicts related to actual or alleged violation of the law and legal regulations. In this case, justice is characterized by several specific features, which consist in the fact that it is undertaken only on behalf of the state by the special state bodies - the courts by consideration of civil, criminal, administrative and arbitration cases and materials in procedure established only by law.

And recognizing the administration of justice only by the court many authors emphasize, rightly, that justice as the work of the court is the resolution of a particular criminal, civil and administrative cases and the application in the manner determined by the procedural rules, the state compulsion to the guilty who have committed various offenses, including crimes. Therefore, we cannot consider right the position of N.G. Ivanov, in our opinion, who believes that justice is a form of state activity aimed at the correct resolution of criminal cases and the application of a fair measure of responsibility. On the other hand, the act of justice, in his opinion, is not the exclusive domain of the judiciary. The fallacy of these judgments is that in the process of justice not only criminal cases are resolved but also other, for example, civil, administrative etc. The act of justice is an act of the court only and no other public authority cannot administer justice.

Judicial power since its occurrence is closely connected with the law has the legal form of expression. It ensures the right of the judiciary stability and uniformity. And on the basis of law the judiciary is called upon to perform their functions, and the law itself should become an element of the judiciary. At the same time, the judiciary has an impact on the nature of law, the degree of which depends on the legal system of the state.

Judicial power is characterized by certain signs, the totality of which reveals its concept. First of all, it is only a special state body - the courts, the special position of which in the state mechanism is defined by challenges, responsibilities and the specific nature of the activities in which affected the rights and freedoms of citizens, rights and legitimate interests of the various bodies, institutions and organizations. And for the exercise of judicial authority, the law gives to courts the appropriate powers.

Exercise judicial power on the basis of the procedural laws and in accordance with them that reglementary procedure for the consideration and resolution of cases in courts. While the exact compliance with the procedural requirements and detailed regulation of the judicial process is a guarantee for the correct establishment of all actual circumstances of the case and making a lawful and reasoned decision on it.

The Constitution of the Russian Federation determines the court as an independent body of the state. Occupying a special position in the state mechanism, which is determined by the specific conditions and procedure for its activities and peculiarities of the functions performed, it is not included in any other system of state bodies. And, although the authorities make the laws under which courts are organized and work, their activity is only organizational and procedural in nature and carried out in strict compliance with the principle of independence of judges and their subordination only to the law.

The independence of the judiciary is determined by the fact that in the administration of justice the courts are independent from the legislative and Executive power. They perform their functions independently, guided only by the powers vested in them by law. And their decision in the matter shall be binding throughout the Russian Federation.

A mandatory feature of the judiciary is the authoritative nature of court powers, which manifests itself in the compulsion of all requirements and court orders for all state bodies and other legal persons and citizens. The courts have the right to request any information, documents and items relevant to the case, and to require the holding of departmental examinations, inspections and audits.

The enforcement of court decisions and fulfill their requirements is ensured by the power of the state. So, if it is necessary, the relevant authorities and officials have the right to apply coercive measures for implementation the requirements and the court's decision and in the state mechanism there are special bodies and officials charged with implementation of decisions. The same responsibility has various institutions and organizations.

Thus, justice is an activity of the court on the proper consideration and resolution in the procedure of criminal, civil, and other cases and legal issues and application in accordance with the law of the state coercion to offenders or, conversely, justify the innocent in order to strengthen law and order, prevention of offences, protection from encroachment of the constitutional system, rights, freedoms and interests of citizens, organizations, society and the state.

And if justice is the work of courts on consideration and resolution of the court cases, the

judicial authority is the right of the judiciary to which they are entitled under the law, i.e. the very exercise of power.

Thus, the exercise of judicial power is wider than justice, because it is not limited only to cases but also includes the generalization of judicial practice, analyses judicial statistics, resolution of complaints concerning the lawfulness and reasonableness of detention and extension of detention, limitations on certain constitutional and other rights of citizens.

The administration of justice is based on certain principles that should be understood is enshrined in the Constitution of the Russian Federation and other laws the guidelines, i.e. the rules, the ideas, the requirements of a General nature, expressing the essence of justice, forming a single system that defines the organization and functioning of the judiciary, and employees of the tasks facing the court. The principles of judiciary are made up of:

1) Implementation of justice only by court;
2) The administration of justice in strict accordance with the law;
3) The existence of special provisions on the procedure for the appointment of judges;
4) Providing citizens the right to judicial protection;
5) Equality of citizens before court and the law;
6) Securing the independence of judges and their subordination only to the law;
7) Judicial cases provided by law, the line of ships;
8) Participation in the administration of justice representatives of the people;
9) Open proceedings in all courts;
10) Language of proceedings;
11) The equality of parties and adversarial process;
12) Ensuring that the suspect or defendant the right to be protected;
13) Presumption of innocence;
14) Humanism;
15) Protection of citizens' health, freedoms, honor and dignity of the individual;
16) Judicial review.

Administering justice the court acts as a public authority i.e. issues legally binding decisions, which are acts of law-making activities. However, justice is associated with the procedural form, as judicial activity is directed on research of actual data, materials, evidence, interrogation of a significant number of persons with mandatory security of their rights when participating in case. These actions of the court are held in order to ensure the imposition of a lawful and reasoned decision. Therefore, the implementation of justice is strictly regulated by the procedural legislation, which means the administration of justice in a certain form - the form of judicial process. In procedural legislation, defines all the actions of the court and participants of process. The foregoing allows us to accept the view that justice acts as a constitutional special form of activity of the state in the exercise of judicial power. It is expressed in the protection and security of courts of General jurisdiction and arbitration normal functioning of social relations involving citizens, enterprises and organizations of Justice includes a mechanism for judicial resolution of disputes about law, and other conflicts by sending a civil, arbitration, criminal and administrative proceedings in a special procedure with the application on the basis of the law of state coercion in order to restore and protect the legitimate rights and interests of the individual and of civil society.

However, administering justice in the form of procedure in criminal, civil, administrative and arbitration proceedings, judicial power is intended to exercise judicial review that follows from the content of article 46 of the Constitution of the Russian Federation, according to which every citizen is guaranteed judicial protection of his rights and freedoms. The decisions and actions (inaction) of bodies of state power, bodies of local self-government, public associations and officials can be appealed in court.

Classification is a fundamental operation in scientific knowledge, the basis of the process of organizing knowledge, representing the division system, characterized by certain properties: a) the sequence of division made on the basis of characteristics significant for the solution of the challenge; b) targeting the distribution of objects in groups, to between classifications can be judged on their properties; c) the ability to further formalize processes.

For correct classification it is important to select a sign of characteristics relevant to the majority of the essential properties of the divisible whole. And, the construction of the classification of crimes must arise from:

1) The internal relations of signs of crimes, giving them certain integrity, forming a particular type of crime;
2) External links of certain types of crimes to each other;
3) The linkages and relationship of crime with other offences.

The classification of crimes is an important operation in scientific knowledge, the basis of the process of organizing knowledge presenting a system of division characterized by certain properties: a) the sequence of divisions made on the basis of characteristics that are essential for solving the task; b) targeting the distribution of objects in groups that they can be judged on their properties between classifications; c) the ability to formalize further processes. In criminal law the classification is a tool of theoretical purpose of reality by which its essence is revealed and the separation of objects that constitute a single system. The determination of different criminal phenomena is on the basis of classification and determined their conformity to empirical data (Kuznetsov et al., 2012; Kuznetsov, 2011).

Classifications of crimes against justice which were done during the period of validity of the Criminal code of the RSFSR of 1960 differed considerably. So, it was suggested that signs of the subject of these crimes should be based on it.

However, the literature suggests classifying the system of crimes against justice by the object of offence but not the subject (Garanina, 2011). And in this regard, there is a categorical statement of E.M. Zatsepina that "division of crimes in groups in the criminal-law classification is only possible under this criterion (object) that predefined by the basis of the separation of relevant crimes in the chapters of the Special part of the Criminal code of the Russian Federation" (Zatsepina, 2013).

According to the classification of the object of the crime the literature identifies the following groups: 1) offences against the relations to implement the constitutional principles of justice in accordance with its objectives and tasks (articles 292-301, 305 of the Criminal code); 2) obstructions of justice in accordance with its objectives and tasks (articles 294-298, 311 of the Criminal code); 3) crimes that violate the procedure of obtaining evidence of a case (articles 302-304, 306-309 of the Criminal code); 4) obstructions of justice for the timely prevention and detection of a crime (articles 310, 316 of the Criminal code); 5) offences against relations for implementation of a judicial act (articles 312-315 of the Criminal code) (Rarog et al., 2007; The Criminal Code of the Russian Federation of 13.06.1996 63 -FZ (ed. by 12.30.2015)).

Other authors emphasize: 1) crimes against justice expressed in infringement of the procedure justice activity by obstructing that activity; 2) crimes against justice expressed in infringement of the procedure of justice activity by the trespass to the person of employees of justice; 3) crimes against justice expressed in infringement of the procedure of justice activity and committed by justice personnel; 4) crimes against justice expressed in infringement of the procedure of making judicial decision.

Thus, disputes about classifications show that theoretical research in this area is still not exhausted.

In our opinion, for the correct classification of crimes against judicial authority and procedural activity of law enforcement agencies that should facilitate the implementation of justice as provided for in Chapter 31 "Crimes against justice" of the Criminal code, it should be guided by the object of a crime and the subject of its committing. Therefore, we believe that it is necessary to introduce following groups of the considered infringements based on the current version of Chapter 31 of the Criminal code "Crimes against justice" containing norms protecting against crime not only the judiciary but also the procedural activity of law enforcement agencies facilitating the administration of justice:

1) Crimes against the judicial power and procedural activities of preliminary investigation agencies committed by persons engaged in this activity. Among them may be: bringing obviously innocent to criminal responsibility; illegal exemption from criminal responsibility; illegal detention, detention or custody; coercion to give testimony; falsification of evidence; making a knowingly unjust judgment, decision or another judicial act;

2) Crimes against the judicial power and procedural activities of the court and preliminary investigation agencies committed by persons who are participants of this activity. Crimes of this group should include: falsification of evidence; false testimony, conclusion of expert or incorrect translation; the refusal of witness or victim from giving testimony; the disclosure of data of preliminary investigation;

3) Crimes against the judicial power and procedural activities of preliminary investigation bodies committed by persons who must facilitate it according to law. These crimes include: disclosure of information about security measures of judges and participants in criminal proceedings; illegal actions against property subjected to inventory or arrest or forfeiture; failure of sentence, court decision or other judicial act; concealment of crimes;

4) Crimes against judiciary's functions and procedural activities of preliminary investigation agencies committed by any person. They can include: the obstruction of justice and conduct of the preliminary investigation; infringement on life of a person administering justice or preliminary investigation; threat or violent actions in connection with the administration of justice or conduct of preliminary investigation; bribery or coercion to testify or to evasion from evidence or to wrong translation;

5) Other crimes against the judicial power and procedural activities of preliminary investigation agencies committed by any person. They can include: contempt of court; libel against a judge, juror, Prosecutor, investigator, person conducting inquiry, bailiff; provocation of a bribe or commercial bribery; false denunciation;

6) Crimes against execution of a sentence or other judicial act committed by detained, arrested and convicted persons. They include: escape from places of imprisonment, arrest or custody; evasion of serving of imprisonment.

However, our classification is not entirely exact because as it follows from the title of Chapter 31 of the Criminal Code law enforcement agencies cannot give functions of justice which only the judiciary has although at the same time it must be admitted the agencies combating crime will undoubtedly facilitate the administration of justice. So the authors start from the premise that justice is not only implemented by court but also by law enforcement agencies. And realizing the error of legislator some of them try to correct it so that in addition with a narrow concept of justice which only characterizes the activity of a court, in their view there is a concept of justice in the broad sense which is also implemented by law enforcement agencies. Of course, this approach seems to us wrong.

On the basis of our proposed change of name of Chapter 31 of the Criminal Code, all offenses in this chapter can be divided into three groups:

1. Crimes in the sphere of implementation of justice by judicial authority (p. 1 and p. 3 of Art. 294, Art. 295, p. 1 and p. 3 of Art. 296, Art. 297, p. 1 and p.

3 of Art. 298, p. 2 of Art. 301, p. 1 of Art. 303, Art. 305, p. 1 and p. 3 of Art. 307, Art. 308, Art. 309, Art. 311 of the Criminal Code of the RF);

2. Crimes in the sphere of procedural activities of preliminary investigation agencies (p. 2 and p. 3 of Art. 294, Art. 295, p. 2, p. 3 and p.4 of Art. 296, p. 2 and p. 3 of Art. 298, Art. 299, Art. 300, p. 2 and p. 3 of Art. 301, Art. 302, p.2 and p. 3 of Art. 303, Art. 304, Art. 306, Art. 307-310 and Art. 311 of the Criminal Code of the RF);

3. Crimes committed in the execution of judicial decisions (p. 2 of Art. 312 , Art. 313 -315 of the Criminal Code of the RF).

In our opinion, acts provided for in Articles 157, 177, 282.2 and 312 of the Criminal Code should also be in this group as they also infringe on the activities of the agencies implementing the execution of judicial decisions.

3. Conclusions

We can make up the following conclusion that crimes against justice are socially dangerous acts that infringe on the established procedure of administration of justice and consideration of materials and cases, not well as its credibility during the trial. However, analysis of the crimes against justice shows that infringing on social relations which ensure the normal procedural activity and authority of the court and at the same time they may infringe on other social relations ensuring the privacy, health, honor and dignity of the members of this procedural activities as well as their rights and legitimate interests.

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Development of information space of region: factors of digital divide

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Abstract: Development of information society in Russia has both natural advantages and real difficulties due to the geographical position and the area of our country, disparities in social and economic development of its regions. The achieved level of ITT development in Russia is accounted for most of all by the existing state policy aimed at formation and development of unified nationwide information space. However, the existence of a developed market of ITT-related goods and services with the supply being formed by the production of information telecommunication technologies sector companies is an essential prerequisite for further development of informatization of the Russian economy. The above stated stipulates that it is required to obtain reliable and proved quantitative data which allows for appropriate assessment of state and development of information telecommunication sphere in conditions of inter-regional differences in order to take feasible management decisions at the federal and regional levels. Methodological principles of assessment of the levels of region differentiation according to the information society development level are examined in the article. We have determined typological groups of regions according to the information telecommunication technologies (hereinafter - ITT) allowing for determining of structural trends in the development of ITT sphere in Russia. The results of the study can be used as a basis for further implementation of governmental measures for ITT sphere modernization and reduction for regional differences.

Key words: Information telecommunication technologies; Information society; Digital divide

1. Introduction

Due to successes in implementation of actions and legal regulation measures, Russia managed to progress significantly in most of the international rankings which evaluate readiness for information society and level of its development. However, consolidated indices and cross-country comparisons show that the IT-sphere in Russia is still underdeveloped, it falls behind the world leaders, and the potential of already existing infrastructures and technologies is not achieved. According to the International Telecommunication Union, in the year of 2015 Russia ranks 45th in the Information Technology Development Index (Measuring the Information Society Report, 2014). For certain indicators of ITT development, Russia is amongst world-leading countries. It is of key importance that one of such indicators is price affordability of information technologies which allows reducing the digital divide between different social strata of society. Bridging of the "digital divide" among constituent entities of the Russian Federation and prevention of isolation of individuals and social groups were one of the expected results of implementation of the Information Society (2011-2020), the Russian Federation government program ratified by the Government Resolution dated April, 15, 2014 under № 313 (State Program "Information Society (2011-2020)", 2014). The indicator of "Reduction of differences among the Russian Federation constituent entities on integral indicators of information development" is considered the government program benchmark to evaluate attainment of the expected result. As of the end 2014, the level of differentiation of the Russian Federation constituent entities on integral indicators reduced from 4 times in the year of 2010 to 2.3 times in the year of 2014, which proves a high degree of effectiveness in solving the issue of digital divide. Therefore, it is highly possible that benchmarks of this indicator defined by the Strategy of the Information Society Development in the Russian Federation till 2015 (reduction of differentiation rate among constituent entities of the Russian Federation on integral indicators up to 2 times) (Strategy for the Development of Information Technologies Sector in the Russian Federation for 2014-2020 and till 2025, 2013; Dobrolyubova et al., 2015).

2. Analysis of informatization state level of regions

During the period of 2011-2014, the information technologies access indicators have risen significantly due to implementation of the measures of the Information Society (2011-2020), the Russian

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Federation government program aimed at creating information telecommunication infrastructure of information society. Readiness and interest of citizens for using Internet possibilities is shown in the trend data of the "Ratio of households with Internet access from their home PC" indicator. Values of this indicator went up from 41.3% in 2010 to 67% in 2014 (1.6 times), at the same time the growth of proportion of households with Internet access in the total quantity of households was even higher - 69.9% (Table 1).

According to the data of information society development monitoring, 67.0% of Russian households had Internet access from their home PC in 2014, being more than 1/3 higher than the level of the year 2010 with the value of 20.7%. At the same time, 64.1% of households had broadband Internet access, being 13.5% more than the previous year (Monitoring of Information Society Development in the Russian Federation). Proportion of active Internet users in the Russian Federation in 2014 was 64.9%, being 1.3 times higher than the level of 2012.

According to the International Telecommunication Union (hereinafter - ITU), during the years of 2010 - 2014 the quantity of wireless broadband Internet access subscribers per 100 people of Russia grew up 100 times. The quantity of fixed line broadband Internet access subscribers per 100 people in 2014 increased by 41.8% in comparison with 2011, and amounted to 17.3 subscribers. A positive trend is also seen in regards of the quantity of mobile broadband access subscribers. During the years of 2011-2013, the indicator rose almost 1.5 times and amounted to 70.9% (47.8% in 2011, 63.3% in 2012) (Measuring the Information Society Report 2014).

Table 1: Trend data of Internet accessibility for households, %

Indicator	2010	2011	2012	2013	2014
Ratio of households with Internet access from their home PC in the total quantity of households, %	41.3	50.2	59.1	65.1	67.0
Proportion of households with Internet access in the total quantity of households, %	48.4	56.8	60.3	69.1	69.9

According to the Russian Federal State Statistics Service, the proportion of companies using broadband access to "Internet" information telecommunication network in 2014 was 81.2%, being 24.5% higher than in 2010. At the same time the ratio of companies using Internet access with the speed not less than 2 Mbit per second increased 2.1 times in 2014: from 22.4% in 2010 to 49.1% in 2014.

As for the development of information environment, there is a significant growth in the indicator of the level of museum materials preservation. As of the end of 2014, the proportion of digitalized museum materials amounted to 25.1% (being 22.9% in 2013, 19.6% in 2012).

The number of museum pieces included into electronic catalogue during 2010-2014 increased 1.6 times, its proportion in 2014 amounted to 11.0% of the total scope of museum funds (6.1% in 2011). The proportion of libraries providing access to library full-text electronic resources via Internet in 2014 was 5.9% of the total number of libraries (2.5% in 2011).

Significant results have been achieved in development of IT-industry in education and health care spheres. As of the end of 2014m there were 13 personal computers used for educational purposes per 100 students of state and municipal general education institutions, whereas in 2010 there were 6. The proportion of health care institutions using Internet in 2014 amounted to 97.2% of the total number of health care institutions (being 93% in 2010) (Partnership on Measuring ICT for Development).

Despite the positive trend of Russian regions development in general, the rate of differentiation of constituent entities on integral indicators of information development as of the end of 2014 is estimated at 2.3 times (2.8 times as of the year of 2013) (Fig. 1) (Monitoring of Information Society Development in the Russian Federation).

In order to get a better assessment of inter-regional differences, values of core indicators should also be used apart from the integral indicator presenting an overall assessment of Russian regions differentiation on several indicators at once. Such an approach helps to find out the strengths and weaknesses of information telecommunication technologies in certain territories and regions. On certain indicators being part of integral indicator, the rate of differentiation of regions is considerably higher.

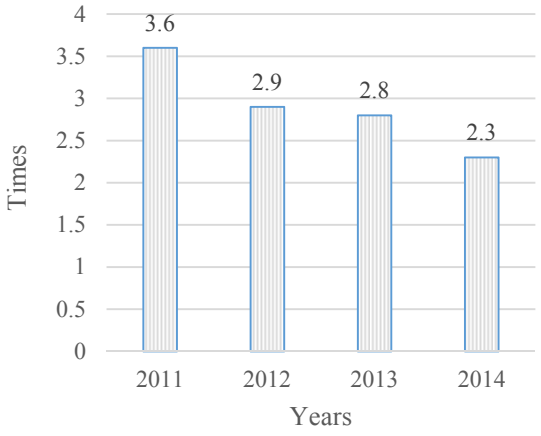

Fig. 1: Trend data of "Reducing the differences among constituent entities of the Russian Federation on integral indicators of information development" indicator for the years 2011-2014 in total in Russia

As of the end of 2014, the rate of differences on the number of personal computers used for

educational purposes per 100 students of state and municipal general education institutions is 12 times and the proportion of health care institutions using Internet in the total number of health care institutions is 1.8 times. The number of telephone sets including the public pay telephone sets per 100 people differs more than 40 times and the number of public Internet access points differs 19.3 times. The differentiation rate on "Proportion of companies using broadband Internet access" indicator amounts to 1.6 times. The difference in the rate of penetration of mobile (cell) telephone communication per 100 people differs 2.2 times. The differentiation on the ratio of households with Internet access amounts to 1.75 times.

At the backdrop of considerable regional differentiation there is a problem of "divide" between urban and rural settlements. The analysis of broadband Internet access services penetration rate shows that there are considerable differences of this indicator in urban and rural areas. The rate of broadband access in cities reaches 95%, whereas in rural areas it is often not higher than 20%. In the last years the local telephone network digitalization rate in urban and rural areas has risen remarkably. While according to the data of 2010 the digitalization rate in urban areas was 83%, in 2014 it was 90.3% (rate of growth was 108%). Rural areas in the same time period were marked by an even quicker growth of digitalization rate: from 63.9% to 75.1% (rate of growth amounted to 117.53%) (Table 2).

Herewith, the proportion of rural population centers with telephone lines in the total number of rural population centers has reduced by 1.0% (from 90.1% to 89.1%).

Such differences in main indicators of communication and information development define in general the differentiation of information and telecommunication technologies industry development in regions and the unevenness of information society development in the scale of Russia.

Table 2: Trend data of telephone network digitalization in Russia, %

Indicator	2010	2011	2012	2013	2014	Rate of growth (from 2014 to 2010)
Local telephone network digitalization rate - total:	81.0	85.3	86.4	87.9	88.7	109.51
- in urban areas	83.0	87.6	88.5	89.7	90.3	108.80
- in rural areas	63.9	65.9	67.3	72.5	75.1	117.53

3. Factors determining the rate of differentiation of regions

Due to existing differences of information and telecommunication technologies sphere development, each region has its own potential for further development which defines the influence of ITT on social and economic sphere.

Grouping of regions by the rate of information society development can serve as a basis for carrying out further government measures for ITT sphere modernization and reduction of regional differences. The information society development rates typical for regions of Russia can be defined by allocating constituent entities which resemble most and by using classifying groupings on ITT sphere indicators under consideration. In the practices of statistics for such tasks the tools of cluster analysis are used, they allow to classify the objects of target population into groups with homogeneous composition by relating each unit of population according to the feature set so that the object is included into only one group.

Evaluation of the "Reduction of differences among constituent entities of the Russian Federation on integral indicators of information development" indicator is carried out on the basis of core indicators (broken down by constituent entities of the Russian Federation):

- Fixed telephone line density (including public pay telephones) per 100 people, pcs;
- Penetration of mobile (cell) telephone communication, pcs;
- Number of public Internet usage (access) points, for 10 000 people, units;
- Ratio for households with Internet access in the total number of households, %;
- Proportion of companies using broadband Internet access in the total number of companies, %;
- Number of personal computers used for educational purposes per 100 students of state and municipal general education institutions, pieces;
- Proportion of health care institutions using Internet in the total number of health care institutions, % State Program "Information Society (2011-2020)" (2014).

In order to split those 76 Russian Federation constituent entities which were left after excluding discordant observations (the city of Moscow and the city of St. Petersburg, Sakhalin and Amur regions) into homogenous groups, we used the method of k-averages to get three clusters containing 31, 8 and 37 regions respectively. When choosing the best way of splitting we took into account the values of statistic criteria (correlation of between-group and within-group variance), and also a possibility of carrying out content-related economic interpretation of clusters (Abdrakhmanov et al., 2015). Variance analysis results have justified the feasibility of such splitting.

As seen on Fig. 2, average values of information society development level indicators for the four clusters under consideration are enough differentiated, so that we can draw a conclusion that

splitting of regions into homogeneous groups have been done in a correct way.

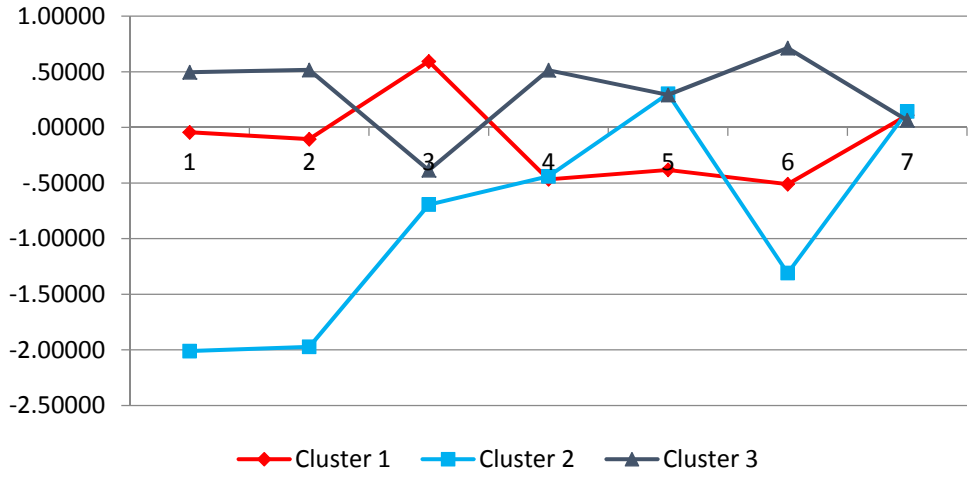

Fig. 2: Average values of information society development level indicators in 2014 in Russia broken down by regions into three clusters

As evident from the Table 2, regions of the second cluster are characterized by low in comparison with other clusters values of information society development level indicators. In three regions of the second cluster - the Chechen Republic (1.3), the Republic of Ingushetiya (1.5) and the Republic of Dagestan (1.8) - the number of fixed line telephone sets does not exceed 2 pieces per 100 people. Despite the low values of telephone set density, the Republic of Ingushetiya is the leader of the second cluster on proportion of households with Internet access; more than 71% of all households in this republic are connected to Internet, which can be compared to the average value of Internet penetration in the first cluster and is 10.4 percent points higher than the average cluster value. The highest telephone set density among the regions of the second cluster holds the Stavropol territory, where there are 19 telephones and public pay telephones for 100 people, which is twice as high as the average cluster value of providing the people of this region with fixed telephone lines. In the second cluster high values of cell communication penetration are typical for the Stavropol territory with more than 156 subscription contracts per 100 people, being 20% higher than average cluster value. Regions of the second cluster deviate in the rate of fixed telephone lines density not more than ±6 subscribers, and in the rate of mobile telephone connection penetration not more than ±13 subscribers from the average cluster value.

Also low values of numbers of public Internet access points are typical for regions of the second cluster, being 19 units per 100 000 people in average. The Republic of Tyva has the best results of this indicator having 34 public Internet access points per 100 000 people of the region and being equal to the average value of the first cluster, which features the highest value of public Internet access points. As for the level of accessibility of Internet for households, regions of the second cluster have an average of 65%, while the highest proportion is typical for the Republic of Ingushetiya (more than 71%) and the lowest - for the Republic of Dagestan (only 53% of households in Dagestan have Internet access). Regions of the second group deviate in the proportion of households Internet access not more than 8% from the cluster average value.

Along with that, regions of the second subset have a higher proportion of companies using broadband Internet access. 92.5% of companies in the Republic of Adygeya have Internet access, this being the highest value of this indicator in the second cluster, which is 12% higher than the average cluster level of ITT usage by companies. A high rank of ITT usage by companies in the second cluster is the Republic of Ingushetiya, 90.8% of the companies use broadband Internet access. Meanwhile, the numbers of PCs per 100 students of general education institutions in the Republic of Ingushetiya and then Chechen Republic are 3 and 4 units respectively, which is 3.7-2.8 times lower than in the Republic of Dagestan with the highest level of computer availability for students among the RF constituent entities in the second cluster. Regions of the second subset show the highest results in proportion of health care institutions Internet connection - 98%. All the health care institutions in four regions of the second cluster - the Republics of Adygeya, Dagestan, Ingushetiya and Tyva - use Internet. The lowest level of Internet usage in the health care institutions of the second cluster is in the Kabardino-Balkarian Republic (93.6%). Regions of the second cluster deviate in the level of PC availability in the education process not more than ±3 units and in the level of ITT usage in the health care system not more than ±2.6% from the cluster average value.

The first cluster comprising 41% of the regions of the set under consideration takes an intermediate place between the second and the third clusters. The cluster average value of number of mobile subscriptions per 100 people of the region in the selected group is 23 subscription contracts being 3.6 times higher than the rate of the second cluster and amounting to 85.6% of the third cluster rate.

Deviation of the regions in the number of fixed line subscriptions is the lowest among all the clusters under consideration and is not higher than 17.8%. As for the density of the fixed telephone lines, 26% of the second cluster regions - the Republics of Kalmykiya, Altay, Buryatiya, Sakha, the Chuvash Republic, Zabaikalsky Territory, Kursk and Astrakhan regions - do not exceed the level of the Stavropol Territory (19 subscriptions per 100 people), which belongs to the regions of the second group. The highest numbers of telephone sets and public pay telephone sets per 100 people in the first cluster are in Kostroma and Pskov regions - 29 subscriptions per 100 people.

Table 3: Average values of information society development level broken down by three clusters

Indicator	Cluster number		
	1	2	3
Number of telephone sets (including public pay telephones) of the public use telephone network per 100 people, pcs	23	9	27
Number of connected cell telephone network terminals per 100 people, pcs	170	130	184
Number of public Internet access points located in post offices per 10 000 people, units	3	2	2
Proportion of households with Internet access in the total number of households, %	64.4	64.6	70.7
Ratio of companies using broadband Internet access in the total number of companies, %	77.8	82.5	82.4
Number of personal computers per 100 students of general education institutions, pcs	10	7	15
Ratio of health care institutions using Internet in the total number of health care institutions, %	97.8	98	97.5

As for “Mobile network penetration” and “Number of public Internet access points” indicators, 16% and 61% of the first cluster regions on the first and the second indicator respectively do not exceed the maximal values of the second cluster, being Stavropol Territory in the first case and the Republic of Tyva in the second case. However, the first cluster average value exceeds that of the second cluster in such indicators as rate of mobile telephone network development (by 31%) and the number of public Internet access points (1.7 times). The highest numbers of mobile telephone subscriptions are in Smolensk region (198 subscription contracts) and Oryol region (191 subscription contract per 100 people), being 16% and 12% higher than the average value in this cluster. The lowest values of mobile network penetration are in Zabaikalsky Territory, the Republics of Buryatiya and Altay - 139, 145 and 147 subscription contracts per 100 people. At the same time the Republic of Altay has the highest number of public Internet access points both among the regions of the first cluster and in the country in general - 58 public Internet access points per 100 000 people. Tomsk, Kemerovo and Saratov regions have the lowest values in public Internet access points with less than 2 public Internet access points per each 10 000 people.

The first cluster average value of proportion of households with Internet access is almost equal to that of the second cluster and amounts to 64.4%. However, the average value of proportion of companies with broadband Internet access in the first cluster is considerably lower than that in the second cluster and amounts to 77.8%. While the minimal value of the proportion of the companies using broadband Internet access in the second cluster amounts to 67.9% (the Republic of Tyva), the minimal value in the first cluster is 62.3% (the Republic of Sakha). In the regions of the first cluster in general the education institutions are better provided with PCs than in the regions of the second cluster. The following regions stand out as of this indicator: Volgograd region (14 units), the Republic of Kalmykiya (13 units), the Chuvash Republic, Orenburg region and Ulyanovsk region (12 units). Also unlike the second cluster, all health care institutions in nine regions of the first cluster use Internet. The first cluster regions deviate in the level of PC availability in the education process not more than 14% and in the level of ITT means usage in health care not more than 3.5% from the cluster average value.

The third cluster comprises 37 regions making 49% of the set under consideration and is marked by high indicators of information society development level. So, for example, in the number of telephone sets per 100 people the average value of the third cluster exceeds the second cluster average value 3 times and amounts in average to 27 subscriptions per 100 people. The highest fixed telephone line density have Chukotsky Autonomous District (40 subscriptions) and Murmansk region (39 subscriptions per each 100 people). These regions also feature a high level of mobile network penetration being 1.4 times higher than that of the second cluster regions and 8% higher than the first cluster regions - 184 subscription contracts per 100 people of the region. Regions with the highest mobile telephone network density are Magadan region (226 subscriptions), Krasnodar Territory (218), Tyumen region (208) and Murmansk region (206). At the same time, the number of mobile subscription contracts in Chukotsky Autonomous District and Kurgan region are considerably lower than the rate of the first cluster and the maximal value of the second cluster, being 159 and 141 subscriptions per 100 people.

As for the number of public Internet access points, the third cluster regions hold the middle position - 22 public Internet access points per 100 000 people, which is 16% higher than the indicator of the second cluster but making 69% of the first cluster regions value. The average value of proportion of households with Internet access in the third cluster regions exceeds the average value of the first cluster by 10% and of the second cluster by 9%. Madagan and Kaliningrad regions with 86% and 82% respectively hold leading positions of this indicator, the lowest value has Ivanovo region with 62%. The Republic of Kareliya and Sverdlovsk region lead in the proportion of companies using broadband Internet access with 91.9% and 91.4% respectively, while the cluster average level is 82%. The leaders of the third cluster of PC availability in education institutions are the Republic of Tatarstan (24 computers per 100 students) and Tyumen region (22 computers per 100 students). 100% of health care institutions in 27% of the third cluster regions use Internet. The Kamchatsky Territory with 79.2% has the lowest proportion of Internet use in health care institutions (Abdrakhmanov et al., 2015).

4. Prospective of region development

In order to eliminate digital divide and provide equal access to modern communication means on the entire territory of the country, the Ministry of Communications and Mass Media of the Russian Federation carries out works and improves the legal norms and regulation for development of communication networks of LTE and UMTS standards in small settlements as a part of universal service system reform (Ministry of Telecom and Mass Communications of the Russian Federation, 2014).

In order to solve the problem of providing modern communication services to people in small settlements in 2014 a reform of universal service has been initiated aiming at transition from the use of public Internet access points to individual subscriptions.

The Federal Law dated 03.02.2014 № 9-FZ "On Introduction of amendments to the Federal Law "On Communications" introduced a number of amendments to the Federal Law dated 07.07.2003 № 126-FZ "On Communications" aiming at extension of the list of universal communication services (Strategy for Information Society Development in the Russian Federation, approved by the President of the Russian Federation, 2008). It has set requirements for pulling optic fiber communication lines into settlements with population from 250 to 500 people in order to make individual broadband access service subscription possible at the speed not less than 10 Mbit/sec per household. It should be also noted that a state-regulated subscription tariff for broadband access at 10 Mbit/sec will be set lower than the average market rate in order to provide high affordability of the service to all sections of the population. Providing access to modern communication services is the most critical issue. Federal executive bodies have defined the priority list of constituent entities of the Russian Federation which are in the highest need for modern communication means providing.

As the result of universal service reform, more than 200 000 km of optic cable should be pulled in order to make modern communication services accessible in more than 13800 small settlements with the total population of more than 5 million people.

Development of modern radio technologies of LTE and UMTS standards allow for effective solution of the problem of digital divide providing broadband internet access services for people living in small settlements where it is difficult or not feasible to build fixed broadband Internet access networks. Statistical data show a high rate of UMTS networks penetration in towns with population more than 10 000 people and a considerable rate of penetration of LTE standard networks. The LTE and UMTS standard communication networks penetration rate in settlements with the population less than 10 000 people is at the moment very inconsiderate. LTE and UMTS standards communication networks in such settlements are built in the areas belonging to large cities agglomeration. According to the Ministry of Communications and Mass Media of the Russian Federation, the average rate of LTE and UMTS standard communication networks penetration in settlements with the population less than 10 000 people does not exceed 10-12% of the number of such settlements (Klochkova and Ledneva, 2014).

In 2013-2015 the Ministry of Communications and Mass Media of the Russian Federation have carried out a complex of works aimed at improving legal regulations and norms in order to speed up the process of implementation of LTE and UMTS standards modern radio technologies in settlements with the population less than 10 000 people. The decisions of the State Radio Frequency Commission taken in 2013 and 2014 have stated a principle of technological neutrality of using the radio frequency spectrum for radio frequency bands in ranges of 450/900/1800 MHz. It allowed communication providers to implement modern radio technologies of LTE and UMTS standards in the bands of radio frequency spectrum that they already had and where outdated standards were developing. This initiative is of high demand on behalf of communication providers and helps to eliminate digital divide.

High costs of communication networks construction and high risks that investments will not pay back pose a considerable barrier for communication network development in small settlements. One of the means of communication provider costs reduction is a joint use of communication means which helps to save a lot on construction and operation of communication means and to reduce the payback period of the projects to acceptable levels. In order to solve this problem, in 2014 the Government of the Russian Federation and the Ministry of Communications and Mass Media of

the Russian Federation have set a possibility of joint use of radio access networks (RAN Sharing) for base stations of all standards (GSM/UMTS/LTE). Therefore, mobile providers can now cooperate when building communication networks and reduce capital and operation costs, that being especially important in present economic conditions when constructing communication networks in small settlements.

Therefore, implementation of initiatives to speed up the penetration of LTE and UMTS standards communication networks in small settlements prove to be of high interest on behalf of mobile providers to such regulation approaches taking into account that they bring positive effect in solving issues of both state and business. It should be mentioned that more than 26% of the total population of Russia (or 37 mln. people) live in settlements with the population less than 500-10000 people, making the issue very topical and its solution in part of elimination of digital divide very critical. A joint work is needed here on behalf of the state to pull the optic fiber lines to the settlements with the mentioned above population and on behalf of the mobile providers to join in construction of low-power base stations of LTE and UMTS standards. Implementation of the mentioned above measures will help to eliminate digital divide in the Russian Federation.

5. Conclusion

The conducted analysis shows that the accumulation of regions is characterized by a considerable degree of differentiation in information society development. Each region has its own potential for further growth of ITT influence on social and economic sphere due to existing peculiarities of ITT sphere development. However, as the ITT infrastructure complex is formed by the ITT sector production, it is likely that different levels of infrastructure development and ITT use are correlated to corresponding levels of ITT sector development. Identifying such a correlation will help to broaden the understanding of the process going on in the industry under consideration.

As the analysis has shown, the broadband Internet access in cities is considerably higher than in rural areas. The reasons of low penetration of broadband Internet access in rural areas are the absence of optic fiber lines which connect small settlements with cities and regional centers; construction of fiber optic lines and mobile communication networks of LTE and UMTS standards in small settlements are in most case not feasible for communication providers; low rate of penetration of LTE and UMTS standard mobile networks, which is connected with large investments including providing power and construction of access roads.

Providing modern communication services to the population is one of the key tasks of the state policy. Solution of this task will eliminate the digital divide, that is will provide modern communication means (fixed and wireless broadband Internet access, telephony and IP-TV) to people living in large cities and small settlements. Development of broadband Internet access networks is a powerful driver which allows for implementation of ITT in all sectors of economy and therefore brings positive effect in speeding up the implementation of modern production technologies, raising the quality of the production, creating new working places and thus to growth of the Gross Domestic Product (GDP).

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Free economic zones in the Far East of Russia: benefits and risks for investors

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Abstract: The article is devoted to the comparative analysis of administrative legal regimes of implementation of investment and business activity within the boundaries of the special areas created in the Far East of Russia: special economic zones and territories of advancing social and economic development and the free port of Vladivostok. The study object is to identify similarities and differences in the administrative legal regimes in order to promote enterprise activity and create a favorable investment climate. The paper analyzes in detail the measures of state support of investment and business activity: tax and customs benefits provided to investors; special rules that mitigate the administrative burden in the field of town planning and land relations, relations in the sphere of state control over the economic activity. Special attention is paid to the questions of public financing of engineering and transport infrastructures objects of the territories with special administrative legal regimes of business activity implementation. The authors in detail analyze the content of the Federal Law № 116 "About special economic zones in the Russian Federation" 22.07.2005, the Federal Law № 473 "About the territories of advancing social and economic development in the Russian Federation" 29.12.2014, Federal Law № 212 "About the free port of Vladivostok" 07.13.2015 and the tax standards, customs, town planning and land legislation. The special attention is paid to the agreements content on the territories establishment with a special administrative-legal regime of business activity. Legal norms analyzed from the perspective of the actual experience of its use in the formation of areas with special administrative and legal regimes on the Maritime Territory: the special economic zone of industrial type on the basis of the manufacturing enterprises of the "SOLLERS" group of companies, territories of the advancing socio-economic development "Nadezhdinskaya", "Mikhaylovskaya", the free port of Vladivostok. The paper define strong and weak sides of the three types of special legal and administrative regimes of implementation business activity applied in the Far East of Russia; both investment benefits, and risks, which the investors interested in the use of appropriate incentives and preferences, and the number of recommendations to address those risks, are revealed. Article materials represent the first analytical review of modern investment legislation of the Russian Federation and its practical application. The work may be of interest to head managers and legal consultants of companies interested in the implementation of investment and business activity in the Far East of Russia.

Key words: Investments; Special economic zones; Advancing development; Port; Vladivostok

1. Introduction

In the last decade, the state pays special attention to the socio-economic development of the Russian Far East. As indicated in the preamble of the federal principal program "Economic and social development of the Far East and the Baikal region for the period till 2018" due to the change in the balance of economic power of the main world economy centers in favor of the Pacific Rim, which specific weight increases and in production of a gross world product and in international trade, the Far East development is a perspective problem of the state which the decision depends on the economic prosperity of Russia in general.

The Far East holds a favorable economic geographical position in Russia and the Pacific Rim, neighboring with such countries as China, Japan and South Korea. To the Far East ports the width transport systems of the Trans-Siberian and Baikal-Amur railway, lines crossing Eurasia, have outputs. Along the Far East coast passes the Northern Sea Route. With the increasing Pacific Rim role in the world economy the importance of the Far East of Russia as the contact zone providing external economic, cultural and other types of interstate cooperation also increases. "Realization of the integration policy of the Far East in the general process and dynamics of the Pacific Rim development and development of its huge potential demands immediate stimulation of economic and demographic development, technical and technological modernization of production, cardinal improvement of investment climate" (The federal principal program "Economic and social development of the Far East and the Baikal region for the period till 2018").

One of the business activity stimulating measures, creation of favorable investment climate in the Far East is the creation of areas with special administrative-legal regime of business activity designed to reduce the administrative burden on

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economic operators, as well as reduce the costs of these entities in the development of the business. The last is reached by means of various mechanisms, granting tax and customs privileges and preferences, funding from government measures to create objects of entrepreneurial infrastructure.

2. References

Special economic zones, territories of the advancing social and economic development, and the free port Vladivostok, which in the methodical purposes it is possible to designate a generic term "free economic zones", belong to territories with special administrative legal regimes of implementation of business activity. The basic legal acts, establishing specific legal and administrative regimes of business activity implementation of in borders of the special territories are the Federal Law № 116 "About special economic zones in the Russian Federation" 22.07.2005 (further - Law About SEZ), the Federal Law № 473 "About the territories of advancing social and economic development in the Russian Federation" 29.12.2014 (further - Law About TAD), Federal Law № 212 "About the free port of Vladivostok" 07.13.2015 (further - Law About FPV).

Identifying similarities and differences in the legal regimes of the territories, as well as the opportunities and risks arising from the entrepreneurs, who intend to use one of these special conditions, is the focus of this work.

3. General characteristic of the free economic zones: concept, subjects

3.1. Types of territories with special administrative legal regimes. System of territories control

According to the para. 1 art. 2 of the Law About SEZ, the special economic zone is the part of the Russian Federation territory, which is defined by the Government of the Russian Federation on which a special regime of entrepreneurial activities, and also the customs procedure of a free customs area can be applied. According to the para. 3 art. 2 of the Law About TAD, the territory of the advancing social and economic development is a part of the territory of the subject of the Russian Federation, including the closed administrative-territorial municipality, on which according to the decision of the Government of the Russian Federation establishes a special legal regime for entrepreneurial and other activities in order to create favorable conditions for attraction investment, ensuring rapid socio-economic development and creation of comfortable conditions for the population life. According to the art. 2 of the Law about FPV under the free port of Vladivostok is understood as part of the Maritime Territory, which in accordance with the Federal Law establishes measures of state support of business.

Already at the level of the territories definitions given by the legislator it is possible to reveal the common and specific features peculiar to each of them. General characteristic of the territories is the establishment in their borders of favorable conditions for business: "… specific mode of implementation of business activity …", "… measures of the state support of business activity …".

Features belong to such characteristics as territories placement, government competence on their creation, and the purpose of the creation. For example, special economic zones (hereinafter - SEZ) can be located within the territories of several subjects of the RF, the territory of advancing social and economic development (hereinafter - TAD) - only within the borders of one subject of the Russian Federation, and the free port of Vladivostok (hereinafter - FPV) - within clearly defined the subject of the Russian Federation (the Maritime Territory).

SPV is created on the basis of the Law About FPV, and the Laws About SEZ and TAD are created on the basis of resolutions of the Russian Federation Government and agreements, signed by authorized federal public authorities, public authorities of an appropriate subject of the Russian Federation, and local governments, which borders include the respective territory. So, SEZ of industrial and production type in the territory of Vladivostok is created on the basis of the resolution of the Russian Federation Government dated 18.08.2014 No. 822 and the Agreement on the establishment on the city of Vladivostok territory of the industrial and production type special economic zone dated 16.09.2014 No. S-369-EE/D14 signed between the Russian Federation Government, administration of the Maritime Territory and Vladivostok administration. TAD "Nadezhdinskaya" is created on the basis of the resolution of the Russian Federation Government dated 25.06.2015. No. 629 and Agreements on the establishment on the territory of the municipality Nadezhda the Nadezhdinsky municipal region of the Maritime Territory territories of the advancing social and economic development "Nadezhdinskaya" dated 19.10.2015 No. 01-15/2015.

In the FPV definition, the aspiration of imperious subjects to render assistance in implementation of business activity is especially noted: "… establishment of measures of the state support …" that testifies to aspiration to keep actually economic development of the territory. In the TAD definition, the emphasis on the social purpose of creation of such territories is placed: "… ensuring the accelerated social and economic development and creation of comfortable conditions for ensuring activity of the population". In the SEZ definition noted the possibility of "... the free customs zone procedure", which describes how the SEZ territory, designed to develop, primarily export-oriented activities.

The legislation provides a certain specialization for some territories types with special

administrative legal regimes. So, the Law About SEZ distinguishes four types of special economic zones: industrial production, port, technology development, and tourism and recreation (Article 4 of the Law About SEZ.). Concerning territories of the advancing development accurate differentiation by territories types cannot be made. However, certain specialization is present here, as lists of activities, which can be carried out within their borders, are defined by the relevant resolutions of the RF Government on the establishment of TAD. Therefore, TAD "Nadezhdinskaya" represents the territory for industrial production development; TAD "Mikhaylovsky" is focused on the agricultural production development. The law on FPV does not provide narrow specialization by the activity type.

To carry out measures of state support and effective development of territories with special legal and administrative regimes of entrepreneurial activity established management systems, which include state agencies, business organizations with 100% state participation (management companies), as well as collegiate territories controls. In general, control systems of certain types of territories are similar in structure and competence of the management entities. However, there are features inherent in the SEZ, TAD and FPV management system.

According to art. 7 of the Law About SEZ, to the SEZ authorities are understood the federal public authority, authorities of the Russian Federation territorial subjects, the supervisory boards of SEZ, advisory councils of SEZ, and management companies. The federal public authority authorized to carry out functions of SEZ management is the Ministry of Economic Development of the Russian Federation (further - the Ministry of Economic Development).

The management company, carrying out functions and powers on SEZ management, is the Special Economic Zones joint-stock company, which 100% of actions belong to the Russian Federation. The Ministry of Economic Development carries out functions of the shareholder on behalf of the Russian Federation.

SEZ advisory councils are created by the Ministry of Economic Development for each type of special economic zones and operate on the basis of the Regulation approved by Order of the Ministry of Economic Development

The supervisory boards of special economic zones are created in order to coordinate the state bodies and local authorities' activities, as well as entrepreneurs for the special zone economic development.

According to chapter 3 of the Law About TAD, the authorized federal public authority, the supervisory boards of SEZ, and management company are the governing authorized federal body, the SEZ supervisory boards and management company. Note that the public authorities of the Russian Federation territorial subjects are not carried to governing bodies by the Law About TAD. They only have an obligation to finance infrastructure facilities specified in the 3rd part of the art. 4 of the Law About TAD.

The federal public authority, authorized to carry out functions of TAD management is the Ministry of the Russian Federation of the Far East development (further - Ministry of the Far East development).

The Supervisory Board of TAD established to coordinate and monitor the implementation of the agreement on the creation of the territory of advancing social and economic development, facilitate the implementation of TAD projects residents and other investors' projects.

The management company, that performs the functions and powers of TAD management, is determined by the resolution of the RF Government on 04.30.2015, № 432. It is the "Corporation of the Far East Development" joint-stock company.

The management company which is carrying out functions and powers is determined by the Government of the Russian Federation of 30.04.2015 by management of TORAHS No. 432. 100 % of management company stocks belong to the Russian Federation and are carried out on behalf of the Ministry of the Far East development.

According to the chapter 2 of the Law About FPV, governing bodies of FPV are the authorized federal public authority (Ministry of the Far East development), the FPV Supervisory Board and management company (the JSC "Corporation of the Far East Development"). Besides, in art. 9 of the Law About FPV the public council of FPV, formed at authorized body, is specified. However, this body carries out not so much administrative, but many advisory functions.

3.2. Residents of territories with special administrative legal regimes

On the territories with special administrative legal regimes of implementation of business activity can be as the entrepreneurs, having special status (hereinafter - residents), giving them the right to receive state support, and entrepreneurs who do not have such a status. The last has the right to engage in business activities on a general basis, without being able to enjoy the benefits and preferences provided to residents.

The key economic subjects of the territories with special administrative legal regimes of implementation of business activity are residents. Criteria by means of which definitions of residents of territories with special administrative legal regimes are given are identical for three views of territories: an organizational and legal form, a place of registration, conclusion of agreement of conducting activity and inclusion of the organization in the residents' register.

According to art. 9 of the Law About SEZ, the resident of SEZ is the commercial organization (except for the unitary enterprises) or the individual entrepreneur, registered in the territory of municipality where SEZ is located, which concluded

the agreement on implementation of the activity corresponding to the SEZ type with SEZ governing body (for example, for SEZ of industrial and production type such kinds of activity are the production activity, activities for logistics or technology development activity). According to the para. 2 of art. 2 of the Law About TAD, the resident of the advancing social and economic development territory is the individual entrepreneur or the legal entity, which is the commercial organization, which state registration is carried out in the advancing social and economic development territory according to the Russian Federation legislation (except for the state and municipal unitary enterprises), who concluded the agreement on implementation of activity in the advancing social and economic development territory and are included in the residents register of the advancing social and economic development territory. According to Part. 1, art. 10 of the Law About FPV, under the free port of Vladivostok resident is understood the individual entrepreneur or the legal entity, which is the commercial organization, which state registration is carried out in the free port of Vladivostok territory according to the Russian Federation legislation (except for the state and municipal unitary enterprises), who concluded the agreement on implementation of activity and are included in the residents register of the free port of Vladivostok.

To acquire the resident status of the territory, the entrepreneur has to satisfy to criteria established by the legislation. These criteria include: 1) the capital amount that the resident is obliged to make during the project; 2) activities that residents undertake to implement.

Residents of industrial and production SEZ are obliged to make an investment of at least 120 000 000 rubles, including 40 000 000 rubles on the implementation of activities during the first three years from the agreement conclusion date. The residents of port SEZ are obliged to undertake investments in the following amounts: (1) 400 million rubles in the port, river port or airport infrastructure objects construction, including 40 000 000 rubles over three years from the agreement conclusion date on the implementation of activities; (2) one hundred and twenty million rubles for the sea port, river port or airport infrastructure reconstruction, including 40 000 000 rubles over three years from the agreement conclusion date on the implementation of activities (art. 3, 4, art. 12 of the Law About SEZ). The minimum amount of investment for the TAD residents determined by the resolution of the Russian Federation Government on creation of the corresponding TAD. So, according to resolutions of the Russian Federation Government dated 25.06.2015 № 629, № 878 dated 21.08.2015, the minimum amount of TAD "Nadezhdinskaya" and TAD "Mikhaylovsky" residents capital investments and in the corresponding types of economic activity implementation is set at 500 000 rubles. The residents capital investments minimum amount the free port of Vladivostok is established in the Law About FPV, and in the Russian Federation Government resolution dated 20.10.2015 № 1123 "About the statement of residents criteria selection of the free port of Vladivostok" and amounts 5 000 000 rubles within three years from the date of inclusion of the individual entrepreneur or the legal entity in the register of residents of the free port of Vladivostok.

The businessman intending to get the status of the resident of the respective territory specifies types of business activity in the demand. The kinds of activity of residents of OEZ declared to implementation have to correspond to the OEZ type specified in the resolution of the Government of the Russian Federation and the agreement on its creation. Kinds of activity which the resident of TORAHS intends to carry out in an exhaustive way are defined in the resolution of the Government of the Russian Federation on creation corresponding TORAHS. Kinds of activity of residents of SPV are defined by decisions of the Supervisory board of SPV, way of the indication of kinds of activity at which implementation the status of the resident is not appropriated (by the principle, everything is authorized that directly is not forbidden). So, the decision of the Supervisory board of SPV of 21.10.2015 No. 1 defined the kinds of activity "forbidden" residents by SPV: oil and gas production, administrative activity and the accompanying services, activities for production of excise goods (except for vehicles and fuel). The kinds of activity which are not specified as forbidden can be specified in the demand for acquisition of the status of the resident.

Entrepreneur intending to acquire the status of a resident of the territory concerned, indicating types of entrepreneurial activity in the application; Activities of SEZ residents claimed to implementation must comply with the special economic zone type specified in the decree of the RF Government and the agreement on its establishment. Activities, which are intended to implement the resident top exhaustively defined in the decree of the Russian Government to establish an appropriate top. Forms IVS resident activities are determined by the decisions of the Supervisory Board of SPV, by specifying the types of activities in the implementation of that resident status is not assigned (in principle, everything that is not expressly forbidden). Thus, the decision of the Supervisory Board of SPV from 21.10.2015, the number 1 defined "illegal" residents IVS activities: oil and gas production, administration and related services activities for the production of excisable goods (excluding vehicles and fuel). Activities not listed as prohibited, can be specified in the application for the acquisition of resident status.

The entrepreneur applying for the FPV resident status acquisition has to satisfy to one more criterion: "the realization in the free port of Vladivostok territory of the new investment project, or the implementation of business activities, which

are new for it, that has not been carried out before the date of application" (para. 1of the Russian Federation Government resolution dated 20.10.2015 № 1123).

Despite the fact that the legislation provides more or less transparent rules, concerning the status of residents of territories with special administrative legal regimes, there is a number of the problem aspects, which affect the interests of both foreign and domestic investors.

(1) A foreign company cannot directly or by creation of the branch in the Russian Federation, get the status of the resident of a free economic zone. Proceeding from the "resident" definitions, given in laws, the resident can become only the individual entrepreneur or the commercial organization registered in borders of the respective territory or in close proximity to it. It means that the foreign investor needs to create the affiliated commercial organization in Russia;

(2) Since in most cases the territory of priority development is outside the settlements, TAD residents have difficulty in placing the administrative offices in the TAD borders. According to the Russian legislation, the legal entity is considered registered at the place of permanent location of the individual executive body, i.e. in the organization (office) daily activity control center location. In practice, the resident offices are located outside the registration place of the commercial organization, which is a violation of state registration of legal entities and may lead to the administrative sanctions application. A number of residents register separate divisions in a place of real finding of the offices, however according to the Law About TAD the resident is forbidden to have branches and representations outside the boundaries of advancing development territories. Of course, as far as TAD infrastructure development this issue will lose its relevance, but today this remains an open question, and not regulated by law.

4. Analysis of the main components of special administrative legal regime of free economic zones

4.1. Tax privileges for residents of territories with special administrative legal regimes of entrepreneurial activity

A special tax regime applies to such taxes raised from residents as a value added tax, corporate income tax, property tax, land tax, and on payments in off-budget funds. Thus, the SEZ residents' tax treatment is different from the tax regime established for the TAD and FPV residents.

The tax privileges structure is not identical to the SEZ separate types provided by the legislation. So, according to the para. 27 part 3 art. 149 of the Tax Code of the Russian Federation from the value added tax exempts the works and services, which are carried out by the resident of SEZ port in the territory of SEZ. For residents of other SEZ types the similar privilege is not provided.

According to p. 1.2 art. 284 of the Tax Code of the Russian Federation, a tax rate for residents income tax of technology development SEZ, and also the residents of the tourist and recreational SEZ, united by the decision of the Russian Federation Government in the cluster is established of 0 percent for a portion of the tax to be credited to the federal budget. According to p.1 art. 284 of the Tax Code of the Russian Federation residents of all types SEZ can be in whole or in part exempted by the laws of the Russian Federation from payment of the income tax, which is transferred in regional budgets. In Primorye, the said exemption provided by the regional law for SEZ residents in the city of Vladivostok. According to the art. 2(1) of the law, for residents the following lowered rates on the income tax, which is transferred in the regional budget, are established: (1) at a rate of 0 percent - within five tax periods since the tax period, in which according to data of tax accounting the first income from activity in the territory of a special economic zone was recognized; (2) at a rate of 10 percent - during the next five tax periods (instead of 18%) (The Primorsky Krai law dated 19.12.2013 N 330 "About the establishment of the lowered rate of the organizations income tax which is transferred in the regional budget for separate categories of the organizations").

Benefits for property tax of SEZ residents provided by the art. 381 of the Tax Code. According to para. 17 of the article the property, considered on the SEZ resident balance, created or acquired for conducting activity in the SEZ territory, located and used in the SEZ territory for ten years from the month following the property registration month; according to para. 22 of the article the residents property of industrial and production SEZ - the ship-building organizations, considered on their balance and used for construction and repair of vessels, is exempted from the taxation within ten years from the date of registration of such organizations as the resident of SEZ, and also concerning the property created or acquired after obtaining the resident status - within ten years from the date of registration of such property.

Exemptions from the tax on land provided by art. 395 of the Tax Code; In accordance with paragraph 9 of this article residents of SEZ in respect of land located in the SEZ territory shall be exempt from taxation, for a period of five years from the month of property rights for each parcel; in accordance with paragraph 11 of the article industrial-production SEZ residents - shipbuilding organizations, shall be exempt from tax in respect of land occupied by buildings, industrial purpose buildings used for construction and / or repair of ships, for a period of ten years from the date of registration of such organizations as the SEZ residents.

Exemptions from insurance contributions payment in the off-budget funds for residents of the technology development and tourist and

recreational SEZ united by the decision of the Russian Federation Government in the cluster. So according to part 3 art. 58 of the federal law № 212 dated 24.07.2009 "About insurance premiums" during the period till 2017 residents of the specified SEZ pay contributions to off-budget funds, to the Pension fund of the Russian Federation, Social Insurance Fund of the Russian Federation, Federal Compulsory Health Insurance Fund in the following size: (1) in Pension Fund of the Russian Federation - 8%, in Social Insurance Fund of the Russian Federation - 2%, in Fund of obligatory medical insurance - 2% (instead of 22%, 2,9%, 5,1% respectively).

The structure of tax privileges for residents of TAD and FPV is almost identical. According to para. 3, 4 p.1 art. 176.1 of the Tax Code of the Russian Federation resident taxpayers of TAD and FPV have the right to compensate the sums of a value added tax in the simplified (declarative) order. The application condition of this exemption is to represent resident-taxpayer to the tax authority a guarantee contract concluded between the management company and the tax authority, in which the management company undertakes to pay to the budget for the taxpayer's tax amounts unduly received by it (credited to it) as a result of compensation tax in a declarative order.

According to p. 1.8 art. 284, 284.4 of the Tax Code, for TAD and FPV residents a tax rate on the tax payable to the federal budget, is set at 0 percent (instead of 2%) for five tax periods starting with the tax period, in which according to the tax accounting data has been received first profits from the activities, carried out at the performance of agreements on the implementation of activities in the TAD or FPV. Regional laws have to provide benefits to tax pay in the sums, which are subject to transfer in regional budgets. The size of the tax rate may not exceed 5% for five tax periods starting with the tax period, in which according to the data of tax accounting, has been received the first profit from the activities, carried out in the performance of agreements on the implementation of activities in TAD and FPV, and may not be less than 10% over the next five tax periods (instead of 18%) (art. 4, art. 284.4 of the tax Code).

Privileges on the property of TAD and FPV residents' tax are provided by the regional legislation. In Primorye, these benefits are fixed in Law of the Primorsky Territory "About the property of organizations tax" dated 28.11.2003 N 82. According to p. 4 art. 2 of the law, a tax rate is established to the property, considered on the organizations balance - the TAD and FPV residents located and / or created and / or acquired for conducting activity in borders of FPV or TAD, which is actually used at implementation of the activity types provided by the agreement on implementation of activity in FPV or TAD in the following sizes: (1) 0 percent - for five years since the month following after the month of statement of the specified property on balance of the resident; (2) 0,5 percent - within the next five years since the month following after the month preceding the expiration of the grace period (instead of 2.2%) (The Primorsky Krai law dated 28.11.2003 N 82 "About the property tax of the organizations").

Exemptions of insurance contributions payment to the off-budget funds are provided in art. 58.5, 58.6 of the Federal Law dated 24.07.2009 № 212 "About Insurance Contributions to the Pension Fund, Social Insurance Fund of the Russian Federation, the Federal Compulsory Medical Insurance Fund". For ten years from the date of obtaining the FPV or TAD resident status, residents pay contributions to off-budget funds in the following size: (1) the RF Pension Fund - 6% in the RF Social Insurance Fund - 1.5%, in the Mandatory Health Insurance Fund - 0.1% (instead of 22%, 2.9%, 5.1% respectively).

As the land tax is referred by federal legislations to category of local taxes, establishment of privileges on the land tax is referred to competence of governing bodies of municipalities. The possibility of introducing exemptions from the land tax is provided by conditions of Agreements of TAD establishment. So, according to para. 2.12 of the Agreement of the establishment on the territory of the municipality Nadezhdinsky of the Maritime Territory of the advancing social and economic development "Nadezhdinskaya" dated 19.10.2015 № 01-15/2015, adoption of the municipal legal act entering the land tax payment privilege for the TAD "Nadezhdinskaya" residents in the form of 0 tax rates of the tax, which is transferred in the local budget within three tax periods, is provided. The similar condition contains in para. 2.13 of the Agreement on the TAD "Mikhaylovsky" establishment dated 10.10.2015 № 01-14/2015.

Therefore, the tax privileges provided to residents of territories with a special administrative legal regime of implementation of business activity according to its composition and the content covers a significant amount of taxes and, at first glance, can ease the tax burden of residents. However, with the use of these tax benefits associated with a number of difficulties, rooted in law-making and law-enforcement spheres. Here are some of them:

(1) Application of the simplified order of compensation of the VAT, which is provided by art. 176.1 of the Tax Code of the Russian Federation, is interfered by absence in the legislation about TAD and FPV norm providing competence of management company JSC "The Far East Development Corporation" to the guarantee contracts conclusions with the tax authorities in providing obligations of residents for return of the tax sums;

(2) Application of exemptions from payment of insurance contributions to the off-budget funds is not beneficial to the residents, which projects implementation requires significant time costs. Thus, a number of residents of the TAD "Nadezhdinskaya" plan to set up production facilities, which will be put into operation after 2020. This means that only after 2020, the staff of manufacturing enterprise, which

fund of compensation is base for calculation and payment of insurance premiums will be completed. Thus, it is favorable to the resident to apply a privilege on payment of insurance premiums only after the beginning of implementation of activity with use of the constructed production object, but it is compelled to apply it "from the date of acquisition of the status of the resident". Thereof the economic effect of application of this privilege decreases.

4.2. Customs privileges for residents of territories with special administrative legal regimes of entrepreneurial activity

Under the customs privileges are understood the application possibility by the residents of territories with a special administrative legal regime of the business activities of the customs procedure of the free customs zone. The concept of this customs procedure is reflected in the art. 10 of the Agreement on the questions about the free (special, specific) economic zones in the customs territory of the Customs union and a customs procedure of the free customs area (Petersburg, 2010). A free customs area is a customs procedure, at which goods take place and used within the territory of SEZ or its part without payment of the customs duties, taxes, and without application of measures of non-tariff regulation concerning foreign goods and without application of a ban and restrictions on goods of the Customs union ("The agreement on questions of the free (special, specific) economic zones in the customs territory of the Customs union and a customs procedure of a free customs area"). The use of this procedure allows residents to optimize the cost of capital assets imported from abroad for further use within the boundaries of the area where the procedure of free customs zone (in particular, the cost of materials and equipment for construction and installation work on the establishment of a production facility) is applied. If production of the resident is focused on export, costs of import of current assets can be optimized (materials, the accessories used by production of goods).

Legal grounds for the application of the free customs zone procedure are different for different types of territories. In the SEZ and the FPV, this procedure is applied by the law (art. 36 of the Law About SEZ, art. 23 of the Law About FPV). In TAD the procedure of free customs zone is applied by virtue indicate such a possibility in the decision of the Russian Government on the establishment of the TAD corresponding (art. 2, art. 3 of the Law About TAD).

Ability to apply the customs procedure of free customs zone within the borders of the territories with special legal and administrative regimes is due to the creation and equipment of the customs control zone. Concerning SEZ all its territory admits the customs control zone by the law (p. 2 art. 37.2 of the Law About SEZ). Concerning TAD and FPV the customs control zone creation is made on the land or in the building, structure belonging to the resident, by the decision of customs authority on the basis of the resident application (p. 5 art. 25 of the Law About TAD; p. 7 art. 23 of the Law About FPV). Application the free customs zone procedure in the SPV in some parts of its territory adjacent to the logistics facilities requires a decision by the FPV Supervisory Board (P. 2-4 Article 23 of the Law About FPV). The customs control zone has to be arranged and equipped for the purposes of carrying out customs control. Requirements to such arrangement and equipment are defined by subordinate normative legal acts of the Federal Customs Service of the Russian Federation (The order of FCS of Russia dated 30.04.2015 N 817 "About the approval of requirements to arrangement and the equipment of the territory of the special economic zone and requirements to the arrangement and equipment of the land plots provided to residents of a special economic zone in the cases provided by part 4 of article 37.2 of the Federal law dated July 22, 2005 N 116 "About special economic zones in the Russian Federation", and the order of providing the check mode in the territory of the special economic zone including the order of access for persons on such territory"; The Order of FCS of Russia dated 13.10.2015 N 2034 "About definition of the Rules to the equipment and arrangement of the territory of the advancing social and economic development for customs control").

Benefits from application of procedure of the free customs area are undoubted. At the same time, there are "reefs" capable to affect interests of residents.

(1) Procedures of customs control zones creation are settled with different extent of specification concerning different types of territories with special administrative legal regimes. The most successful is the regulatory base of creation of customs control zones in SEZ. Besides the detail-developed requirements to their arrangement and the equipment, local legal acts worked out procedures of interaction of the management company and government bodies during design, construction and completion of such territories. The specified questions are settled by the tripartite agreement between the Ministry of Economic Development of the Russian Federation, the Federal Customs Service of the Russian Federation and Special Economic Zones joint-stock company dated September 11, 2013, in which the step-by-step algorithm of actions of the specified bodies for coordination of the site planning of the territory, specifications on performance of work on design, project documentation, and check and commissioning of objects of customs infrastructure of SEZ is consolidated.

Concerning customs control zones that will be created similar procedures are not registered in borders of TAD and FPV that, eventually, interferes with application by residents of the free customs zone procedure.

(2) The financing sources of actions for the equipment and arrangement of a customs control zone differ for different areas. The infrastructure of

the customs control zone in the SEZ is created by the forces of the SEZ management company, at its expense, a significant portion of which are funds received from the state budget. As for the customs control zone in areas TAD and FPV, all measures for their design, construction and equipment is expected to perform by forces and at the expense of the residents, which significantly increases the cost of the latter on the implementation of investment projects.

4.3. Measures of property and financial state support of residents of territories with special administrative legal regimes

The laws About SEZ, TAD and FPV provide measures of property and financial support of the residents who are carrying out projects in the respective territories. Residents can be transferred land in state and municipal property (art. 1, art. 12 of the Law About SEZ, para. 8, art. 7 of the Law About TAD, para. 5 p. 2, art. 8 of the Law About FPV). Other property (buildings, structures, constructions), necessary for the TAD and SEZ residents for implementation of their projects, including the objects forming engineering and transport infrastructure of the respective territories, can be transferred (p. 2 art. 12 of the Law About SEZ, p.1 art. 9 of the Law About TAD, para. 3 Rules of the management company, which is carrying out functions of managing of the territory of the advancing social and economic development, the land plots transferred by it to the possession or rent, buildings, structures and constructions located in the territory of the advancing social and economic development, and infrastructure objects of the territory of the advancing social and economic development (further - Rules) (Resolution of the Russian Federation Government dated 24.04.2015 N 390).

Besides the transfer of the land and immovable property located within the boundaries of the concerned territories, the Law About SEZ and TAD provide the State's obligation to build facilities engineering, transport and other kinds of infrastructure for the residents (Art. 1, Art. 12 of the Law About SEZ, p. 1 para. 1 of the Law About TAD). Design and construction of areas infrastructure arranged by the management company at the expense of federal, regional and local budgets; These measures are designed to reduce the costs of the resident to have access to electricity, water and other energy sources.

The amount of the budget appropriations for the infrastructure creation of the territories defined in the Government Decrees about their creation. Thus, during the 2015 - 2017 years, to build the infrastructure of the special economic zone of industrial type in the territory of Vladivostok provided 5.365 billion rubles from the federal budget and 300 million rubles from the budget of the Primorsky Territory; for the TAD “Nadezhdniskaya” infrastructure - 1,986,100,000 rubles from the federal budget and 1,986,100,000 rubles from the budget of the Primorsky Territory, and from the Nadezhdinsky municipal area budget; for TAD “Mikhaylovsky” infrastructure - 2.219 billion rubles from the federal budget and 2.219 billion rubles from the budget of the Primorsky Territory, and municipal budgets, which created this territory.

The exact structure of engineering and transport infrastructure objects, terms of their design and construction are established in plans of construction projects, which are annexes to agreements on creation of SEZ and TAD, and to the agreements on implementation of activity as residents of SEZ and TAD, which are signed between management companies and investors. Thus, the government is taking concrete measures to reduce investors' costs for projects. At the same time and in this case there are a number of the problem aspects influencing investment appeal of the considered territories.

(1) The land and property transfer to the residents atn the early stages of implementation of investment projects is possible only under the lease agreements. Therefore, in relation to the TAD regime, owing to direct instructions of the law, the land, buildings, structures and facilities are available to the resident of the territory of advancing social and economic development in the property only after fulfillment of all obligations under the agreement (pp. 'c' para. 4 of the Rules). However, in practice, residents can feel the need to transfer the specified lands and objects to property already by preparation for construction (for example, if on the land transferred to the resident real estate objects, which the resident needs to dismantle for implementation of the project, are located, transfer to rent of such objects will not allow the resident to execute action for dismantle and ensuring the platform construction readiness). In addition, the commercial resident organizations with foreign participation in certain cases will not be able to receive the land plots in property owing to the restrictions provided by the Russian legislation concerning transfer of separate categories of lands to persons of the foreign right and / or to the Russian legal entities controlled by persons of the foreign right (See art. 3 of the Federal Law dated 24.07.2002 N 101 “About the lands of agricultural purpose translation”).

(2) Plans schedules of infrastructure construction are developed taking into account cash needs of investors, which got the status of residents of the respective territories, and the budgetary funds volumes provided by resolutions of the Russian Federation Government. The specified documents do not consider need of potential residents, which plan occurrence for the respective territories in the medium-term and long term. Partly, this problem can be resolved through the signing the investors of such agreements with the Ministry of the Far East development on intention to realize the investment project in the future that the para. 4 p. 3 art. 3 of the Law about TAD allow.

5. Conclusions

Summing up the results of the analysis of special administrative legal regimes of implementation of business activity in the free economic zones in the territory of the Russian Far East, it is possible to note that the state created the legal, organizational and financial property basis for development of the respective territories, increasing of their appeal to domestic and foreign investors. At the same time, the created rules demand further development, specification and refinement. The most actual aspects of the administrative legal regimes demanding "debug" are: the creation of legal mechanisms of bringing means of regional and local budgets to the management companies acting as customers of design and infrastructure construction; specification of the status and powers of management companies (Belitskaya, 2015); embedding of the control system (Kravchenko & Litvinova, 2015) of the territories with special administrative legal regimes in system of the state electronic interaction, etc.

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Legal policy of self-regulation mechanisms of social, political and economic processes formation in Russia

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Abstract: The article is devoted to practical and scientific problems of the functional distribution between state regulation of socio-economic, political and other processes and self-regulatory mechanisms of the Russian society. The author notes that if the West European civilization in the process of historical formation showed a natural tendency to self-regulation, thereby forming a stable trend in the historical transformation of state forms of management, the Russian society has always gravitated to the "strong state" patrimonial outlook. This natural attraction causes the "bureaucratic" character of the Russian state, making it the lowest effective modern public relations. Thus, contrary to the above, according to the author formulates the current agenda for the Russian legal community and sets the vector legal reforms in Russia associated with the formation of systemic conditions for the development self-regulated mechanisms in society, and the state apparatus.

Key words: Public-private partnerships; Public functions; Self-organization; Self-regulation; National mentality

1. Introduction

Practical and scientific importance of the problem of functional distribution between state regulation of socio-economic, political and other processes and self-regulatory mechanisms of the Russian society is due to the increasing quality standards of public administration and therefore needs to ensure a high level of national economic, democratic and legal systems. At the same time, in terms of geopolitics and the global economy of the contemporary world, and absolute prerequisite for preserving national sovereignty, obtaining the status of an equal partner in the world community, it is a technological and axiological superiority of the Russian Federation in all key areas of public life.

At the same time, it must be said that today the Russian system of government demonstrates extremely low system efficiency.

Russian State regulator does have the tradition of the system of public control over the social and economic processes of society. At the same time, it should be noted that the above tradition is based on the mental field of the Russian society. If Western European civilization in the process of historical formation showed a natural tendency to self-regulation, thereby forming a stable trend in the historical transformation of state forms of management, the Russian society has always gravitated to the "strong state" patrimonial outlook (Ovchinnikov et al., 2015).

However, the world economic experience not only West European but also a number of eastern states, with a strong tradition of state control, demonstrates today the objective need for self-regulatory processes, designing architecture for a variety of reasons. First, the bureaucracy built on the principles of strict hierarchy and the dominant sector in the economy; in a number of areas of strong public systems lose your bet on the potential use of private management systems based on competitive basis. Secondly, modern states are interested in reducing the resource cost to the maintenance of public institutions and the transfer of part of public functions to the private sector while maintaining the effectiveness of the regulation of all social processes. On the other hand, to say that today the state apparatus is completely useless and can be replaced by corporate regulator is not justified. Since the logic of corporate development involves maximizing profits, corporations in the absence of state control are ready to go to the violation of the natural rights and freedoms, and cease to be effective in every sense, including economic phase in the transition to monopoly.

In this context, the experience of going into the world of modeling self-regulatory process, it should be noted that the process of delegation of government regulation on the level of civil self-regulated in European legal policy sector is quite a long time. The general trend is that countries occupy the leading position in the world economic and technological world performing "locomotive" to fully implement the program changes the legal and political state control paradigm. However, it's not so clear in the Western European trends as the researchers note. Thus, according to Ian Bartle and Peter Vass in Britain in the second half of the 20th century, when in some areas, such as health and safety, there is a trend towards self-regulation, the

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pronounced increase the regulatory role of the state is manifested in such aspects of modern life, as the economy, industry, law, finance, health, education, culture and sport. At the same time these researchers noting the overall modern trend toward government deregulation, set just a question of whether there is a contradiction arises between the self-regulation mechanisms, which are based on self-interest of the individual, a separate community and public administration ideologically oriented to the public interest (though not always his slave)?

Obviously in this plane of research, there are two obvious problems presented by both paradigms of social control. First, the traditional model of public administration has some natural disadvantages, a priori inherent in one degree or another bureaucratic apparatus of any state. Among these characteristics in the classical works of political scientists, lawyers, sociologists, economists and other researchers stand out: the politicization, the formalization of control, significant time, economic, labor costs, and significant corruption risks compared to private-enterprise systems management. Part of the manifestation of such forms of a lower effective activity in the state apparatus is obvious due to socially significant role of the state. Obviously, the last assigned certain obligations to society, such as ensuring the unity of the legal regulations, the control of the monopolization of markets, public security, etc. the interests of the whole society. These obligations do not always make it possible to apply the system of government-private enterprise methods and means of reducing certain costs.

Because of this problem field study formulated a problematic question - Can be combined traditional mechanisms of self-governance and technology in Russia? Labeling in this regard scientific assumption (hypothesis), we note that given the national mentality, traditions of governance, public administration, national problems such synergies be overcome through a radical reform of the state "top" management system.

2. Review of the literature

Giving a description of scientific topics is elaborated scientific article the authors note that the considered problematic issues associated with certain theoretical contradictions and practical problems.

Problematic issues are associated with certain theoretical contradictions and practical problems. In particular, scientific conservative school insists on maintaining the traditional model of the state with the maximization of public functions - the formation of a “strong state” (Baranov et al., 2015) justifying this by the fact that the delegation of any kind was the restriction of state control will lead to another round of political and economic crisis in the country and jeopardize the sovereignty of Russia. (Dugin, 2000). A more balanced view of the matter under consideration reflects the position according to which the application of Western liberal self-regulation mechanisms in the Russian political and legal reality is not effective, and legitimate Western self-regulated mechanisms in Russia are represented by shadow forms (Ovchinnikov et al., 2015).

Russian liberal believes in front of the school to minimize the public field, abduction as a “sleeping watchman” state, and the release of maximum freedom for the private sector.

Western foreign researchers tend to believe that a modern state can meet the high standards of efficiency only in a “smart” model of their organization. So, in contrast to the domestic extreme positions, a number of foreign researchers talk about organic synthesis of the classic elements of governance and self-regulation mechanisms (Zahid et al., 2015). The researchers consider this combination as an absolute condition (Bartle et al., 2007).

3. Methods and materials

Theoretical and methodological basis of the study is based on the universal, general scientific, special and methods. Among the general methods used in the study to analyze the state and legal reality, can be identified: a systematic approach, the dialectical materialist method, phenomenological private scientific and hermeneutical method. In addition, the used concrete sociological method. These methods make it possible to carry out a comprehensive assessment of the state of political, legal, social and economic systems of the Russian state, to give the proper interpretation of the objective conditions in which operates the state apparatus, test a scientific hypothesis and draw conclusions on the study.

Formal-legal (dogmatic) and comparative legal methods used for interpretive comparisons regulatory sources underlying legal policy formation of self-regulatory mechanisms in the Russian legal space. Also, for the formulation of the forecast of further institutional development of the Russian state management method used political and legal modeling.

4. Results and discussion

It should be noted that the process of delegation of government regulation on the level of civil self-regulated in European legal policy sector is quite a long time. The general trend is that countries occupy the leading position in the world economic and technological world performing “locomotive” to fully implement the program changes the legal and political paradigm of state control (Lyubashits et al., 2015). However, it's not so clear in the Western European trends as the researchers note. For example, in Britain, in the second half of the 20th century, when in some areas, such as health and safety, there was a trend towards self-regulation, the pronounced increase the regulatory role of the state is manifested in such aspects of modern life, the economy, industry, law, finance, health, education,

culture and sport (Bartle et al., 2007). At the same time these researchers noting the overall modern trend toward government deregulation, set just a question of whether there is a contradiction arises between the self-regulation mechanisms, which are based on self-interest of the individual, a separate community and public administration ideologically oriented to the public interest (though not always his slave)? (Zahid et al., 2015).

Obviously in this plane of research, there are two obvious problems presented by both paradigms of social control. First, the traditional model of public administration has some natural disadvantages, a priori inherent in one degree or another bureaucratic apparatus of any state. Among these characteristics in the classical works of political scientists, lawyers, sociologists, economists and other researchers stand out: the politicization, the formalization of control, significant time, economic, labor costs, and significant corruption risks compared to private-enterprise systems management. Part of the manifestation of such forms of a lower effective activity in the state apparatus appears due to socially significant role of the state. Obviously, the last assigned certain obligations to society, such as ensuring the unity of the legal regulations, the control of the monopolization of markets, public security, etc. the interests of the whole society. These obligations do not always make it possible to apply the system of government-private enterprise methods and means of reducing certain costs.

The second aspect of this issue is based on the risks associated with self-regulating mechanism, because not all their forms are associated with compliance with the public and state interest. In consequence of that the activity of self-regulating communities could be aimed at meeting the interests of individual groups of citizens and organizations at odds with national and societal needs.

In this vein, it seems fair to say that it is impossible to oppose government regulation and self-regulation, and even on the contrary they should be treated in a single relationship that will ensure the effectiveness of the state (Fedorchenko, 2012).

In this light, and there is a non-trivial question of what to understand today under effective state? And the answer to this question is not as obvious in the modern picture of the world. In this connection, we can assume that now features the efficiency of the state apparatus becomes moderated function where government institutions play the role of process control self-organization in society. At the same time, though inevitably saved punitive and supervisory function, and its volume is significantly transformed and narrowing of the state apparatus. More specifically, for example, forms of social control vent some sectors inefficient bureaucratic controls and the development of civil institutions of dispute resolution takes a certain composition of the offenses sector punitive legal sanctions in compensatory and recovery sector. At the same time, the government achieved a number of fundamental advantages over the classical model of public administration, including reduced fiscal costs for the maintenance of cumbersome bureaucracy, which in itself reduces the tax burden on the economy and at the same time to reach the level of salaries of officials of relevant qualifications similar to the private sector of the economy. State moderator fullest use of intellectual and creative capital of the company without significant financial costs actually shifting some elements of public functions at public institutions. At the same time, this delegation, subject to certain conditions, can significantly enhance the effectiveness of care of the public interest, as opposed to officials in a number of cases; citizens have a direct interest in the subject of the latter. For example, when the delegation of control functions of institutions of civil society appears, the state is only to carry out the final inspection revealed violations and punitive function. The basis of such mechanisms laid Federal Law of 21.07.2014 N 212-FZ "On the basis of social control in the Russian Federation". However, the system of formation of effective institutions of civilian control, he has not provided, due to the persistence of traditional bureaucratic architecture of the national control system.

Even more significant is the regulating influence of the state in the public sphere, involving self-regulatory organizations. Adopted in this regard, the federal law of 01.12.2007 number 315-FZ (e.g. From 07.13.2015) "On self-regulatory organizations" is undoubtedly the right move in the Russian legal policy also seriously advanced in establishing effective cooperation between business and government.

The laying of individual elements (outsourcing) of government functions for professional, civil community have been widely spread in Western public administration system and was partially applied in the Russian segment of the state administration. At the same time, it should be noted that the concerns of representatives of the conservative school is hardly justified because the government is not engaged in self-elimination: 1. transmits labor-intensive production chains making processes make intelligent decisions projects, maintaining a monopoly right to choose the final version of the decision for themselves; 2. carries out coordination of the interests of social groups in decision-consolidated management solutions, providing a social compromise in matters of conflict-containing high social potential; 3. use social communication as an alternative source of information to validate interdepartmental reporting; 4. through the system of legal policy creates conditions for the development of self-regulatory mechanisms in all spheres of human activity.

It is very strange to the fact that in Russia, along with elements of e-government, still do not appear, electronic projects of civil self-regulatory systems. In this regard, it seems promising, for example, the use of information and communication technology network "Internet" in the creation of public

resources (grants) interactive sites that let realize self-regulating system, by analogy with social networks.

Obviously, in the development of this trend modeling of public-private partnership, there are serious problems. In fact, they are also characteristic for the states included in the phase of modernization of public administration systems at a historically weak socio-political initiative of the population.

In particular, the Russian Federation is characterized by such trends: 1. initiate and oversee the process of creating public organizations authorized to communicate with the authorities, representatives of the relevant authorities. Hence of the corresponding systemic attempts to take control of the elements of social control bureaucracy; 2. save the classical system of government and as a consequence of ignoring the state apparatus in a significant amount of civil initiatives and self-regulation of the results; 3. the presence of systemic corruption, and as a consequence of self-attenuation processes primarily in the sector of the economy, legislative and projective civic initiatives, public control under the influence of corruption pressure; 4. the political passivity of the population that contributes to the formation of virtually polar political system of the state and the lack of a real constructive political opposition. That in turn eliminates competition in the political arena inhibiting the production of optimum administrative and legislative decisions of the supreme bodies of state power.

At the same time we should recognize that the modernization initiatives of the Russian government to build a similar West European public administration model in the field of e-government has a clear positive response in society and according to the researchers nevertheless improves the efficiency of the state apparatus and its social orientation, even in such difficult operating conditions (Astafieva and Savinkov, 2013).

In this regard, yet it is important and perhaps the only solution to the above problems, the cardinal transformation of the system of government "from above". At the same time, in front of the highest authorities on the agenda is the two objectives box. First of all the problem of the synthesis of traditional and innovative public-private corporate governance arrangements appear and their implementation in administrative practice. There is the task of creating systemic conditions for the development of civil self-regulation mechanisms. Including so institutional mechanisms for excluding the bureaucratic impact come on the activities of these communities, except for supervision of their legality.

5. Conclusion

In conclusion, it notes that in general, the legal policy of Russia aimed at the transfer of certain elements of government functions while maintaining state control over the most important processes reflecting the interests of society and the state. At the same time, the legal process of designing a new model of governance of the Russian system is still not deprived of traditionally-inherent disadvantages.

Firstly, this part of the discharge of public functions to the private sector, not by the criterion of forming of more efficient processes of public administration, and on the basis of cost-saving costs, which is one of the manifestations of bureaucratic inefficiency. In fact, the process of resetting a public responsibility to society in areas such as housing and communal services, medicine, education, the economy, while maintaining the conditions of weak market competition.

Secondly, it is obvious that the political and economic attempts of the Russian Government to ensure "economic miracle" by analogy with the economically successful countries vodka, encounters taking half-hearted and system solutions. At the same time, virtually formed the key political and legal conditions allowing unfolding self-regulated social mechanisms. Thus, the judicial system is very politicized in the regional level is still high potential for corruption proceedings and independence of the courts and the security of judges is declarative in nature. There are signs of psychology "oprichnina" from civil servants in the system of control bodies (Prosecutor's Office of the RF Tax Service, Sanitary-Epidemiological Surveillance, etc.). At the same time human rights activists, social entrepreneurs, and experts note the high level of corruption and bureaucratic pressure, effectively blocking a key condition for the formation of self-regulation mechanisms - competition.

Thus, characterizing the hypothesis of the scientific article it should be noted that the reform of the Russian state should be based on a clear, scientifically and practically sound transmission functional elements of the public institutions of civil society management, and the introduction of market management technologies in the state apparatus. In turn, for the implementation of key policy objectives are formulated by the Government of the Russian Federation is necessary to create systemic conditions for the development of market competition and self-regulation processes. These conditions suggest uncompromising major reform of the judiciary and public administration, based on innovative technologies and approaches to public management. Finally, public policy, including in the sector of research grants and public contracts although formed orders for the development of individual self-regulation mechanisms, still no technological solutions allowing to creating independent public authorities self-regulatory mechanisms. Meanwhile, sees a promising form of interactive sites using information and communication technologies that can be tightly integrated with the "e-government" thereby creating a new form of organization of state power "smart government" (Melloulia et al., 2014).

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On the issue of a correlation of Russian and international financial law

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Abstract: The article is devoted to the settlement of the problem of preservation of the sovereignty of the Russian Federation, including a financial sphere - that is impossible without ensuring of supremacy of Constitution of the Russian Federation over norms of international law. In the article are analyzed the legal norms, scientific works and practical material, proving supremacy of Russian law over international law taking into account financial aspects. Scientific novelty of the article consists in development by the author of the clear logic formula of an averment of supremacy of Russian national law (including financial law) over international law, which is absent, including in the contemporary legal proposition of Constitutional Court of the Russian Federation (the position is, in our opinion, insufficiently convincing from international legal viewpoint) also it is based on in force legal norms as Constitution of the Russian Federation, and international law. Practical relevance of the article is fixed by possibility of use of the argument of the author`s article at an averment of supremacy of Russian national law over of international law in disputes of international legal character.

Key words: National law; International law; International financial law; Conventional principles and norms of international law; International treaty of the Russian Federation

1. Introduction

Saving sovereignty Russian Federation (hereinafter - RF), including the financial sector is not possible without ensuring the supremacy of the Constitution over international law. In this regard, it is necessary to analyze the legal norms, scientific works and practical material proving the supremacy of Russian law over international law, taking into account the financial aspects. In other words, the subject of study should be - the system of Russian legislation, financial, legal and other specialized literature, and practical material.

Therefore, it is necessary to develop a clear logical formula of proving the rule of the Russian national law (including financial law) over international law, which does not exist, including in the current legal position of the Constitutional Court of the Russian Federation (this position is, in our view, not convincing enough from a legal point of view) and this is based on the existing legal norms as the Russian Constitution and international law.

2. Review of the literature

In the legal science, there are many concepts of international law, which are analyzed in detail and classified in the works of different authors (Gavrilov, 1999; Müllerson, 1982).

The problem of the relationship between international law and national law complicates the lack of unity in the sense of international law, because of problems of its relation to the categories of "public international law" and "private international law". Some authors believe that international law and private international law - it is a single entity that is international law consisting of two parts: public international law and private international law. The rules of private international law are included in the system of international law in the broad sense (Ignatenko and Tiunov, 1999; Ushakov et al., 1990). Most are convinced that international law and private international law do not make a single unit (Lukashuk, 2005; Panov, 1997).

But at the same time, some authors believe that international law and private international law - are the independent systems, and private international law is polysystemic complex consisting of national law and international law (Gavrilov, 1999; Müllerson, 1982), while others believe that the international private law - is the part of national law and only international law - is the independent legal system (Lukashuk, 2005).

The above described problems are closely intertwined with the discussions in the formation of concepts of international financial law (Krokhina, 2010; Smirnikova, 2012; Petrova, 2005; Shumilov, 2005; Shapovalov, 2010).

And finally, all of the above cannot be justified without solving the problem of the relationship between international law and national (internal) law (Beloshapko, 2001; Voronin, 2013; Zapolskiy and Migachev, 2012).

3. Methods and materials

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The methodical base of work, constitute such research methods as logical, comparative legal, synthesis method, etc.

At the core of the article - there are the works of scientists on general and specific issues of international and national law (including financial), as well as their own author developments. Besides the Russian Constitution and Russian laws based on it are used in the article, as well as international treaties of the Russian Federation.

The empirical base of the study made by the practice of the Constitutional Court of the Russian Federation and international judicial institutions are used, Internet resources, and also publications in the Russian newspaper, which is the official (and therefore reliable) mass media in our country.

4. Results and discussions

We adhere to the position that the Russian domestic law have primacy over the international law, is the primary character.

According to paragraph 4 of Article 15 of the Constitution of Russian Federation, the generally recognized principles and norms of international law, international treaties of the Russian Federation are an integral part of its legal system. If in the international treaty of the Russian Federation established other rules than those provided for by law, then there used the rules of the international treaty. From the literal interpretation of the rule, we can draw the following conclusions: standards (principles) of international law, international treaties are applied in Russia not directly (i.e. directly), but only as part of its legal system.

In order to become part of the legal system of the Russian Federation, the norms and principles of international law should be generally accepted (that is recognized by Russia, too), and in that way they can only be under the condition of conformity to the Russia's national interests. For example, the 2nd Chapter Constitution of RF is devoted to the inalienable rights and freedoms of a man and citizen; because they are inalienable, violating the norms and principles of international law, international treaties of the Russian Federation cannot be used.

At the same the supremacy of law may not possess rules and principles of international law, and only international treaties of the Russian Federation, which are also due to come into effect, as otherwise they may be challenged in the Constitutional Court of the Russian Federation (RF Constitution of 1993, Art. 125). Finally, these agreements are governed by the Russian Federal Law “On international treaties of the Russian Federation” (Federal Law of the Russian Federation, 1995) and paragraph 2 of Article 4 of the Constitution of the Russian Federation in unequivocal and categorical terms, without reservations indicates that the Russian Constitution and federal laws have the rule on the entire territory the Russian Federation.

Different norms of the Russian Constitution are not applied in isolation from each other, but only in conjunction, i.e. paragraph 4 of Art 15 of the Constitution of the Russian Federation, cannot be taken out of the constitutional context. In addition, if the ratification of international treaties of the Russian Federation, the President has the right to veto in accordance p. 3 Art. 107 of the Russian Constitution.

Consequently, the right of Russia is the primary and have primacy over the international law and the application of norms, principles of international law and agreements authorized by Russia, i.e. they are not directly, but indirectly - through the Russian Constitution, which is the basis and source of all the Russian law, as well as by Russian federal constitutional and federal laws. In this context, the views of the individual authors of the primacy of international law over national law (Ilyin, 2002), we believe unacceptable, because of their direct contradictions in paragraph 2, Art 4 and paragraph 4 of Art 15 of the Russian Constitution.

It is the commitment of individual politicians, lawyers and scientists of the concept supremacy of the international law over the Russian national law, that led in 2010 to a legal conflict with the European Court of Human Rights (hereinafter - ECHR), which often makes decisions that are not based on international law (although this is the duty of the ECHR), but according to political expediency, with ostentatiously anti-Russian position (Gaganov, 2015). Too was in 2010, the ECtHR first time in a rigid legal form questioned the decision of the Constitutional Court on the dispute, having public character. In this regard, chairman of the court said that better knowledge of the national authorities of their society and its needs means that the power in principle takes priority position, in contrast to the international courts, to assess what is the public interest (Zorkin, 2010). The position set out for a long time was only the opinion, without proper clearance. The situation changed in December 2013 - when the Constitutional Court ruled in connection with the request of the Presidium of the Leningrad District Military Court. According to the official position of the Constitutional Court of the Russian Federation: the court of law, is obliged to obey only RF Constitution and federal law (RF Constitution, art. 120), and to resolve civil cases on the basis of the Russian Constitution, international treaties of the RF and the RF legislation, can come to a conclusion about impossibility of execution of the European Court of Human Rights judgment without rejection of the use of the RF legislation of the provisions previously recognized by the constitutional Court of the Russian Federation, did not violate the constitutional rights of the applicant in his particular case. In this case, the court of general jurisdiction is entitled to suspend the proceedings and address the Constitutional Court of the Russian Federation with a request to review the constitutionality of statutes (Decree of the Russian Federation Constitutional Court, 2013).

In 2015, the Constitutional Court of the Russian Federation continued to assert the supremacy of the

Russian Constitution, made the following legal position. As a legal democratic state, Russia, as a member of the international community, conclude international agreements and participate in interstate associations, giving them some of their powers (RF Constitution, 1993, Preamble, Article 15, Article 17, Article 79), which, however, does not mean the rejection of national sovereignty belonging to the foundations of the constitutional system and the alleged supremacy, independence and autonomy of state power, the fullness of legislative, executive and judicial power of the state over all its territory and independence in international relations, as well as being a necessary quality a sign of the Russian Federation, characterizing the constitutional and legal status. Based on this in a situation where the actual content of the ECHR judgment affected by the principles and norms of the Russian Constitution, Russia may, as an exception to withdraw from the implementation of the obligations imposed on it, when such derogation is the only possible way to avoid violations of the fundamental principles and norms of the Russian Constitution. This means that the decision of the authorized interstate body, including the decision of the ECHR cannot be fulfilled by the Russian Federation in the part imposed on it individual and general measures, if the interpretation of the standards of international agreement on which the award is based, violates the relevant provisions of the Constitution (Decision of the Constitutional Court, 2015).

As the most demonstrative our court cited the practice of the Federal Constitutional Court of the Federal Republic of Germany, basing on worked out by it the legal position with respect to a “limited legal powers of the European Court of Human Rights decisions”, namely: in the domestic legal order the Convention on the Protection of Human Rights and Fundamental Freedoms has a federal law status, along with ECHR practice serves only as a guide for interpretation in determining the content and scope of fundamental rights and principles of the Basic German Law, and only under the condition that this does not lead to the restriction or derogation of fundamental rights protected by the basic Law for the Federal Republic of Germany; ECHR decisions are not always are obligatory for execution by the courts of Germany, but also should not be ignored completely; National Justice should take into account these decisions appropriately and carefully adapt them to domestic law. At the same time, as suggested by the Federal Constitutional Court of Germany, a means of reaching an agreement with the ECHR - is the avoidance of conflicts between international and domestic law at the initial stage of the proceedings before a national court, which in principle should be kept to a minimum, since the two of the court using the same methodology. In all our cases, we are not talking about the contradiction between the Convention on the Protection of Human Rights and Fundamental Freedoms as such and national constitutions, but about the conflict of interpretation of the Convention's provisions of ECHR judgment in the particular case, and the provisions of national constitutions, including their interpretation by constitutional courts (or by other Supreme courts, endowed with similar powers). In assessing domestic legislation for compliance with the constitutions of their states, the national judicial authorities when making decisions based on what kind of interpretation, taking into account the balance of constitutionally protected values and international legal regulation of personal status, better protects human and civil rights in the legal system of the State, bearing in mind not only the right to seek protection, but also all those whose rights and freedom may be affected. (Decision of the Constitutional Court, 2015).

In this regard, our legislation was complemented by chapter XIII.1 «Consideration of cases of the possibility of execution of decisions of international bodies for the protection of human rights and freedoms", according to which the Constitutional Court received right to allow the possibility of execution of the decision of interstate body for the protection of human rights and freedoms with the point of view of the constitutional order of the Russian Federation established by the Constitution of the Russian Federation and the legal regulation of the rights and freedoms of man and citizen. (Federal Constitutional Law of the Russian Federation, 1994).

In 2015, Russian lawmakers have finally decided to limit, by federal law, the so-called jurisdictional sovereignty of a foreign state and its property on the territory of the Russian Federation. For the first time in relation to a foreign country were defined such concepts as a foreign country, the property of a foreign state, jurisdictional immunities of foreign States and their property, judicial immunity, immunity in respect of provisional or protective measures, immunity in respect of execution of court decisions, the Russian Federation, the court, the sovereign authority. Jurisdictional immunities of foreign States and their property to the extent provided in accordance to the named Federal Law, can be restricted on the basis of reciprocity, if it is determined the existence of restrictions on the provision of the Russian Federation and its property of jurisdictional immunities in a foreign State, in respect of which the property which arose the question of jurisdictional immunities. So, a foreign state does not use in legal cases in the Russian Federation judicial immunity in respect of property rights disputes, of compensation for damage, etc. (Federal Law of the Russian Federation, 2015).

If you read the full text of the above-mentioned decisions of the Constitutional Court, it may be noted that its legal position set out in a difficult-to-understand style, contain numerous reservations, logically reconciled. It is not acceptable, we believe the constant reference of the court to the international normative legal acts and also on legal precedents, formed courts of Western countries As a result, the corresponding changes in the Russian legislation also abound reservations, difficult to understand. This makes it possible to interpret that

the legal rules are not clear, but "politically correct", according to the "political situation".

We are convinced that the Constitutional Court of the Russian Federation (and not only it) is obliged to express an opinion briefly and logically, to defend their legal position solely on the Russian Constitution norms and federal laws. That is why we created the court.

Another example of international judicial institution, allowing a gross interference in the internal affairs of the Russian Federation, is the Permanent Court of Arbitration in The Hague in the summer of 2014 ordered Russia to pay 50 billion. Dollars. The United States for the expropriation of the assets of OJSC "Yukos Oil Company" (in connection with the violation of tax legislation), noting that Russia had violated the Energy Charter. And all this despite the fact that the claims of the former majority shareholders of OJSC "Yukos Oil Company" should not be considered an international judicial institution, as the dispute has internal Russian character. Finally, the Russian Federation has not ratified the Energy Charter Treaty, and Russia is not obliged to comply with it (Zykov, 2015).

The sharp drop of the role of international law is also evidenced by Ukrainian events. The so-called "international community" without a referendum supported the exclusion of Kosovo from Serbia. At the same time this "community" considers annexation fully consistent with international law, including the right to self-determination fixed in OSCE Helsinki Final Act and the UN Charter, the reunification of the Crimea and Sevastopol to Russia (Samozhnev, 2015). This is despite the carried out in the presence of international observers of the referendum and the signing of the 19 March 2014 Treaty between the Russian Federation and the Republic of Crimea on the adoption of the Russian Federation Republic of Crimea and the formation of the Russian Federation of new subjects (the Federal Constitutional Law of the Russian Federation, 2014). UN in such a situation was powerless.

Therefore, it is advisable for us to understand the international law in a broad sense and as international law with the Russian position. International law in the broadest sense is a special legal system governing relations between subjects of international law by the international legal norms. International law with the position of Russia is a special component of the Russian legal system, regulating the supremacy of the Constitution of the Russian Federation, relations between Russia and other subjects of international law by the international treaties of the Russian Federation, as well as principles and norms of international law recognized by Russia. Public international law - is a synonym of international law. Private international law can be understood in a broad sense as the International Private Law of Russia. Private international law in the broadest sense is a part of any national law with a foreign element. Private international law Russian is inter branch legal institute regulated by supremacy of the Constitution of the Russian civil, family, employment and other private relations in the Russian Federation with a foreign element.

International law also regulates the international (global) finance, by which we mean a set of public, international, social relations arising between States and other subjects of international law in connection with the formation, distribution, utilization of funds. We conclude that the international (global) financial law, while its concepts are a lot, (Beloshapko, 2001; Krokhina, 2010; Smirnikova, 2012; Petrova, 2005; Shumilov, 2005; Shapovalov, 2010) - is inter branch legal institute in the international system of law governing the relationship between the subjects of international law in the process of formation, distribution and use of funds.

A striking example of the optimal interaction of national law, international law and international finance law is the creation of the post-Soviet space, by Russia, Kazakhstan, Belarus, the Eurasian Economic Union - EAEU (Treaty on the Eurasian Economic Union, 2014). In October 2014 Armenia acceded to the EAEU (the Treaty of Accession of the Republic of Armenia to the Treaty on the Eurasian Economic Union, 2014), and in December 2014 Kyrgyzstan (the Treaty of Accession of the Kyrgyz Republic to the Treaty on the Eurasian Economic Union, 2014). The Union is the international organization of regional economic integration, which has international legal personality. The EAEU provides freedom of movement of goods, services, capital and labor, a coordinated, coherent and unified policy in the sectors of the economy.

Funding bodies of the Union activity is carried out at the expense of the Union budget, which is generated in Russian rubles at the expense of equity contributions from Member States. State- members develop and implement coordinated currency policy. Goods imported from the territory of one Member State into the territory of another Member State are subject to indirect taxes. In order to promote socio-economic development of the member states, attraction of investments, creation and development of industries based on new technologies, the development of transport infrastructure, tourism and health resort areas, as well as for other purposes on the territory of the Member States are established and function free (special) economic zones and free warehouses.

The Union provides the creation of conditions for the mutual recognition of licenses in the banking and insurance sectors, as well as in the services sector in the securities market issued by the competent authorities of one Member State, on the territory of other Member States; definition of requirements for the banking, insurance activities and activities in the securities market (prudential requirements); exchange of information, including the confidential information between the competent authorities on regulatory issues of the Member States and the development of banking activities, insurance activities and activities in the securities market, control and supervision in accordance with an

international agreement within the Union; holding the mutual consultations on regulation of banking activities insurance activities and activities in the securities market by competent authorities of the Member States.

At the end of this article it is worth noting that the President of Russia in 2015 in his decree approved new National Security Strategy (Presidential Decree 2015), according to which (assuming the continuity of the previous strategy, 2009) the main strategic risks and threats to national security in the economic sphere in the long term are to save raw materials export, development of the national economy, decreasing of the competitiveness and the high dependence of its major areas of foreign economic conditions, loss of control over national resources, the deterioration of the raw material base of industry and energy, the uneven development of regions and progressive labor insufficiency, low stability and security-in the national financial system, preserving the conditions for corruption and criminalization of housekeeping financial relations, as well as illegal migration.

5. Concluding provisions

The right of Russia has primarily the primacy over international law and application of the norms, principles and agreements of international law authorized by Russia, i.e. they do not act directly, but indirectly - through the Russian Constitution (which is the basis and the source of all the Russian law), as well as by Russian federal constitutional and federal laws. It is necessary for Russia in connection with all the above said and in the existing conditions and prospective western restrictive measures: a) literally interpreted Articles 4 and 15 of the Constitution, i.e. do not expose to any doubt and the reservations supremacy of national law over international law; b) withdraw from the UN and set up its counterpart - the Russian international organization "multipolar world" with the location in St. Petersburg; c) to withdraw from the Council of Europe and all the other European institutions, because we can create the corresponding structure on the basis of the Eurasian Economic Union; g) to maintain mutually beneficial financial and economic relations, with all the foreign states without exception .

It is not necessary for Russia enters into international organizations by the will of Western, but it would be better the near and far abroad countries to join the Russian international (including financial and economic) organizations, or interact with them. This Constitutional Court is able to more expertly resolve related disputes than the European Court of Human Rights in Strasbourg. And so on.

Only in this case, Russia will retain its sovereignty and the role of a world power; strengthen its legal system, thus achieving the stability, including the economy and finance.

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Organizational and corporate culture: diagnostics methods

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Abstract: Research is devoted to the comparative analysis of diagnostics methods of organizational and corporate culture. The concepts formation is traced. Based on the finding of the common points' intersection and key differences in the aspects of the structural elements consideration, the necessity of different approaches, methods and techniques for the diagnostics of organizational and corporate culture is proved. The review of the existing methods and techniques of diagnostics is given and the algorithm of complex studying of the organization culture for development of the problem zones correction program of the organization management and data formations for adoption of administrative decisions is offered. The empirical part of research is presented by a selection of the consulting projects illustrating the administrative problems revealed because of diagnostics of corporate and/or organizational culture. Research objective is the generalization and systematization of theory-methodological constructs, and judgment of the "organizational culture" and "corporate culture" concepts for the development of the complex technique of diagnostics of the organization culture as the instrument of management efficiency increase. Methodology: The study basis is the rational and pragmatic approach in the context of which the organizational and corporate culture is considered as the instrument for adoption of administrative decisions and implementation of organizational changes. The research empirical base were the Russian enterprises of small and medium business in different fields, which diagnostics of organizational and corporate culture in the context of implementation of consulting projects by the staff of the Office of Human Resources and Labor Law FGBEI "The Vladivostok State University of Economics and Service" with graduate students of the direction "Human resource management" involvement from 2011 to 2015was held. The study results allow differentiating the concepts "organizational" and "corporate" culture; define the specific role and the purpose of diagnostics of each system structural element. The study results generalization and systematization formed the basis of the formation of the matrix methods of organizational and corporate culture diagnostics.

Key words: The organization culture; Professional subculture; Organizational diagnostics; Diagnostic methods; Management decisions

1. Introduction

In the most general sense, diagnostics is the process of the problem recognition and its designation with the use of the accepted terminology that is the diagnosis establishment of "the abnormal status of the test". In our case it is the organization.

Classification of forms and types of organizational diagnostics can be for various reasons: the choice of methodology, levels of diagnosis, the degree of formality, objectivity, goals, spending time, breadth of coverage, diagnostic tools, etc. Thus, as a methodological basis for the choice of the direction and the study program of the researcher, the organization models and organizational diagnostics serve. The most popular of them: Frame concept of organizational diagnostics (Andrew et al., 1980; Van de Ven and Ferry, 1980); Organizational model of M. Weisbord "Six cells" (Weisbord, 1978) (Weisbord, 1978); W. Burke and G. Litwin Model (Burke and Litwin, 1968; Burke, 1992; Burke et al., 2008).

It should be noted that these models not always approach the concrete organization; their specifics demand empirical justification and adoption of the organizational diagnostics' working model. In this regard, today one of the most demanded and perspective types of organizational diagnostics are the organization culture diagnostics.

Most often, the need for diagnostics of the organization culture is initiated for obtaining additional information for adoption of administrative decisions. As a rule, this information mentions both the current, and strategic problems of business, and forecasting of the potential organizational changes. In this case, the diagnostics allows not only to reveal "the infection centers" of the organization (the conflicts, destructive values and installations, oppositional subcultures, etc.), but also psychologically to prepare employees for inevitable changes and transformations.

The diagnostics results allow to receive complex conception of the current situation in the organization, the collective attitude and to prove need of organizational changes. Besides, the diagnostic results give the heads "help": what instruments it is better to use to increase the effectiveness of the changes implementation and reduce the personnel resistance; to increase the

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loyalty and commitment of employees, to increase the satisfaction with work, personnel and organization in general; to neutralize sharp or to bring slow conflict situations to logical end. Diagnostics of culture is necessary also before planning of changes in the culture (updating and revision of valuable installations, traditions, customs, etc.).

The result of the organizational diagnosis is the intelligent product, which determines the organization in four time perspectives: as it was, as it is now, as it can become, what it should be.

In general, the wide range of interested persons can be engaged in diagnostics of the organization culture: the head of the organization, personnel director, HR managers, regular psychologists, specialists in organizational development. However, in fact, the most productive and justified is the use of external independent consultants. Knowledge of the certain diagnostic method and the opportunity to compare results of the concrete organization diagnostics to the results received at other similar organizations diagnostics allow, within consulting projects, rather precisely to establish the reasons of "organizational failures" and to form effective programs of development.

The publications analysis and the own experience of the consulting projects management allowed authors to allocate two complementary directions of diagnostics in structure of the organization culture:

- Diagnostics of the organizational culture;
- Diagnostics of the corporate culture.

The authors are the supporters of rational and pragmatic approach: considering the organizational and corporate culture as instruments of management of organizational changes. In the article context organizational and corporate culture are presented as the adjacent, but not identical concepts. In this regard, there is a need of carrying out the comparative analysis of the diagnostics methods that are the most acceptable for organizational and corporate culture diagnostics proceeding from the specifics of the designated phenomena.

2. Literature review

2.1. Organizational and corporate culture: the intersection of the concepts in the historical context

The authors share the point of view of T.O. Solomanidina (Solomanidina, 2007) who noted that sources of corporate culture lie very deep, and go back to the time of the first professional communities formation. The established rules of behavior and attributes of accessory, such as: special color and clothes breed, secret symbols, emblems, orders, etc., allowed distinguishing "us" from "strangers".

The proof of the correctness of the term use in this sense can be found in a number of dictionaries. So, Explanatory Dictionary of S.I. Ozhegov gives the following interpretation: the corporate - narrow group, closed by limits of corporation (Term "corporate". Explanatory dictionary of Ojegov). The big dictionary of foreign words defines "corporate" as belonging, peculiar, inherent in any corporation; narrow group, isolated (Term "corporate". Big dictionary of foreign words).

Therefore, in the historical context, the corporate culture developed as manifestation of belonging to narrow professional community in which attributes of appearance, rules and standards of behavior were the conditional criterion on a scale "the us - the stranger". Thus it is unambiguous that division on "us" and "others" appeared in the professional environment much earlier, than the management ideas concerning the principles, ways, technologies, labor productivity improvement secrets initiated by technological break of the great industrial (technical) revolution era began to be formed. The essence of this break consisted in prompt transition from manual skills to machine, from manufactory to factory, from mainly agrarian economy to industrial production.

The industrial revolution brought the company management idea to a new level - the level of factories, with the arising of acute necessity of mass attraction to work tens, hundreds or even thousands of people. It is the need of leadership in the coordination and stimulation to the work of thousands of people within one organization facilitated the emergence of "factory of culture", which became the ancestor of "organizational culture".

Researchers at the time - mostly representatives of scientific management school (F. Taylor, G. Gantt, F. and L. Gilbert, G. Emerson, etc.) set themselves a very pragmatic research objectives - the increase of productivity and work efficiency, reduce of administrative costs production by studying the content of labor - its regime, conditions, operations, rationalization of labor movements; introduction of monitoring of collective and individual labor-based incentive scheme and the regulation of the labor process. The functioning of this system was to ensure the best results of the organization.

In the middle of the XX century factories were succeeded by corporations - in legal terminology of the USA and some other countries, the concept meaning no other than the legal entity, the organization. According to the great Law Dictionary the term "corporation" is used every time when want to emphasize that the organization is considered as a unit and can act as the civil turnover participant. In the legislation of the Russian Federation the term "corporation" is used only as the component of the name of the state commercial organizations (Term "corporation". Big legal dictionary).

In 70-ies of XX century on the international scene appear large Japanese corporations that, thanks to the specifics of the Japanese management were able to take in economics the world leading positions, thus attracting the interest of foreign researchers. However, in fact, in the study of the phenomenal success of these corporations, interest has centered

on the search for "instruments" improve of the company efficiency that reflects the specific organizational culture but not corporate.

Thus, in the historical context, approximately in the middle of the XX century there was a terminological substitution of concepts: the organizational culture of corporations began to be called as corporate culture and it became associated with system of norms and principles, which observance allowed large corporations to achieve success in business, but the understanding of corporate culture as belongings to narrow professional community in parallel remained.

2.2. The comparative analysis of the formation objectives

From the definitions variety, as the working version we stopped the E. Shane definition, who defines organizational culture as the basic assumptions complex invented, found or developed by group, as the set of behavior models, which are acquired by the organization in the course of adaptation to out and internal integration, showed to be effective and shared by the majority of the organization members (Sheyn, 2007).

Accordingly, the aim of the existence of organizational culture is the intra organizational forming of system of coordinates providing transfer of the saved-up organizational experience at adaptation to the changing conditions and integration of new ideas into already existing experience. Such mechanism provides the organizations both flexibility in new conditions and safety in time.

If, we speak about the distinctive attributes peculiar to the concrete organization which existence is the admission in "the circle", creates feeling "We", and the lack of it becomes a barrier, an obstacle in attempts of "stranger" to get into staff of the organization - in this case, more pertinent will be the term "corporate culture". Thus, the purpose of existence of corporate culture is forming of system of coordinates both in the organization, and within professional community, that allows employees to feel the "limit" of the organizational identity and professional accessory.

V.A. Spivak gives the definition of corporate culture - the system of the material and cultural wealth, the manifestations interacting among themselves inherent in this corporation reflecting her identity and perception of themselves and others in the social and material sphere, which is proved in behavior, interaction, perception and environment (Spivak, 2001).

We adhere to this point of view and believe that the corporate culture on the one hand brings together the members of the organization of all levels, all its territorial and branch divisions due to formation of feeling of accessory, identity, , involvement in the affairs of the organization and the commitment to it; confirms their involvement in the organization at the expense of corporate compliance (common to the entire organization) traditions, rites, rituals, consequently, of the accepted norms and patterns of behavior, decision attributes corporate accessories (corporate symbols elements, corporate identity). On the other hand, the corporate culture - draws line between "we" (the organization, colleagues, professionals) and "they" ("others", competitors, environment) that provides loyalty of the company staff, their devotion and commitment to firm, and also serves as a barrier to penetration of undesirable tendencies and negative values from the outside. In other words, the corporate culture serves as the internal filter - "attracting" suitable employees with the qualities conforming to interests and requirements of the organization, representations, and examples of behavior and "pushing out" all objectionable, not fitted into traditions, norms and standards of this organization.

As a result, we conclude that both organizational and corporate culture formed with the aim of building the coordinates system. However, for organizational culture this coordinates system is connected with the time scale: preservation, transfer and transformation organizational experiences at the expense of mechanisms of adaptation and integration. For corporate culture - the system of coordinates is built based on the identification scale ("we-they") and is focused on identification of the purposes and the employee's values concerning the purposes and values of the organization.

2.3 Comparative analysis of the structural elements

The scientific sources analysis (Masilova et al., 2014; Struktur, 2012; Solomanidina, 2007) devoted to substantial characteristics of culture of the organization allowed to allocate the basic structural elements concerning which the unity of opinions is observed. The comparative analysis, which is carried out by the authors revealed accents, in consideration of structural elements of organizational and corporate culture. The revealed differences are given in Table 1.

The first and most important element of the structure is the valuable and standard substructure: the main values divided in the organization; corporate traditions, customs and rituals; corporate rules and standards

In many respects, the values system admitted to the organizations will depend on the administrative board ideology. In particular, there is "copying" of ideology from the national level to the organizational (Kirsanova and Korotina, 2015).

For organizational culture the main accent is focused on the preservation of institutional memory in time, continuity of traditions, customs and rituals from generation to generation of employees; the report to beginners of foundations and the rules put by founders of the organization, norms and values that throughout existence of the company proved the correctness and efficiency. The basis of the experience transfer is made by the corporate

standards of behavior and intra firm documents regulating rules and standards of behavior in these or those organizational situations.

Table 1: Structural elements from the perspective of organizational and corporate culture

Structural elements	Accents of organizational culture	Accents of corporate culture
Valuable and standard substructure	Transfer organizational experience; continuity traditions and customs; the existence of uniform standards of behavior on the basis of values and norms	The extent of rapprochement and compliance of values and norms of the organization with values and standards of behavior of employees.
Organizational and regular substructure	Formal and informal hierarchy of the power, subordination; norms and rules of internal interaction according to official structure and the post, subordination	The degree of satisfaction with the post, expectations concerning the post, existence/lack of prospects of professional growth
Substructure of communications	The official, formalized flows of information; organizational actions; professional and business language; official business connections	Informal flows of information; slang; corporate actions; personal contact "on acquaintance or relation degree"
Substructure of the social and psychological relations	Formation of the work groups, crews, design teams; allocation of the business leader; management style is based on understanding of level of social maturity and workers professionalism; the social and psychological climate reflects compatibility of employees in psychophysiological parameters (on temperament and character)	Subcultures formation, groups of interests; management style is based on emotional leadership and interconnected with personal characteristics; social and psychological climate - at the level of world outlook installations and personal system of values
Game (mythological) substructure	Social roles are focused on the solution of professional tasks; social games have business character: mentor receiver; myths and legends are focused on transfer of organizational experience, formation of installations about the correct and not correct models of organizational behavior	Social roles reflect the employee's type; social games have interpersonal character: office romances, mobbing; myths and legends are focused on fixing of in common endured events forming "feeling We" and the sense of ownership.
Substructure Identification	Positions the organization as the employer, supplies newcomers with information on true sense and value of the used symbols	Positions the organization as the supplier of goods or services; forms the unique image other than competitors in consciousness of consumers; strengthens feeling of participation of employees, clients and partners.

For corporate culture, the main accent in consideration of the valuable and standard substructure is put on the degree of convergence and consistency of values and norms of the organization with the values and norms of behavior of employees. The acceptance range is very wide and can vary from a complete negation to full acceptance, merge of personal and organizational values. The main documents regulating the value-normative substructure of corporate culture can be considered the code of professional ethics, the philosophy of the organization.

The second element is considered to be an organizational and regular substructure which is expressed through formal and informal hierarchy of the power, leaderships, dependence; subordination, norms and the rules of internal interaction connected with official structure and functions.

Signing the employment contract, the employee agrees to carry out the certain volume of work for the certain remuneration according to the designated position and within the rules and norms admitted to the organizations, i.e. organizational culture.

In the context of corporate culture the employee degree of satisfaction with the post, expectations concerning the post, existence/absence of the career plan and prospects of official growth, which can have essential impact on efficiency of work and commitment to the organization, is considered.

The third element to consider is a substructure of communications that reflects the formalized and non-formalized information streams, quality of communications (loss and transformation of information); purposeful actions on internal PR and formation of installations; style of negotiating with business partners.

Within the organizational culture, the official, formalized flows of information (orders, orders, instructions, the made decisions on organizational actions: planning meetings, meetings, meetings) are considered. Language of such communications is professional and business. Interaction happens to business partners in a format of offers, official meetings and negotiations.

Within corporate culture, informal data flows (rumors, gossip, information leaks, and an informal exchange of views during smoke breaks, tea parties, joint dinners and corporate events). As a rule, communication language is household, often used slang clear only to a narrow circle of people. The solution of organizational issues and tasks happens only through personal "communications", access to "the necessary people" - through friends and relatives.

The special role in the communications formation is played by national mentality, in particular tendency to growth of bureaucratization with growth of the organization, and primordially Russian difficulties with forming of communications with government bodies and instances. In this regard as the perspective direction of interaction simplification it is possible to consider "the electronic government" (Kravchenko and Litvinova, 2015).

The fourth element of structure is the substructure of the social and psychological relations. It forms structure of mutual sympathies, elections, preferences; system of roles in the organization (constructive, destructive, etc.); internal positional and conflicts; attitude to the leaders.

The relations system underlying organizational culture, focused exclusively on business engagement and solution of professional problems. In a business context, there is a formation of the working groups, crews, and design teams. In addition, the management attitudes towards workers, workers to the management, the personnel to work, workers to clients and partners can be considered. All these chains of the relations have exclusively working character connected with activity of the organization. Management style corresponds to the type of social maturity and level of the performer's professionalism. At the forefront move the socio-psychological climate that reflects the system of relationships based on the compatibility of staff in the psycho-physiological characteristics: temperament and character.

For the system of relationships that illustrate the corporate culture, allocation of the emotional leader, formation of subcultures and groups of interests is peculiar. In particular, participation of the employee in the professional community, which is beyond this organization, can be considered. He is included into this community not on duty, but the similarity of interests and self-identity. The management style is appropriate to consider based on the specific personal qualities and philosophical systems manager. At the forefront morale, reflecting the compatibility of staff at the level of philosophical systems and personal values.

The fifth element is the game (mythological) substructure that includes corporate legends (history); myths and legends of the organization, its employees and heads; games that employees play.

For organizational culture, it is about the myths and legends that are passing on corporate experience and forming installations on the correct understanding of the approved / not approved behavior. Here it is possible to carry myths and legends of heroes and anti-heroes of the organization, the myth of the beginning of the organization and its founder, patrons and external enemies, etc. (Krymchaninova, 2005). The system of roles also has exclusively business character, for example, the expert, the pragmatist, the skeptic, etc. Within a game substructure of organizational culture - beginners choose to themselves mentors, and meters of the organization - successors. At the level of artifacts - the museum of the organization, archive, storage, a warehouse is created.

In the context of corporate culture, myths and legends are the joint experience reflection, in together experienced events. As a rule, memories of such events are imprinted in the corporate newspaper, a photo collage and corporate jokes. A main objective is the formation of "feelings We", belonging to a shared lived experience. Actually only that experienced together, it pulls together and unites. Roles also reflect specifics of the emotional relations. To the forefront, there is a personal aspect, which allows you to identify the key characteristics of facial features, for example, the "buffoon", "six", "gray mouse", "scapegoat", etc. Required attribute is the system of social games (office romances, intrigues, protégé, mobbing, etc.).

The sixth element of structure is the substructure of external identification presented by the corporate style, brand-look, color scale, dress code, logo, slogan and other attributes forming image of the organization.

Within organizational culture elements of identification are used for formation of the organization image as employer, narrate to beginners about true sense and value of the existing symbols.

Within the corporate culture, the identification elements are used for formation of the organization image as supplier of goods and services; on advertising production, distributing material in consciousness of consumers and partners the unique image of the organization other than the competitors image is formed. For formation "feelings We" the symbolic of the organization is widely used in corporate souvenirs and business attributes (handles, notebooks, t-shirts, caps, circles, etc. executed in color scale and with logos of the organization).

Thus, at the same, at first glance, the organizational structure and corporate culture - revealed significant differences in the consideration of each of the structural elements.

3. Research methodology

3.1. Participants

For five years (from 2011 to 2015) the staff of the Department of Personnel Management and Labor Law Vladivostok State University of Economics and

Service in conjunction with graduate students of the direction "Human resource management" in the framework of consulting projects carried out researches on diagnostics of organizational / corporate culture.

The study participants (its empirical base) were the organizations of small and medium business of various spheres of activity of the Far East region of the Russian Federation. The study had pilot draft character: it was focused on collecting and systematization of empirical material, approbation of the offered concept. In total for the specified time interval, 20 consulting projects were realized.

Depending on the organizations management inquiry the purposes of these projects were not only diagnostics, but also recommendations about optimization / improvement of organizational and/or corporate culture in general or their separate elements.

At systematization of the realized consulting projects, specific problems that heads / representatives of the organizations handled were revealed. It was the basis for the research participants division the following directions:

1. Strengthening of the dominate culture type in connection with impossibility of realization of organizational changes because of the excessive resistance of the personnel (recruitment agency "Success", printing house "Chameleon", JSC "Forte", JSC "FARC");
2. Identification of the stage of the organization life cycle in connection with sharp deterioration of all indicators of the organization (JSC "Nadezhda");
3. Promoting of the concept of continuous training for increase of the employees professionalism level and competitiveness of the organization (LLC "Primornefteproduct");
4. The corporate standard of behavior development and the regulation of personnel processes for systematization of organizational experience (JSC "Fishing Collective Farm East-1", LLC "Vladmetalltorg", LLC "Bread House" Hlebny dom);
5. The level increase of the involvement and commitment of the personnel (LLC "Dalreftrans", FGBEU HE "VGUES");
6. Formation of loyalty of support personnel: promoters, sales representatives (LLC "Business Solutions Agency BS");
7. The overcoming of the world outlook barrier between the head (the Chinese citizen) and the organization staff (Russian citizens) leading to decrease in overall performance of the organization (LLC "VladKultura");
8. Overcoming of the problem of the excessive internal competition among employees, reducing conflicts, optimizing the socio-psychological climate (the hairdressing salon "Effect", LLC "Holiday");
9. Overcoming of opposition between the management and the organization staff (Autonomous Non-Commercial Organization "Center of the festive and creative industries Courage");
10. Increase of employees customer focus in the organizations of the services sector (Federal state health agency "Sanatorium "Primorye" of the Ministry of Internal Affairs of Russia", LLC "Fiolent");
11. The corporate culture broadcast using franchising schemes of business (LLC "DoubleGIS-Vladivostok");
12. Formation of culture in the organization which employees is students and has no practical experience (student's recruitment agency "RightWay").

Thus, each of the presented consulting projects differs in the uniqueness, but thus is focused on the solution of specific applied objectives of optimization, change or development of organizational and/or corporate culture.

3.2. Instrument

During the researches within consulting projects the authors adhered to uniform approach to diagnostics of both organizational and corporate culture regardless of type of the organization. However, substantial filling considerably varied and defined by the purposes and problems of diagnostics, and resources that are available for the organization (financial, temporary, human, information).

Most often, at the diagnostics to the sphere of the researchers' interest was hit: the existence of subcultures and counter-cultures; the most significant carriers of culture; openness and degree of readiness of the personnel for changes; the management attitude towards the developed culture; extent of control of management over culture of the organization, etc.

Much attention was paid to the diagnostics of organizational culture study of collective representations, in particular: the mission and strategy of the organization; the organization values and the principles of inter-action with stakeholders; a specific organizational goals and ways to achieve them; criteria of achievement; samples of the desired / undesired behavior criteria and remuneration / punishment.

The result of the study of the existing in the organization cultural environment in each case was the decision of the four major problems:

1. Clearly to understand (to formulate) the leading values, priorities, attitudes, ideas and sentiments that emerged in the organization at the moment.
2. To diagnose instruments and mechanisms which are capable to support perspective organizational strategy and optimum culture of the organization?
3. To define, what cultural values will help (or disturb) the realization of the organization strategic objectives.

To estimate available gap, that is the extent of compliance of the developed culture and strategy of development of the organization (business) developed by the management.

The authors in accordance with the three research strategies have systematized the methods and techniques:

The holistic strategy involves deep immersion of consultants in culture of the organization. Main tools: the included supervision, formation of the working groups consisting of consultants and the company staff, holding seminars - discussions with key faces of the company, a benchmarking.

The algorithm developed by E. Sheyn "The culture assessment: ten steps of intervention" (Sheyn, 2007) is applied to realization of the holistic strategy by the authors and diagnostics of the organizational culture type by A.N. Aksakova corporate standards (Aksakova, 2009).

The metaphorical (language) strategy consists of studying of the existing documents samples; the documents regulating system of the relations and exchange of information between various links of the organization; reporting samples; features of stereotypes of communication, slang, folklore of the company (jokes, baizes, myths, legends, slogans, mottoes, proverbs, sayings, etc.) are analyzed.

Main tools: content analysis of the intra organizational documentation and answers to open questions, unfinished offers; projective techniques.

For the metaphorical strategy the authors used storytelling (Simmons, 2013), "Metaphor", "Crosspiece" methods, the analysis of administrative mistakes, the analysis of organizational pathologies, the analysis of the scheme of life cycle of the organization by A.I. Prigozhin (Prigozhin, 2003), the project technique: incomplete sentences, associative experiment, projective test "Circles and lines" on the attitude to a career (Mogilyovkin, 2007), analysis of the type of corporate culture by F. Trompenaars (Trompenaars and Hempden-Turner, 2012).

The quantitative strategy assumes the use of polls providing a quantitative assessment to concrete manifestations of the organization culture.

To implement quantitative strategies most frequently the method of sociometry and diagnostic methods are used: the Evaluation of organizational culture instrument by K. Cameron - R. Quinn OCAI (Cameron and River, 2001); The method of sociometry and diagnostic techniques was most often applied to realization of quantitative strategy: The tool of an assessment of organizational culture of K. Cameron - R. Kuinna OCAI (Cameron and River, 2001); Technique of order diagnostics of organizational culture by L.N. Aksenovskaya (Aksenovsky, 2010); Test for identification of maturity and type of followers by E.N. Morozova (Morozova, 2008); Questionnaire of "Scale of organizational paradigms" by L.L. Constantine (S.A. Lipatov adaptation) (Lipatov, 2005); Typology of corporate cultures by Ch. Handi; Technique of measurement of organizational culture by D. Denison; The Questionnaire "An assessment of satisfaction of employees with work in the company" by N.I. Salnikova; Technique of a shareable data of the organization values by V. Kozlov (Yakimova and Nikolaeva, 2012).

4. Findings and discussion

Systematization and classification of various methods and techniques of organizational diagnostics in relation to diagnostics of organizational and corporate cultures in a section of their structural elements presented in Table 2 became result of the carried-out consulting projects.

Thus, the combination of quantitative and high-quality strategy of research, understanding of specifics of the diagnostics accents of organizational and corporate culture, rational choice of the research methods and techniques allows solving most effectively the diagnostic task set by the customer of the consulting project. It means - to help the organization and its employees to leave on a new round of development, having overcome resistance to inevitable changes.

5. Concluding remarks

Because of synthesis of 20 realized consulting projects on diagnostics of organizational and corporate culture, the authors came to the following conclusions:

1. The organizational and corporate cultures are adjacent, but not identical phenomena, which can be analyzed and diagnosed in substructures: the valuable and standard; organizational and regular substructure; substructures of communications; substructures of the social and psychological relations; game (mythological) substructure; identification substructures.

2. The organizational culture is focused on the coordinates system forming providing transfer of the saved-up organizational experience at adaptation to the changing conditions and integration of new ideas into already existing experience.

3. The corporate culture is focused on the coordinates system forming based on the identification scale "we-they" and orientations to identification of the purposes and the employee's values concerning the purposes and values of the organization.

4. For the diagnostic problems complete solution when choose the methods and techniques of research it is necessary to be guided by accents in diagnostics:

- diagnostics of the organizational culture includes a cart-search opportunities to improve the efficiency of the organization of labor pro-process, the search for optimal models of organizational behavior, a regulation and capitalization of the saved-up experience;
- diagnostics of the corporate culture includes the search of opportunities for strengthening of competitiveness of the organization for means of unity of employees and mobilization of a human resource, increase of loyalty and the staff commitment.

Table 2: Methods and techniques of organizational and corporate culture diagnostics

	Diagnostics of organizational culture	Diagnostics of corporate culture
Valuable and standard substructure	Allows to reveal influence of expressiveness of separate lines of organizational culture (involvement, sequence, adaptability, mission) on organizational efficiency (D. Denison, E. Chernykh adaptation); to define valuable priorities in a solution of the problem of continuity and change, a community and a variety, the individual and group, tradition and an innovation (L.L. Constantine, S.A. Lipatov; A.N. Aksakova).	Allows to reveal shareable data degree employees of values of the organization (V. Kozlov, Z. Yakimov adaptation); Allows defining extent of influence of national mentality on the relation to organizational values and model of creation of relationship: "Family", "Eiffel Tower", "Self-guided missile", "Incubator" (F. Trompenaars).
Organizational and regular substructure	Allows to reveal rationality of hierarchical structure depending on life cycle of the organization, efficiency of administrative decisions (A.I. Prigozhin) and the level of a social maturity of employees (E.N. Morozov)	Allows to estimate satisfaction of employees with work at the companies (N.I. Salnikova); To find compliance / not compliance in the expected and realistic career plans of employees (E.A. Mogilevkin)
Substructure of communications	Diagnosis is through written communication, monitoring of organizational interventions	Diagnosis is through the study of folklore and organizational depth interviews
Substructure of the social and psychological relations	Identification of ideology of the relations between the organization members, depending on the dominating force: force of situation, order resources, possession of knowledge, personality (Ch. Handi). The sociometry allows revealing existence of functional subcultures, business leaders and outsider's idlers with whom nobody wants to work in team.	Definition of subcultures, specifics of gender relationship between employees; The sociometry allows revealing existence of groups (subcultures) on interests, emotional leaders and outsider's derelicts with whom nobody wants to communicate.
Game (mythological) substructure	Diagnostics of order model of organizational culture allows to reveal functionally role order of interaction of the identity of the leader (the parent, the commander, the pastor) and teams (L.N. Aksenovskaya)	Projective techniques, associative experiments, the content analysis of organizational folklore, storytelling allow to reveal an emotional background of the relations and real degree of intensity of the intra organizational relations
Substructure Identification	The organization reviews analysis from employees, in the Internet and social networks; the analysis of Welcome actions for new employees.	Benchmarking of the attributes forming image of the organization.

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Postdemocratic development of modern political system: global an socio-cultural trends

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Abstract: The article analyzes the processes of democratic transformation of the political system in the post-Soviet space, as well as the impact on recent global and socio-cultural trends. It is proved that the main thrust of modern style democratic political thinking is not the internal content of human life and society, and the formal structure and the dominance of abstract ideological political and legal systems. The authors argue that such a transformation vector leads to the formation of risk- taking and unstable development of political systems in the post-Soviet space. Critically analyze public policy focus on the search for universal formal regulatory and institutional and administrative (bureaucratic) to ensure the stability of the models in a changing world. The article proves that the political and legal development should be based on typological originality and spiritual and cultural characteristics, primarily social phenomena such as the state and the right created and organically developing within the framework of the well-known society, its socio-cultural and political structure.

Key words: State; Democracy; Political system; Legal system; Human rights; Transformation

1. Introduction

In the modern political process of undergoing significant transformation, related to the change of democratic principles, practices of democratic will and public interaction and the deformation of the most ideological and conceptual foundations of democracy. Contemporary forms of democracy and the principles of a democratic political system undergo substantial transformation. The general nature of these changes is to ensure that publicly-imperious space gradually rose from the mass influence and participation, and the sphere of state management significantly "becomes elite", i.e. the main levers, mechanisms of redistribution of social benefits, the ability to influence the adoption of socially significant management decisions gradually concentrated around a certain group of political and economic elite (Lyubashits et al., 2015).

At the same time, as K. Crouch says, "post-democratic society and will continue to keep all the features of democracy: free elections, competitive games, free public debate, human rights, a certain transparency in the activities of the state. "However", energy and vitality policy back to where it was in the era preceding the democracy - a small elite and wealthy groups, concentrated around the centers of power and seeking to get their privileges" (Crouch, 2010).

K. Crouch believes that the current public policy has to deal with "confuse the public", and the existing forms of interaction between society and the government form a passive population to develop their own political agenda that, in his opinion, to some extent leads to the exit for "the scope of the idea of democracy" and the formation of corporate and elitist politicians with a predominance of the interests of power-economic elite. Therefore, "the more the state takes on the maintenance of life of ordinary people, creating their apathetic attitude towards politics, the easier it is corporate interests more or less discreetly use it as their cash cow. Failure to recognize this is a reflection of the profound naiveté neoliberal thought" (Crouch, 2010).

In this aspect, the author calls for a revision of the ideological and conceptual bases of the organization of the democratic political process and governance to the formation of a relatively new and more effective forms and methods of interaction between society and the state, which would take into account both socio-cultural environment the implementation of democratic principles and procedures, and global trends development.

We think in this regard would be appropriate to raise the question of what democracy is and how this concept (ideological and conceptual principle) affect the organization of the modern political process in Russia. The answer to it is equivalent to the realization that there are real political-legal and

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socio-cultural processes, modernity, which we experience as a whole.

2. Theoretical and methodological research tools

In theoretical-methodological and practical terms, this study is based on the provisions of the new institutionalism, developed in the works of such authors as: P.J. DiMaggio, J. March, J. Norton, J. Olson, R. Taylor, J. Wallace, A. Tabor, P. Hull, F. Duvernet Aymar et al. In which the political institutions are interpreted widely, on the one hand, as formal rules, regulatory models, procedures and standards; and on the other - as symbolic systems, cognitive scripts, socio-cultural, spiritual and moral models, organizes and manages the mental activity of people (Agamirov et al., 2015). This approach is most justified to adequately describe the public power organizations, and in particular the public authorities, both the institutional and regulatory and socio-cultural phenomenon (Baranov et al., 2015).

A study of state power is also based on the work of authors such as V. Averyanov, A.S. Akhiezer, A.I. Bardakov, I.I. Glebova, M.R. Demetradze A.G. Dugin, N..I. Lapin, S. Lurie, A.Y. Mordovtsev, Y.S. Brewers. Proving the fundamental relationship of the political process and the socio-cultural dynamics (Ovchinnikov et al., 2015).

In addition, a number of studies in recent years devoted to the evolution of government, the various forms of its organization, the individual government institutions and practices within a specific socio-cultural environment, but these fundamental developments, theoretical and methodological innovations formulated development trends of public power relations rarely apply to analysis of the current state of the power system, its separate institutions and agencies, prospects for the development and optimization (Ovchinnikov et al., 2015). Currently popular are comprehensive studies of state power in the political process, taking into account socio-cultural factors and the directions of its transformation (Lyubashits et al., 2015).

3. The main part

3.1. Post-democratic transformation of the present political system.

At the moment we cannot speak of democracy as a particular concept, because today it has become very blurred and conceptually varying political phenomenon whose content varies according to the political-ideological and narrow corporate interests. At the same time as the political practice of "democracy" today is characterized by "floating" the scope and requirements, which is especially manifested in the comparative legal analysis of the various state-legal spaces of modernity, in the development of the contemporary international order. So, it is the word "democracy", surpassing the level of a unique model of civilization state, it became part of the new quasi-religious dogma, which claims world dominance.

In fairness it must be admitted that the claim to world dominance this new "messianic" doctrine is quite justified, because the current system of democratic tenets, symbols and values is positioning itself as a universal, smoothing religious, socio-cultural and institutional and legal differences and democratic paradigm thinking "puts himself" over the traditional forms and mechanisms of social cohesion and organization, introducing a new level, the context of the existence of state-legal spaces. However, an alternative doctrine, socio-cultural, institutional, material and other resource base, to date, no! In the modern scientific and everyday consciousness is no alternative to the democratic way of thinking. "Democracy" is currently serves as the matrix of knowledge and interpretation of the existing social, political, legal and other events and processes is the only true (at least not seriously challenged) normative value system.

Thus, we are all passionate about the prospects for democracy and the rule of law, not understanding clearly (or understanding in their own way), what it is. Most likely, it is important not the content of these extremely relevant "concepts", and the belief in them. However, the fact that democracy is based on a rational belief in it is not a new idea. The fact that democratic forms cannot reach undertaken by the "obligations" (the direct rule of the people, the account of public interests and needs of parliamentarizm, providing the most complete freedom and social justice, etc.), that democracy is a rationalized faith in unattainable ideals of individual freedom, for which she forgives (A. de Tocqueville), or that it is the great lie of our time (K.P. Pobedonostsev), or mass political illusion (J. Ellul), or a new form of despotism (J. de Maistre, E. Burke), or a faceless and anonymous form of discipline and drill social and individual body and soul (Foucault, 2005), written quite a lot. Today, however, this tradition of critical analysis of the democratic forms of political organization, considering their advantages and disadvantages, design and simulation of modern mixed types and forms of the state is gradually disappearing from the pages of scientific publications, public lectures, political lexicon, and so on.

And the world's democratic transition resumes, albeit in new forms and formulas, medieval rhetoric: knowledge of the truth ("democratic truth" becomes a new form of political despotism - all that is beyond democratic model Western-style is declared unreasonable, irrational); the righteousness of state-building (institutional and normative design of "paradise" in the world); sacredness of certain characters, images, treated as the original, universal; a constant established order legal system, "rank" sources of law; of the sanctity of humanitarian intervention, and so on. By the way, it was the medieval Western European pathos of messianism and universalism has spawned a number of contemporary phenomena and phenomena. For

example, the concept of "holy war", "Jihad", the form of military and humanitarian interventions, which justify the logic of succession reproduced in today's global democratization. According to the just concluded V.D. Nightingale, "in fact, we are witnessing a classic example of a regression to forms of social domination, which appeared historically by lingering" (Nevazhzhay, 2000).

The modern doctrine of democracy and the concept of human rights were sent to the repository history and traditional forms of tolerance and cultural pluralism. Thus, tolerance and ethnic and cultural differences in the national development were not only not demanded in the global democratic discourse, but in general are replaced by "institutional intolerance" (to other, non-democratic - the traditional forms of nation-building) and cultural hostility to the civilization spaces, which "do not go on the high road of our time".

The principle of pluralism of cultural forms and identities, as well as processes of "nationalization" of public-legal institutions obviously contradict modern fundamental features of democracy (equality of rights, the priority of the sovereignty of the individual, freedom, etc.), as national, ethnic, and local group becomes a priority in relation to the individual, blocking the formation of similar individuals (or "homogeneous subjectivities" - Michel Foucault), inhibit the formation of a global civil society.

Moreover, in a number of studies have shown that the Universalist values formed during the Enlightenment, are now the only way to ensure sustainable development of society and civilization; In this self-evident and not subject to criticism it is believed that understanding of the nature, content and social importance of these values has the same interpretation in all legal-political continuum. These "research fictions" is justified that only data values can ensure the unity of the social development, international order stability, replacing the conflict-and, at its core, irrational social normative value buckles, such as traditions, customs, religion, ethnicity, nation, etc. n., that do not provide cohesion and social trust in the modern world.

Hence, for example, and the desire to link the phenomenon of legal nihilism, with non-Western forms of political and legal thinking that is justified, as correctly notes latent social and cultural disparity between the requirements of relevant legal culture and archetypal at its core concepts of right and law. From this confrontation follows a general negative attitude towards the alien and the alien model of legal rights culture.

From the point of view of Michel Foucault, whom John; Cohen and A. Arato called the great critic of democracy and civil society after Marx (Cohen and Arato, 2003), the practice of government, formed in democratic societies, initially focused not just on the to ensure that certain pre-admit a priori data of freedom, but that freedom to consume and therefore its produce, and organize.

And this is such a political organization at which one can be free, but this freedom "means that il mondo va da se emerges game of interests that mobilized the security strategy, designed to reflect the internal hazards associated with the production of freedom. Hence - the consolidation of those or other forms of coercion, control, oversight mechanisms, which are produced in disciplinary techniques, totally investing behavior of individuals" (Foucault, 2005).

3.2. Modern political discourses of democratic development.

Becoming a democratic setup of political thought begins with the Enlightenment. In various political and legal doctrines and teachings under the influence of secularization and natural-philosophical ideas about the development of social organization formed by the liberal type of political rationality postulates universalism of political and legal principles and axioms, such as developing of different types, models, forms of political organization and ideology, attitude to power, its interpretation, policy, polity and so on. - Natural law, positivist, formational, in a variety of logical and methodological schemes and continues to support this universalism.

Since then, the political form (liberal democracy), regulatory procedure, public/government relations encoding (for example, election procedures), basic economic mechanisms (market economy), that were once pure Western European phenomena begin to be interpreted as universal, are interpreted as the original axiom of human development. The main program of political doctrines becomes an explanation and justification of universal human laws related to the progress of the rule of law and civil society. The same can be safely attributed to the development of socialist and anarchist doctrines of the XIX century, representing the universal program of social organization. This Enlightenment pushed the spiritual and moral problems of social organization and social cohesion of the law-making process and state-building. Public structuring and regulation ceased to be harmonious and holistic, as reformat solely on the formal framework and abstract norms extremely politicized and social interaction.

For the dominant style of democratic political thought mainly it becomes the inner content of human life and society, and its formal structure and dominance ideocratic factors (formal equality of the ideas of freedom, justice and so on. Here, the "form of government and a parliamentary device are much more interesting than the public, religious or moral condition of a society "where" is alien to any organic view of the political nature of things, without feeling their genesis and qualitative identity, he said (liberal-democratic way of thinking - auth.) in the interchangeability and the rational design of many political institutions and structures. In his view, they do not "grow" (historically - auth.), but are (formally

artificially - auth.)" - said on this occasion I.A. Isaev (Isaev, 2008).

On the other hand, education forms the setting on the quasi-religious belief in the absolute of the human mind, its capacity and the possibility of rational design of harmonious unity, happiness, eternal order, etc. Thus, in the traditional ideological system of a person perceived as "antinomic entity", which combines the sinful nature and the pursuit of truth and good (in this case the main problems was limited to the free choice of individual wills between good and evil). Therefore, it was seen as perfection in the spiritual plane, and external - the formal-normative. Within the framework of the democratic dichotomy manifests another series of demarcation - the rational and the irrational, and the inner, spiritual and moral content "pushed back" outside the social organization and social interaction.

Neoliberalism and Neosocialism, developing a democratic way of thinking today, sources of "social evil" is transferred from the inner world to the outside organization (the form of government, political system, some political and cultural institutions). In summary, many neoliberal and neo socialistic publication, we can say with confidence that in fact the last "profess" one style of political thinking, the only difference in the projects of the future structuring of society and the world order (Hardt and Negri, 2006).

In this context, it becomes evident the fact that the modern democratic way of thinking is based on risk- taking and unstable social environment, which is stabilized not harmonious interaction of the spiritual and moral, ideocratic and other value-regulatory systems and formal and organized, abstract beginning in the power-law interaction . In this aspect is obvious and logical actualization of risk problems and instability in the development of modern democratic systems, the search of adequate formal regulatory and institutional and administrative (bureaucratic) "vaccination" in an ever changing world. It is understandable modern "futuristic tenets of thinking", developed in the sociological and political science studies in the context of which argues that social systems and political regimes should "learn to live" with no stable landmarks, cultural landmarks and values, national identities, long-lived factors order, the universally recognized authority, and so on.

The new reality is a constant real and virtual crisis, the current system of actual or latent risks. It is a kind of "global discourse of humanitarian thinking", an exciting all areas of knowledge, determining the direction of their development. Instability is a new dominant social organization and risk- taking - a new direction in the modernization policy management technologies, improvement of the state apparatus, political and legal order, etc.

In today's volatile and risk- taking the social environment, which plays a democratic style of political thinking, concepts such as "democracy", "civil society", the "welfare state", according to Michel Foucault, are not applicable to the characterization of contemporary reality and are presently ideological cliché, public (façade), models diverge from the actual practice of power-law relations in society. Foucault considers these public models as a product of modern technology the authorities that support the structure of the modern dominance within a particular state, and in the international arena (delegitimization of a regime by the international community by reference to the violation of the principles of democracy, and the suppression of civil society and so on).

French thinker, comes to the conclusion that it is the idea of democracy and the public good, replaced the religious and spiritual foundation of political organization, it is an absolute the new force, limiting and managing the freedom of the individual, subject to its political program and imperious demands. Thus, he concludes that democracy and the public good "is there when all subjects will certainly obey the laws, well perform their duties diligently engaged in crafts, which they have devoted themselves, and comply with the established order at least to the extent that it conformed to the laws in other words, the public good is, in fact, obeying the law in any case, if the purpose of sovereignty is a public good, the general welfare is not more than the absolute subordination. This means that the goal of sovereignty is closed on itself: it refers to the very exercise of the sovereignty; blessing is obedience to the law, therefore, the benefit sought by the sovereignty is subordinate to the sovereignty of the people" (Foucault, 2004).

Socio-cultural dimension of democratic transition is well known that stereotypes, symbols, images and installation (mainly organize our thinking and understanding of what is happening) play an important and sometimes decisive role in the evolution of political practice, scientific discourse development, political ideology, and so on. Accidental and therefore lack of modern research, critically analyzing existing "authority" and the installation images, categories and concepts of the theory of state power are obvious. Today, under the guise and political studies mostly out articles and monographs devoted to the problems of the rule of law, its construction, implementation, etc. It is unlikely that the state power theory is solely to the interpretation, commenting and interpretation of the unique (to the civilization point of view) of the draft political organization.

Moreover, the more comes out of scientific publications on the subject, the more vague it becomes a question of the essential difference between such categories as "democracy", "state", "state of law", "government", "human rights" and so on. At the definitive analysis of the categories of data content displayed virtually one from the other, the unknown reader is determined by the unknown, the state is determined through a system of democratic government, rights and freedoms, rule of law in general (another model of the state, apparently, does not exist), or vice versa, etc.

Recently, the concept of "public authority" are more or less successfully investing system attributes of a democratic political regime, i.e. bringing the first one of the forms of its realization. In this brilliantly proved that totalitarian and authoritarian power as such does not exist (because the government is based on the legal forms and freedom), and operates coercion and violence, which have no common "to the merits of the government, democratically instituted and implemented in public- legal forms".

There is a certain restraint, and often fear research in socio-cultural, mental, anthropological and ethno-political analysis of public phenomena renovation trends and patterns of civilization development of political, legal, economic, religious institutions and structures. For positivist (legalist interpretation of political processes) or metaphysical (natural law, communication, and other postmodern interpretation of political reality) arguments ignore hidden, conscious abstraction from existing national and cultural factors and dominant.

Today we can state that the appeal to the socio-cultural foundations of the political process, to understand the dynamics of the government, in particular, the justification of a scientific hypothesis, is (oddly enough) a negative reaction from the scientific community. Such studies are labeled as scientific activities, having lost the "main road" of contemporary humanitarian discourse. For example, on existing institutions of power (head of state, the government, the courts, and legislative bodies) do not write just lazy. However, the description of these institutions is limited to the formal interpretation of normativizm rarely analysis of the causes of the adequacy of the functioning of the regulatory model, mounted in a fixed constitutional and legal level. Consideration of the public institutions of power as a national and cultural phenomena of transformation and continuity in their functioning, resulting dysfunctions and anomic effects at the national adaptation of abstract value-regulatory and institutional models - not popular. Not to mention the formation of the corresponding theoretical, methodological and sociological and methodological justification of such research projects.

4. Conclusions

As a conclusion for this part of the note that the dominant modern style democratic political thinking becomes the inner content of human life and society, and its formal structure and the dominance of abstract ideological "clichés" (formal equality, freedom, justice, elective, tolerance and so on). At the same time, this strategy of development of the political process generates risk-taking and unstable social environment, where political stability is linked not to the harmonious interaction of the spiritual and moral, democratic and other value-regulatory systems, and to formal and abstract organized beginning in the power-law interaction. In this regard, it should be critical of the tendency in contemporary public policy to seek universal formal regulatory and institutional and administrative (bureaucratic) ensuring stability models in the ever-changing world, as this approach generates essentially a "new political reality" in which no stability dominates, and permanent real and virtual crisis, a system of actual or latent risks.

It also concluded that the current instability (as a significant political concept) becomes the new dominant political process and risk- taking - a new direction in the modernization of the political management technologies. However, in our opinion, the dominant modern democratic political process and governance should be integrated (integrative) and more effective forms and methods of interaction between society and the state, which would take into account both socio-cultural environment the implementation of democratic principles and procedures, and global (global) trends. Thus, the "state of law" (as doctrinal development strategy of the political process) should reflect the typological originality and spiritual and cultural characteristics, especially such social phenomena as a state and the right to set up and organically developing within the framework of the well-known society, its socio-cultural and political structure, where concrete historical institution of the state is institutionally formalized and developed on this foundation, presenting a special, although it may be typologically and similar to other civilizations continua, view the rule of law in the form and, more importantly, in content, reflecting the uniqueness of the political life of society its goals, objectives and needs.

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Rule-making of the president of the Russian federation in the sphere of executive power

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Abstract: The article analyzes the legislative activity of the Russian head of state in order to implement his constitutional powers. It reveals the legal force of a decree of the President of the Russian Federation that compensate for the gaps in the law and published on issues of legal regulation, examines the status of the individual (non-normative) decrees and orders of the President of the Russian Federation. The authors draw special attention to the acts of the President of the Russian Federation issued in the sphere of executive power, emphasizing the fact that in this sphere of state activity the President of the Russian Federation has greatest prerogatives. Through the publication of decrees and orders the head of state coordinates and monitors the activities of the Russian Government as the highest executive authority of the country without being a leader of it by the Constitution. The article investigates the mechanism of implementation of such a management signal of the Russian President, as orders and instructions, as well as their legal nature and the importance to the effective functioning of the state mechanism.

Key words: Russian federation; Government; Executive power; Decrees; Orders

1. Introduction

The evolution of the institute of the Russian President is characterized by the progressive but steady growth of its importance in the system of state power and today a personal regime is the basis of the actual constitutional system of Russia. The President of the Russian Federation plays a special role in the mechanism of state power; therefore, he has a special competence specified in the Constitution of the Russian Federation of 1993 including all aspects of public activities. He controls the executive branch, acts as an arbitrator in disputes between the public authorities and, ultimately, determines the effectiveness of all government institutions of the Russian Federation. He controls the executive branch acts as an arbitrator in disputes between the public authorities and, ultimately, determines the effectiveness of all government institutions of the Russian Federation. Of course, most of the functions of the President including interaction with other public authorities are implemented through his enactments.

2. The main part

According to the article 90 of the Constitution of the Russian Federation the Russian President issues decrees and orders which should not contradict main and federal laws. These acts had been the subject of scientist-lawyers' research (Arzamasov and Pevtsova, 2010; Kichalyuk, 2007; Kolesnikov, 1998). In the scientific literature decrees are divided into normative and non-normative (individual). Normative decree as a source of Russian law is the subject of research of many scientists, constitutional lawyers, and almost all of them emphasize its subordinacy (according to part 3 of the article 90 of the Constitution of the Russian Federation acts of the President should not contradict the Constitution and federal laws). However, it is possible that such wording allowed the Constitutional Court of the Russian Federation in the Resolution of April 30, 1996 № 11-P to state that the President being the guarantor of the Constitution of the Russian Federation and ensuring the coordinated functioning and interaction of bodies of state authority can issue decrees that fills gaps in the legal regulation on the issues that require legislative solution, provided that such decrees do not contradict the Constitution of the Russian Federation and federal laws and their operation in time is limited to the time prior to the adoption of the relevant laws (The decision of the constitutional Court of the Russian Federation of 30 April, 1996 № 11-P, 1994). In our opinion, if the Constitution defined the wording: “the acts of the President of the Russian Federation are issued on the basis of the Constitution of the Russian Federation and federal laws”, it is possible that the supreme body of the constitutional control would have made a different decision. However, the so-called “a substitute law” decrees of the head of state may be accepted, in our opinion, only with the introduction of martial law or state of emergency on

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the territory of the Russian Federation because of the special legal regimes, the reaction of the head of state in changing the existing social relations can be more quickly in comparison with the parliamentary one. In this case we should not forget that the legislative process is more laborious and time-consuming in contrast to the process of the adoption of a decree of the President of the Russian Federation.

The activation of the lawmaking activity of the Russian President as "guarantor of the Constitution" was in the 90s of the last century. The absence of necessary legislative base was due to the social and political situation of the period under review, contributed to the fact that the gaps in legal regulation were complemented by presidential decrees. Previously, we expressed a judgment about the advisability of introducing in the Constitution the provisions concerning the Institute of delegated lawmaking, but today this need has disappeared, since there is no sharp confrontation between the authorities and, respectively, and the reasons for the competition of law and decree. The President using his constitutional right of legislative initiative actually performs the legal regulation of the most important public relations.

Non-normative decrees are issued on a strictly defined range of issues that are in the relevant order of the head of state (The decree of the President of the Russian Federation of February 5, 1993 № 85-DP). In addition, the heads of Federal executive bodies or structural divisions of the Presidential Administration take responsibility for the quality of draft decrees and orders of the President of the Russian Federation, their coordination with interested parties who are making these documents. Draft decrees and orders of the President should be made by a letter with an explanatory note including the substance of the project, necessary foundations, reference and analytical materials. A letter with an explanatory note is signed by the head of the Federal government, the head of the Presidential Administration of the Russian Federation or other officer responsible for the preparation of the draft decree or order.

The orders are the second most important legal act of the President of the Russian Federation. It is no coincidence that the article 90 of the Constitution enumerating the acts of the President first calls the decrees and then orders. This underscores the higher legal force of the decree against the order, regardless of its nature (normative or non-normative). Orders are issued on decisions of operational, personnel and organizational issues, as well as on work of the Executive bodies and the Presidential Administration of the Russian Federation. At the same time there are decrees of the President that are issued on the same issues with orders. For example, the Decree of 25 August 1998 № 988 contained two instructions to the Government and a recommendation to the Federal Assembly (The decree of the President of the Russian Federation of August 25, 1998 № 988), whereas, for example, the Order of the President of the Russian Federation of 17 September 1998 № 343-OP is now null and void, orders to the Government had already contained six and five recommendations for the authorities of subjects of the Federation.

Hence, the question arises about criteria by which a presidential decree as one form of the instrument can be separated from his orders as a different form of the act. In our view, if all presidential decrees will be of a normative nature the need to establish normative and non-normative decrees will disappear: the draft documents that do not contain regulations will be handled only by the orders of the President. Law-making activity of the President of the Russian Federation, regardless of the alignment of political forces at a particular stage of Russian statehood, should contribute to strengthening the rule of law, to ensure the concerted functioning and interaction of not only state authorities, but all social structures of our society. Constitutional and legal culture is the foundation on which the state and law-making activities of the President of the Russian Federation should be built and stood.

Messages, requests, opinions, letters, treatment and program of the Russian President reasonably referred to as "other formal acts", of the head of state (Gabrichidze and Chernyavsky, 2003). However, they neither are constitutional, nor legally regulated with the exception of the message (the article 84, paragraph "e" of the Russian Constitution provides for the President's address annual messages to the Federal Assembly of the Russian Federation). The legal nature of this administration in relation to Executive bodies as the instructions of the President of the Russian Federation until is also uncertain. However, they are playing not the last but decisive role in the life of the state.

A study of the presidential addresses, the reflection of problems of legal and political importance, the implementation of them by the legislative and executive powers still remains relevant and significant although since the date of adoption of the current Constitution of the Russian Federation has been passed more than twenty years. This institution is ccontained in the basic laws of foreign countries. So, the President of the United States of America appeals to the Parliament with the annual message "About the state of the Union", which is actually considered as the President's proposed program of legislative activities of Congress. The President of the French Republic is authorized to apply to Parliament and the nation on significant threats to the statehood and of the measures taken. The presidents of the Latin American and other countries with strong presidential institution have traditionally this right. The similarity of the Russian President's messages to messages of foreign heads of state is that they don't need someone's approval, we think; the difference is in a greater political coloration.

The legal nature of such management signals as the instructions of the President of the Russian Federation in relation to executive bodies recently

also has remained uncertain. However, they play a significant and at times a decisive role in the life of the state.

The stability and quality of functioning of system of executive power largely depends on how effectively Government interacts with the President (The government of the Russian Federation, 2005). The mechanism of relations of the Government and head of state is based on a combination of regulatory and coordination principles as these bodies operate in a single legal space, ensuring the implementation of state policy in the sphere of executive power. Considering all the realities of Russian life and possibilities of the President of Russia to influence significantly the Russian Government by the Main law of the country we can state that the Government is generally pro-presidential. This is confirmed by the fact that the President of the Russian Federation can be a chairman at the meeting of the Supreme body of Executive power in accordance with the Constitution. In addition, the President and the Government ensures the implementation of powers of Federal state authority throughout the territory of Russia. The system of executive power at the federal level is regulated on the basis of the Decree of the President of the Russian Federation of 9 March 2004 № 314 "On the system and structure of federal executive bodies" (The decree of the President of the Russian Federation of March 9, 2004 № 314). In this regard, the system of executive power in the Russian Federation is a structured set of bodies of state authority with powers of executive, administrative, regulatory, supervisory and coordinating nature, presented by two levels (federal and regional).

According to the article 115 parts 1 of the Constitution of the Russian Federation normative decrees of the President are the basis for issuing acts of the Government of the Russian Federation. Many presidential decrees have a complex nature and contain both legal norms and operational requirements of a specific task (Gabrichidze and Chernyavsky, 2003). Therefore, we believe that subordinate relations of the President and Government are most visible on the compulsory implementation by the supreme executive authority of the President's instructions. We agree with the position of the constitutional lawyers who believe that this rule could not be considered as limiting of the status of the Government and is a result of the implementation of the principle of division of powers and separation of powers between the state authorities (A commentary on the Constitution of the Russian Federation, 2009).

During his presidential term Dmitry Medvedev has addressed the problem of state discipline and legality in the sphere of executive activities but the question arose on March 16, 2010 at a special meeting with members of the Government and the heads of several regions devoted to control execution of orders of the head of state in 2009. According to the chief of Control administration of the President "analysis of the state of discipline demonstrates a lack of coherence, incompleteness issues, which leads to unconditional delay of decisions of issues set by the President". It was the period when Dmitry Medvedev demanded to dismiss the officials responsible for the failure of his instructions (Kommersant [Electronic resource]. URL: http://www.kommersant.ru (30.04.2016)).

On March, 2011 the President of the Russian Federation issued a Decree № 352 "About measures on improvement of organization and execution of the instructions and directives of the President of the Russian Federation" (On measures to improve the organization and execution of the instructions and directives of the President of the Russian Federation, 2011), which came into force in July 2011. The decree differentiated signals to orders and instructions identifying the mechanism of their execution. However, only on 16 of August 2011 the Russian Government approved amendments to the "Standard regulations of interaction of Federal bodies of Executive power" (On amendments to certain acts of the Government of the Russian Federation, 2011) describing all the features of execution of the instructions and directives of the President of the Russian Federation.

Instructions are contained in the decrees, edicts and directives of the President of the Russian Federation or issued on forms with the word "Order in the prescribed manner". In addition, they can take the form of lists of instructions of the President. They personified responsible for the execution of orders. Preparation of draft orders (lists of instructions) of the President of the Russian Federation is made by the Administration of the President and approved by the Chief. The Administration of the President of the Russian Federation is a state body formed by the President according to the Constitution of the Russian Federation (c. "I", article 83). According to "Regulations on the Administration of the President of the Russian Federation" approved by the decree of 6 April, 2004 the Administration provides activity of the President of the Russian Federation and controls over execution of its decisions (On approval of the Regulations on the administration of the President of the Russian Federation, 2004).

The instructions of the President of the Russian Federation are issued in the form of resolutions. Thus, any written resolution of the head of state on any document is an instruction with an obligatory response. Unlike order, where the presidential Administration has to set deadlines of instructions and other details, the wording of instructions is a will of the President. The right to set the deadlines of instructions is given to the head of the Presidential Administration or the head of the main control Department. An instruction containing the statement "urgent" shall be executed in 3 days. The statement "promptly" involves a 10-day period of execution of the order. If the deadline in the order is not specified it is enforceable within the period of one month from the date of it's signing. If the execution of the order within the prescribed period is not possible for objective reasons the head of the Federal body of Executive power which is the head executor presents

to the Government proposals for the extension of time stating the reasons of delay and the planned date of execution not later than 10 days prior to the expiration of the period set for execution of the order. If the period of execution of the order exceeds two months, proposals for updates should be submitted to the Government no later than 30 days from the date of signing of the order. The decision to adjust the period of execution of the order shall be notified to the head contractor within 3 days from the date of adoption of this decision. The term of implementation of urgent and operative instructions will not be extended.

The executor has to submit a report to the President of the Russian Federation no later than the deadline which should include concrete results of execution of the order or instructions of the President.

For example, following the meeting of the RF Government on the issues of implementing orders of President of Russia, Prime Minister Dmitry Medvedev ordered Deputy Prime Minister Sergey Ivanov, Minister of transport I. Levitin and the President of JSC "Russian Railways" Vladimir Yakunin to investigate the situation in Kemerovo region with the removal of coal and to submit proposals to solve this problem in three days.

For implementing an order of the President of the Russian Federation on the situation the Government submitted a report stating that JSC "Russian Railways" and the administration of Kemerovo region has taken the necessary measures to ensure timely removal of goods of coal industry of the region (The President of Russia [Electronic resource]. URL: http://kremlin.ru (accessed 30.04.2016)).

If as a result of execution of the order or instructions of the President of the Russian Federation a draft federal law was introduced to the State Duma of the Federal Assembly of the Russian Federation or the act of the RF President or the RF Government was issued that instead of the report to the head of state in Control administration of the President of the Russian Federation an information about the execution should be given.

In order to implement his annual addresses to the Federal Assembly of the Russian Federation the President regularly made lists of instructions for the Government assigning people responsible for their timely execution. Thus, anyone with an access to Internet resources on the official website of the President of the Russian Federation in the "President's instructions" can see the process of "movement" of such instructions from beginning to end (The President of Russia [Electronic resource]. URL: http://kremlin.ru (accessed 30.04.2016)).

In the presidential address to the Federal Assembly of the Russian Federation of 2010 in the Government of the Russian Federation words "instruction", "instruct" often used. For example, "I instruct the Government and regions to develop a procedure for granting free land plots for construction of houses or cottages or for the third and subsequent child", or "I instruct the Government to modify the legislation of the involvement of noncommercial organizations in providing public social services" after that the President asserted the corresponding list of instructions (The President of Russia [Electronic resource]. URL: http://kremlin.ru (accessed 30.04.2016)). The message of 2011 did not have administrative commands for Federal executive authorities and executive authorities of subjects of the Russian Federation. All "innovations" sounded like initiative suggestions without any imperative. Nevertheless, on December 28, 2011 a list of instructions on implementing the presidential address to the Federal Assembly of 2011 was approved including twelve positions (The President of Russia [Electronic resource]. URL: http://kremlin.ru (accessed 30.04.2016)). By this document the head of state has clarified its will against the supreme executive body of state power determining, in our opinion, that the true essence of the annual message is addressed to Parliament and not the Government according to paragraph "e" of the article 84 of the Constitution. Since 2012 in the President's address to the Federal Assembly of the Russian Federation we do not see a command tone in relation to the executive power. In the message of 2013 the head of state focused attention on the primary tasks of public authorities, using such words as "ask", "offer", "turn". And only once was: "I instruct the Government together with the Russian Academy of Sciences to carry out the adjustment of the perspective areas of science and technology" (The message of the President of the Russian Federation to the Federal Assembly of December 12, 2013).

It is said that the Russian President in the message doesn't point to the supreme body of executive power what it should make; it is enough to sound the priority directions of the next perspective. Nevertheless, summing up the speech the head of state has noted: "The message is the strategic agenda of development of the country and everything that is declared has to be executed without any reservations, references and departmental interpretation" (The message of the President of the Russian Federation to the Federal Assembly of December 12, 2013).

In the Constitutions of some foreign countries there is the right of presidents to address messages not only to the parliaments but to the people of their countries. However the Russian fundamental law of the head of state does not consist this prerogative, as practice shows, the President of the Russian Federation addresses unscheduled official message both to Parliament and to the population of the country. A vivid example is the extraordinary speech of the President of Russian Federation Vladimir Putin on joining of Crimea to the Russian Federation to the chambers of the Federal Parliament, representatives of regional authorities and civil society (Message of the President of the Russian Federation of March 18, 2014, [Electronic resource]. URL: http://www.kremlin.ru/news/20603 (24.06

2016)). Therefore, we think the above messages, on the one hand, are program and political acts, which can be attributed to acts of "soft law". This term is used in international relations; "soft law" is a new set of rules which are very diverse in its content, structure, sources and means of enforcement. In our view, there is a need for special legal regulation of the legal nature of the Institute of the message of the President of the Russian Federation and not only annual, addressed to the Federal Assembly. It is advisable to adopt the Federal law "On the messages (appeals) of the President of the Russian Federation", which will conclude the types of messages (requests) of the head of state, procedure of their preparation, implementation and forms of control over their execution.

The most important documents of programmatical and political nature are concepts, strategies, programs and doctrine. Most of these acts are approved by decrees of the President of the Russian Federation. The head of state because of its constitutional status defines the basic directions of internal and foreign policy, along with the messages, his position is in these documents. Strategy is the art of planning the guidance based on correct and far-reaching projections (Ozhegov, S.I. [Electronic resource]. URL: http://www.ozhegov.ru (accessed 30.04.2012)). The strategy of state national policy of the Russian Federation for the period until 2025, the President of the Russian Federation approved by decree of the nineteenth of December, 2012, in which the Government of the Russian Federation gave a number of instructions on the implementation of the Strategy and the bodies of state power of subjects of Federation and local governments is recommended to use the provisions of the Strategy in their activities (The decree of the President of the Russian Federation of December 19, 2012, № 1666).The national security strategy of the Russian Federation until 2020 was approved by decree № 683 from the thirty-first of December, 2015 (The decree of the President of the Russian Federation of December 31, 2015 № 683). The national government policy and national security earlier was a concept, not a strategy. Said suggests that the strategy of importance is higher in the hierarchy of presidential program-political acts in comparison with the concept. The concept is a system of views on something, the basic idea. For example, the concept of a national system of identifying and developing young talents, approved by the President of the Russian Federation of the third of April 2012, was not officially published and also there was not a decree approving it. Similar is the situation with the foreign policy concept of the Russian Federation approved by the President of the Russian Federation on the twelfth of February 2013 and other concepts. Whereas prior to 2011, all concepts were approved by decrees, giving them additional importance; now the same concepts are not published in official sources because they do not have the characteristics of the normative document. We can read them either in reference and legal systems, or on the website of the President. It turns out that the decree approving the strategy of the regulatory legal act is obligatory for publication and execution and if the concept is not approved by the decree, is not it? In our opinion, for such documents that have important social and political significance, the necessity of authorization of the regulatory decree of the President of the Russian Federation exists. Perhaps these decrees ought to be given a special status "orders issued by software".

The doctrine in its etymological meaning is very close to the notion of "concept". However, unlike the latter, the doctrine perpetuating the official views of the Russian President in a particular sphere of public life, establishes a set of rules for their implementation. The military doctrine of the Russian state has a special role approved by the decree of the President of the Russian Federation of December 25, 2014 (The military doctrine of the Russian Federation, 2014).

In the lawmaking activity of the President of the Russian Federation different kinds of programs have a large proportion (The decree of the President of the Russian Federation of December 24, 1993 № 2284). And, despite the fact that finalization and implementation of national programs entrusted to the highest executive authority - the Government of the Russian Federation, it seems, the programs authorized by the head of state are enforceable as a matter of priority from the point of view of financial security.

The President of the Russian Federation, the Chief of his Administration or the Chief of Control administration of the President decide to remove control of orders or instructions of the President of the Russian Federation. Only the President decides to remove control of the order if its deadline was extended by him.

In the dictionary of S.I. Ozhegov "resolution" is an oral or written order approved as a result of discussion of any issue (Ozhegov S.I. [Electronic resource]. URL: http://www.ozhegov.ru (accessed 30.04.2012)). In some important resolution in 2010 the Kremlin gave a separate written instruction but other written one mostly was considered technical and in any case not legally significant (Kommersant [Electronic resource]. URL: http://www.kommersant.ru (30.04.2016)).

3. Conclusions

As practice shows even today the statements of the President of the Russian Federation containing imperative instructions are perceived as a guide to action by officials although oral instructions of the President and responsibility for non-execution they are not regulated by law.

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Socio-cultural directions of Russian foreign policy development: Geopolitical and regional aspects

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Abstract: The article analyzes the principles and directions of development of modern Russian foreign policy, as well as systematized and interpreted the different approaches to the understanding and interpretation of the "balance of power" in the inter-state cooperation, representing a certain geopolitical outlook and theory of international politics. It is proved that cultural and civilization approach to the justification of the modern public-powerful interaction allows the XXI century orient foreign policy on stability and democracy in international political communication, and the power of the state viewed as a potential and actual government's ability to independently and determine goals and objectives development of the national political and legal space, "dialogical" to participate in the international legal and policy on equal terms to serve as one of the "architects" of the international security system.

Key words: Foreign policy; The state; National security; Law; Sovereignty; Cross-border cooperation; Civilization

1. Introduction

In the XXI century the main competition on the world scene will unfold between the cultural and civilization model of development, regional and global centers, able to ensure a balance between the socio-cultural and planetary interests and needs, as well as between international communication platform, allowing easy dialogue, civilization and universal stability and the development of resistance. Therefore, in the third millennium, the international relations and the world order is changing fundamentally towards the creation of the world's centers involving cross-civilization dialogue, designed to balance the global, regional and domestic political interests, to form a free platform for dialogue among civilizations.

It is no coincidence, in this respect, the position of the Russian government, according to which the new international order and, accordingly, foreign policy should be based on these terms "as a multipolar, polycentric, nonpolar". At the same time the diversity of world civilizations and the balance of power in the global political arena requires the formation of a variety of international policy platforms and collective leadership centers, "the world's diversity requires that the collective leadership be truly represented in the geographical and civilization relations" (Lavrov).

It should be noted that this approach to the new format of international relations, the formation of the world system of inter-civilization dialogue and achieve a balance of interests of Russia in various areas of foreign policy (West Asia, East, North), recorded in "Russian Foreign Policy Concept", approved by the RF President February 12, 2013 (Russian foreign policy conception confirmed by the President of Russian Federation V.V. Putin of 12 February 2013). If at the end of XX - beginning of XXI century in Russian politics present a clear focus on integration in the Western European political, economic and socio-cultural space, starting in 2012 under the influence of various foreign and domestic factors, the situation is gradually changing. At the conclusion of many political analysts and experts on international relations foreign policy of the Russian state is clearly beginning to focus on achieving a balance of interests of Russian foreign policy.

However, we should make one important theoretical and methodological remark which certainly has practical consequences in international relations. It's about understanding and interpretation of the term "balance". In most cases, both in the political rhetoric, and at the level of scientific analysis of the concept of "balance" is used as a scientific metaphor that has no strict scientific content, and designed to express a stable balance of forces, resources, potential between two or more diametrically opposed systems.

2. Materials and methods

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As the leading methodological principle of this research is the instrumental and political realism, assuming knowledge of socio-cultural factors and ethno-political landmarks is necessary not only for understanding the policy and socio-political outlook, but also to anticipate and manage any real (current) political processes.

In addition, this study is based on a number of fundamental methodological guidelines and regulations: firstly, the knowledge of the political space as a complex set of structures and public institutions as well as non-political component, based on the self-sufficiency of the external political interests and needs; secondly, the socio-cultural foundations - is an essential, deep and stable component of political reality, a significant aspect of the consideration of foreign policy and the criterion for assessing the possible development prospects.

3. Discussion

We should mention the approaches and interpretation of "balance of power" in the political theory and its modern interpretation. From our point of view, the concept of "balance" is used, usually in five key values. Each of them is based on a certain geopolitical outlook and theory of international politics.

Firstly, it is the theory of "balance of power" that has developed in Western political science after World War II, reflecting the balance of forces, resources (military, political, economic, social, and so on.) between two geopolitical development strategies (Western European and Soviet geopolitical models). In this case, by using the category described relative and dynamic balance within the structure of the bipolar international relations (Panchenko, 2003).

Secondly come the balance of this theory as "correlation of forces" (P. Kennedy), the concept of "state power" (Samuel Huntington), or a "strong state" (Francis Fukuyama) as a major geopolitical player. Thus, in the concept of balance in favor Kennedy analytical tools allows us to describe and assess the state of the scale and quality of the power of one state versus another, or one group of states, political bloc, an alliance against other groups of countries, international alliances (Kennedy, 1988).

From the perspective of Fukuyama, without exception "system of government" should be divided into the strengths and weaknesses. Moreover, in the content of the characteristics of strength and weakness are not included traditional notions of military, financial, and cultural power and independence of the state, and institutional and administrative stability. It is argued that the weak - is, above all, uncontrolled, unstable, and incompetent government democratically. This proved that the issues of international security, in this case require a constant and active "solutions to problems within weak states ... change their regimes to prevent further threats on their part" (Fukuyama, 2007).

In this direction we mention strength, violence, domination, and other concepts related to the public power relations between states (Nort et al., 2011). In addition let's mark the effectiveness, stability, adequacy (or weakness, instability, inadequate) institutional tools to streamline the processes of social and political influence on the structuring of the balance (or imbalance) publicly-imperious interaction. In the same vein, we can note and known American theorist Samuel Huntington who believes that there is a "weakening of the political order, undermining the credibility, effectiveness and legitimacy" in the institutional and technological weakness of the government and the international order as a whole (Hantington, 2004).

Thirdly, it is Eurocentric model, which involves the one hand, the balance of interests of different states, designed in a unified international political system (within the political balance); and on the other - power between the single world community and other peripheral political systems balance (foreign balance). It states that replaced the Westphalia system of international politics drawn global organizations and institutions, and sovereign rights of States narrowed significantly with the entry into the European international community. At the same time the central issues to find appears (search) balance in decision-making and the formulation of valid general (collective) interest (Lyubashits et al., 2015).

Thus, in this model, national interests and within the political priorities as well as national development strategies are no longer the key, fundamental in international relations and international politics is no longer limited to the search for a balance between the two. On the contrary, it argued that all of the above designated national government priorities and strategies are mediated by the will of the international community and global civil society institutions, which represent a new balanced world politics. Consequently, the global common interests and needs of the international standards and rules become dominant in world politics, on the basis of their political interests are balanced inside and outside development strategies of individual states.

Fourthly, neo-imperialist (American) model of balance, on the other hand, adheres to the principle that the international non-governmental organizations, and international laws, declarations and agreements cannot act as the exclusive basis for the balance of national interests. If Eurocentric world order of international organizations gives the status of "guardians of the common good" standing above the interests and ambitions of certain state legal spaces, then in front of the imperial model is based on the limited delegation of authority to international organizations.

Thus, according to Fukuyama, the American model of the balance of power and the formation of an imperial order comes from the fact that "in America, there was only one political regime, which, being the world's oldest continuous democracy, is

not seen as a challenge political compromise. This means that the country's political institutions inspire people almost pious reverence" (Fukuyama, 2007). Therefore, the imperial model involves the universalization of particular national interest and power of a separate state. This, in turn, leads to the standardization of the legal and socio-political development of other countries, the formation of a balance based on supranational values and rules established under the specific civilization development project. As a model, providing a balance of forces and interests in the international arena, it performs a specific cultural and civilization ideal of the American state and the right device, interpreted as the only true and timeless standard in world development as a whole and individual States in particular (Volkov, 2011).

The American model of the international legal order, in contrast to Eurocentric not seek to dismantle the sovereignty of states and the legitimacy of their political and legal regime on the basis of a more effective international organizations engaged in global democratic governance. On the contrary, it is assumed the leading role of international powers in crisis and coordinating the management of the democratic development of different political spaces. At the same time, incompetent and inefficient management of the state to achieve this automatically undermines the imperial ideal as a sovereign, breaks international political balance, and therefore legitimizes foreign intervention Empire in domestic political and legal processes.

Fifth, it is a multicultural model, it involves a complex organized system of balance of power on the international scene, defending their own projects of cultural and civilization, political and legal development, as well as the formation of new global and regional international communication spaces to find a balance in the implementation of foreign and domestic interests and needs, jointly cope with risks and threats to civilization.

In this model it is proved that all political phenomena and processes are developed and interpreted in the context of socio-cultural evolution of specific and operate within a certain space and time. In this connection, it states that there are absolutely similar, identical transformation trends (the universal laws of development and global integration) systems of government. In this respect, we can only talk about the similarities in the development of various political and legal systems and modes. Therefore, from the point of view of the researchers of this area globalization qualitatively enrich and complicate the role of the government, its institutional and functional structure, and the State Institute unlikely to lose both its dominant position as the central subject of the political system, and a leading role in the international political process (Lyubashic et al., 2013).

In this model of international order and the balance of power states that above certain approaches cause development of negative political processes related to the departure from the primacy of the state and civilization interest, the action of the democratic rights and freedoms in the international arena, and leads to the dominance of "post-democratic concept of security" based on the strength characteristics of the functioning of the global political actors. So, Danilo Zolo characterizes this project form a "post-democratic concept of security", the transition "from the positive to the negative security awareness. This concept is less identified with the ideas of social belonging, solidarity, mutual recognition of the democratic sovereignty of the individual and participation in public life; in opposition to it is approved post-democratic concept of security as a direct protection of individuals against possible acts of aggression and how the police repression with the aim of severe punishment of violations ... declared war on all non-standard behavior, even the slightest exhibited marginal actors - "strangers" who do not want to follow the prevailing patterns of social conformism, and because they lay the whole responsibility for the violence and insecurity" (Dzolo, 2010).

From our point of view, it is the latest model of meaningful interpretation of balance of power in world politics ensures that the relative stability and democracy in international political communication, "provides a formal legally the same, equal opportunity for all States to be in today's world" (About sovereign democracy, 2007). It is true in this context, notes political analyst Michael Walzer: "Recognition of sovereignty - this is the only way to create an arena in which to fight for freedom. It is this scene and the action that takes place on it, and I want to protect; and we protect them just as we protect the integrity of the individual, marking boundaries that must not be crossed, securing rights that cannot be broken. As in the case of individuals, as in the case of sovereign states there are certain things which cannot be done with them, even for the sake of it" (Volkov, 2011).

In this regard, the power of the state is not seen in the military and political context, and expresses the potential and the actual ability of a particular state independently and determine goals and objectives of the national political and legal space, "dialogical" to participate in the international legal policy and equally act as one of the "architects" of the international security system, the leading subject of global political and economic system (Mamychev, 2013).

Global and regional priorities of Russian foreign policy: In the present Russian foreign policy makes a clear line of not only the need to create a free international political communication, but also solidarity type cultures and civilization interaction, which is fundamentally the same as the Western European model of global socio-cultural universalization: "The long-term success can be achieved only on the basis promote the partnership of civilizations is based on respectful interaction of diverse cultures and religions. We believe that human solidarity should have a moral basis, formed

by traditional values that are largely shared by the world's leading religions" (Lavrov).

These settings on the formation of new forms and types of international relations, adequate XXI century and the dominant civilization risks and threats, are reflected in the "Concept of the Russian Federation's foreign policy". It says the Russian government "attaches great importance to sustainable manageability of world development that requires collective leadership of major states of the world, which should be representative of the geographical and civilization relations and carried out with full respect for the central and coordinating role of the UN". (Russian foreign policy conception confirmed by the President of Russian Federation V.V. Putin of 12 February 2013)

Note that in this position the Concept traced the relationship and continuity in Russian foreign policy development. The Concept appears formulated as new principles and forms of international political communication and cultural and civilization strategic cooperation, and the need to support and ensure the stability of the fundamental traditional institutions of international politics - international law, the coordinating role of the UNPO, etc.

In general, the overall trend of Russia's foreign policy can be concluded that it is aimed at the formation of a single civilized, economic and human space from the Atlantic to the Pacific. In turn, with regard to regional development priorities, the Concept as priorities are: the formation of a unified and stable Eurasian Economic Union, "designed not only to maximize the use of mutually beneficial economic relations in the CIS space, but also to become defining the future of the Commonwealth of model association open to other states"; development of integration processes in the Asia-Pacific region.

In this regard it is important orientation guide of the Russian Federation on the development of cooperation in the Asia-Pacific region. Hence the increasing importance attached to the recovery of the Far Eastern regions in close connection with the decision of Russia to deepen the integration problems in the political and economic space of the Asia-Pacific region and the development of comprehensive cooperation, especially with the People's Republic of China (PRC). The development of the country east, intensive deepening of its relations with its neighbors is seen as two interrelated and mutually conditioning tasks (Titarenko, 2014).

The regional priorities and substantiates the necessity of the creation of the world's centers involving crop-civilization dialogue, capable of ensuring the balance of global, regional and domestic interests, free platform for dialogue among civilizations "Russia considers to be important in the formation and promotion of the Asia-Pacific partnership network of regional associations. Of particular importance in this context is given to strengthen the SCO's role in regional and global affairs". (Russian foreign policy conception confirmed by the President of Russian Federation V.V. Putin of 12 February 2013) Fundamental for the latter, of course, it is a strategic partnership and cooperation between Russia and China. Decisive "step" in the development of the latter, of course, is the position of the Russian leader Vladimir Putin, who has repeatedly in public statements, official visits, documents and software articles pointed to the important role of China and the entire Asia-Pacific region in the present and future of the country and noted that this area should be the main priority of Russian foreign policy.

In general, the deepening of Sino-Russian strategic cooperative partnership is presented and the Russian and Chinese experts as interaction not only between the two states, but also how two civilizations, which means that the development of relations, aimed not only at solving current issues and problems in the relations between Russia and China, but also for the long term, in which the political sphere has a tendency to expand the economic and cultural field.

At the conclusion of many modern political scientists in Russia in the doctrinal and legal level, the necessary foundations are formed for a stable, predictable and gradual development of cooperation with China, capable of providing a free dialogue between civilizations and smooth existing between the two countries contradictions and jointly oppose Western European hegemony and projects of political and legal universalization (Hajyun, 2012; Czinze, 2014; Pecherica, 2015).

All these processes are not only the consequence of a certain political will and RF management strategy designed to defend Russia's interests in international relations. Today we can say that in Russian political culture prevails as the ideological and conceptual bases of formation and development of international policy is neoeurasian project. The content of this project is justified in principle the need for strategic cooperation between Russia and China in ensuring global and regional security, stability and reproduction of two successful crops and civilization spaces.

So, in the encyclopedia "China's Spiritual Culture", published in Russia, it is noted that the Russian experience of state-legal, political and economic evolution has become obsolete Eurocentric project-oriented foreign policy. As an alternative to institutionalized neoeurasian political orientation, according to which the world is complex and diverse, and the sustainability and stability are only possible at the account, respect and acceptance of the interests of the various nations, communities and religious denominations. All this requires a new type of international relations: based on the principles of integration, but with the approval of the variety; ensuring the sustainable development of the national-cultural spaces and cooperation of all nations, and not a global socio-cultural universalization and typing. This project neoeurasian rejects the idea of absorption of some cultures, civilizations and ethnic groups by others,

and proclaims the idea of inter-civilization relations based on the ecology of cultures and civilizations, the preservation of ethnic and civilization diversity (Titarenko, 2006).

4. Results

We know that modern foreign policy, based on the balance of forces. However, the political theory of “balance”, designed to express a stable balance of forces, resources, potential, is interpreted in different ways. Above we have offered five major campaigns to the interpretation of “balance of power” and their typological characteristics. The Russian foreign policy is institutionalized and enshrined in the doctrinal and political level multicultural model “balance of power”, which is based on the fact that all the political phenomena and processes are developed and interpreted in the context of socio-cultural evolution, are specific in nature and operate within a certain space and time. This approach of building a foreign policy characterized by a focus on ensuring cultural and civilization relative stability and democracy in international political communication.

5. Conclusions

Thus, the power of the state is considered in Russian political discourse as a potential and actual government's ability to autonomously and independently determine the goals and objectives of the national political and legal space, “dialogical” to participate in the international legal policy and equally act as one of the “architects” international security, a leading global political and economic system of the subject.

The contradictions between the Russian and Western European international politics is that the main ideological and conceptual component of Russia's foreign policy is aimed at creating a free international political communication and solidarity type cultures and civilization interaction, which essentially do not coincide with the Western European model of global socio-cultural universalization.

In addition, the regional priorities of Russian policy is aimed at creating a geographical center, forming a cross-border platform of dialogue of cultures and civilization, capable of ensuring the balance of global, regional and domestic interests. Thus the development of interstate cooperation (for example, Russian-Chinese relations and strategic partnership) is presented as a stable relationship are not only state-legal or political economy, but as the interaction of unique cultural and civilization spaces.

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Some methodological sophistication in the difference between the words terror and war

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Abstract: The criteria of the difference between terrorism and war: social places, means of communication, weapons of war and terror, public bodies are presented and argued in the article. War is prosecuted on the territory of the native land, terroristic and counterterrorism operations are not localized (nomadic places). War ceases communication and forms enemy image; terrorism declares about itself and is characterized by connectivity. The means of warfare are the armed forces of the state. Terrorism privatizes weapon that is free in the world of production and exchange. War disciplines and forms war corporality. Terrorism (Islamic) is based itself on a genetic affected corporality. The authors assume to research the types of corporality, which constitute the essence of terrorism and war. It is necessary to differentiate the types of corporality: the corporality that is affected by the discipline, management and obedience (the corporality of a soldier) and the passive one is affected by the corporality of the Islamic fighter, who is capable of committing suicide bombings in an "irrational state".

Key words: Terrorism; Terrorist act; War; War and terrorism discourses

1. Introduction

As a rule, no philosophers are interested in the difference between war and terror. Everything is clear to them, the gist is the same: death, violence, injustice, pain, despair and others. The ungrateful assignment of a philosopher is to come to the conceptual ideas in all things, whatever it might be traumatizing. It was so that Alain Badiou had defined his task, having called his article "Philosophical sanctions as to some recent events". The article told about the terrorist acts of September 11 in the USA (Badiou, 2002). Before reasoning about the facts of the "hot history" (France, Paris, 2015, Russia, the crashed civil plane), one should consider whether these events are repetitive or something other; then we shall have to find out what their sources are, what the reasons are, there will be the continuation.

First, let us sum up those definitions of the term "terrorism", which were offered by the French thinker. He noted that the term "terrorism" had three functions. They are as follows:

1) Terrorism defines the person, at whom the terrorism act is aimed, the one who is struck, fallen into mourning; therefore, he must revenge, having fought back. The French President expressed his attitude in the form of the simple link-verb: we are being at war, admitted to approve the existence of that awful state in which the French are, and all Europeans, it is the war. The President of Russia expressed his anger in respect of future, opportunities or assumptions, some kind of the super strong answer: the revenge will be awful. The difference is that the melancholic affirmation of F. Hollande: it is the war, not eliminated, as it confirms the state of hostilities, whereas the assumption of the future (V.V. Putin's answer) admits retreat, criticism, to cut the long story short, the future revenge can be not only postponed, but also it can be disproved. I think that nobody will dispute the difference between the Cartesian discourse of F. Hollande and the mythological discourse of the Russian President, for such features of those people's mentality, which are represented by their leaders.

2) The word "terrorism" is used by the state to denote any wild and/or armed opponent, just because of his having non-state views. Systematically, only the state has the right to use armed forces against other state, in that case it declares militancy through the exchange of notes by means of Foreign Ministers. Therefore, in Badiou's opinion, terrorism is not a war, but the coercive actions of a non-state person in relation to whom such forms as anti-terrorist or counterterrorism operations, police operations, forces for order maintenance, etc. are used. These words were mainly used by the Russian President for denoting the operation in Chechnya, any time he did not speak about the war. The Chechen war is a journalistic slogan, but not the state and political one.

Badiou considers the transition from terrorist activities (the adjective "terrorist") to the noun "terrorism" to be essential. It is that case when the form becomes the essence in a hidden way. The thread of his thought is quite obvious for the French discourse: the transition from the adjective "terrorist" to the noun "terrorism". Let us try to work with this thesis theoretically: the use of the adjective

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"terrorist" admits its binding to such nouns as terrorist action, t.e. it emphasizes the meaning of a quite usual act of aggression. In any street quarrel between the representatives of different nationalities, it cannot be distinguished if it is just an act of aggression or terrorism. It is necessary to eliminate the ambiguity of the wordage "terrorist action" instead of a casual affect, temporary bitterness, indifference to the possible consequences, etc. by the psychological, political and legal reasons. When any aggressive action can be called as a terrorist one, the person has a concern, the feeling that the definition is incorrectly used; the word terrorist is excessively "strong" in reference to this action itself. Unfortunately, such an encouraging adjective as terrorist that is quickly used up and it begun being applied to everything that gives full scope to the objective imputation from the law-enforcement bodies. The official rhetoric is more reserved than the journalistic one in this wordage; however, to be absolute recovery is far when society is struck with fears, alarm for its life and the life of its children and relatives. One of the techniques used by terrorists is the absolutization of a "casual victim" that makes the act of terrorism something like a natural disaster or accident. The infantile fatalism that inevitably arises will paralyze the ability of "victims" to resist, fight back and show their solidarity. Certainly, this illness did not go too far, the review of the press and television following the results of the terroristic acts in Paris shows that people had shown their cooperation, unanimity and courage.

The substitution of the adjective "terrorist" for the noun "terrorism" means the substantivization of that content that becomes important excessively and super valuable. Before terrorism (the form becomes the essence in a hidden way), one must construct a certain conceiving of oneself "We" as it happened to the French (All of us are Charlie Hebdo, or to be simpler "We are Charlie …"). When appeared an idea of plurality (United Europe, European nations, etc.) instead of the singular form "I can fall a victim to the act of terrorism", there arises the feeling of power, euphoria of plurality and the feeling of immortality (All of us will not be killed). It is that rare case when the European "I" that means small and pathetic is substituted by the grammatical plurality "We" before a faceless and tongueless barbarian (Islamist). The effect of otherness "They, but not we", this is other terrorism for us - the Islamic barbarian is achieved in the naming of "We" (Badiou's expression). It is noted that Europe had had its own terrorism - the Italian ("Red Brigades"), German and French Maoism in the spirit of Cohn-Bendit, etc. However, nobody connects this historical form of the European extremism with the modern terrorism today. Badiou argues further: terrorism is a non-existent substance and a form word that can be filled. The absolutely strict philosophical statement sounds so: any substantivization of a formal adjective demands the dominating predicate. Today the assumed substantive carrier of what is called "terrorism" cannot but receive the predicate "Islamic" that it is limited to the affirmation of that fact that the political instrumentation of religion takes place. Badiou warns: when religion that is an item of a subjective and extremely disobedient, is instrumented in the hands of cunning and cruel politicians, people should be extremely careful.

3) Let us refer to the symbolical register of terrorism. Act of terrorism as a symbol represents the message, the announcement of something and demonstration. It is obvious that some acts of terrorism are a simple message, just to know that we are others, contain more expanded message. Act of terrorism does not cease communication, parties continue to exchange transactions what awful they would not be. In a symbolical exchange the true aspirations, values and sense communicate, t.e. terror is related to morality. The liberal point of view which is used in the French literature, journalism and philosophy is as follows: the problem of voice and its absence - here is the route along which the thought can lie (Sophie Vanish) (Vanish, 2003). Let us study out the following arguments: the western society that is too safe and comfortable concludes itself in the concept "My existence … as the existence of another". Therefore, it cannot see itself as the addressee of other message (Islamic).

The western society sees this message as an obstacle and itself as a target as what these others (Islamic barbarians) are aimed at, t.e. to destroy. To solve the moral problems concerning the protection of "insiders" from "outsiders", the West actively uses the facts of its cultural code such as the valuable ruins, the Christian sacred things and the life of a "white" person being destroyed by these barbarians. Following Giorgio Agamben, we shall notice that the naming "terrorist" includes the disqualification of all those who identify themselves with Islam, all those who threaten, all those who are armed and all those who at least resemble them. "The Ancient Greeks had no one word for denoting what we usually mean when saying "life". They used two words, dating back to one etymon, but which are various in semantic and morphological: ZOE means the fact of life, the general for all living beings (whether it be animals, people or Gods) and BIOS means the state, to be more exact, the public way of life. In the ancient world the simple natural life is excluded from POLIS as it is. It is accurately limited to OICOS space (house, dwelling) as a pure reproductive life. Proceeding from this division, it is possible to assume that the migrant is the one who is excluded from the polis; although, nothing threatens his ZOE. Agamben's definition sounds so: "the one who is excluded" (Agamben, 1985). The terrorist is a method of the political and legal exception to which all the western democrats are willing to resort, seeing that it is the "intolerable danger" The problem "how to turn punishment into justice" becomes insoluble. All the countries of the traditional western democracy position themselves as legal ones that assume not only the presentation of the fact of crime, but also the confession of guilt, whereas punishment cancels

the question of the action subjectifying and admits punishment without guilt.

2. Methodology

The main method of the research was the philosophical hermeneutics represented by W. Dilthey and G. Gadamer; we proved it in our previous work (Kirsanova and Korotina, 2015). Feeling or getting into present as the method of Dilthey's hermeneutics allows remaining the contemporaries of terrorist attacks in which the general life is endangered, and simultaneously, individualizing themselves as a researcher. It was necessary to add the intersubjective exchange with the speculations of intellectuals - political scientists, historians, writers and philosophers to the availability of feeling sympathy, fear and alarm.

In an effort to understand terrorism and war, the intersubjectivity of the philosophical society allowed objectifying experience, basing on the distance method of G. Gadamer.

The analytics of sciences about genius is based on the peculiarities of the language expression, words, which this phenomenon is described. The difference between the metaphorical and logical- grammatical writing, derived by J. Derrida allowed finding out the ambiguity of the voice traffic between the western and Islamic discourses.

The use of the methodology by G. Deleuze, G. Agamben and M. Foucault allowed the authors to base themselves upon the analytics of corporality. The disciplines and techniques of the west-european civilization are different from the life of the genetic body of the Arab East.

3. Results

The difference between *terrorism* and *war* is not quite settled in philosophy. We suggest using the following criteria for the characteristic of that content, which is viewed as terrorism and/or war: social places, means of production (weapon), ways of communication and collective bodies. The place is not a landscape; it is that we call as "arche" (the fatherland, the homeland) that creates the alibi for the war discourse, whereas terrorism is a nomadic space (Ranciere, 1995). All that bring the strength of force and fire into action is referred to the means of war and terrorism. A rifle creates a soldier. The quantity of arms that is available presses through its use. Means of communication are the ways of legitimizing the terrorist discourse: the announcement of violence as the act of terrorism even when its reason is unknown. War ceases communication. Act of terrorism and its consequences bring different public bodies into contact: the affected terrorist's corporality (the die-hard, etc.) and the balanced disciplined corporality of a European person (Deleuze and Guattari, 2004). The analytics of corporal practices opens the revolting, perverse, affected bodies, and also the bodies of discipline and obedience, t.e. subjective and sovereign bodies for us.

4. Discussion

Let us study out the argument: the right to speak that at least assumes two registers: what is spoken, anyway there are things and the one who speaks behind the words. Modern mythology claims that words and things are different (Bodrijjar, 2003). Democracy for East does not assume the national independence and human rights do not correspond to the right to dispose of the resources of their own country and so forth. Everything is right; however, the alternative truth is always concealed under the myth. Myth tells the truth. R. Barthes devoted the book "Mythologies" to the foundation of this thesis. "Myth does not deny things, on the contrary, its function is to speak about them, but it clears them, makes them harmless and finds them in the eternal and invariable nature, clarifies the affirmation of the fact" (Barthes, 1989). The surface of the Anglo-Saxon mythology is a human right and does not conceal the fact that it is about the rights of a white person, the man and the owner, the truth is that the strong man's right to take what it does not belong to him. No matter what the verbal rhetoric might mask reality with worthless and form words, the consciousness of people begins to oppose lie and to distinguish "other" truth. The Islamic world articulates itself from the place where there is oil, and the ponder ability of this "word" is that it cancels all other arguments: there is a resource war. The second side of the right to speak assumes the answer to the question who speaks. Who speaks? It is necessary to understand that the value of argumentation, a support on proofs, ability to hold thesis is the values of the Western world along with the truth, beauty and benefit. The central figures of the Christian civilization are Apostles Pavel, Origen, Augustine, Akvinat, and the objectivation of oneself or self-objectivation is the principle of the political and social life of the Western world. Islam appeals affects: excessive violence, silent bitterness, indifference to torments as others, and adherence to fire nd destructions, hatred, despair, envy and so forth. Deleuze, the expert of Spinoza's ethics, arranges affect reasons out of individuality because of what our ability to power over our desires decreases or it is entirely blocked. "It is necessary to distinguish between two types of affects: the actions, explained by the nature that was affected by individuality, following from its essence and the sufferings originating out of individuality. Ability to be affected is filled with sufferings, passive affects. "Gloomy states" (passive affects) represent the lowest step of our power: that moment when we are most of all separated from our ability to act, when we are most of all aloof, given to the phantoms of superstitions and mystifications …" (Deleuze, 2000). Affects as passive states having the external reason are always equivalent to disability, whereas the speech and action belong to free and passive states,

according to the word, as they are based on knowledge of themselves, things, ideas and so forth. It can be assumed that the person exists as if he were in two streams - in a continuous stream of affects, passions; the other stream is connected with rationality, the necessity of definitions, searching for proofs, complex ideas formulation and articulation (Derrida, 2000). Therefore, the right to speak not rather just to vest with, this right needs to be arrogated and subjectified (Marinetti, 1986). In relation to the Islamic world, it is more than necessary; I consider the traditional weakness of the Islamic divinity, except for Sufism. Theological treatises serve not so much the purposes of faith objectivation (this business of theologicians), as the problems of self-objectivation of believers. It can be very much that attempts to speak from the place of the believing Islamist seem to us awkward today (Zhizhek, 2014). Not to forget the parable: "One monk had an awful accent of his native Calabria in the Assisiensis monastery. The monks laughed at him. He was sensitive and ceased to talk if it was only not necessary to warn about something unforeseen, about misfortune, about any event which was so important in itself that his accent could remain unnoticed. Meanwhile, he liked to talk: it happened that he had thought out accidents. As he was sincere, he managed to cause them (Polani, 2000).

Terrorism and war, what kind of wars do we make, is it possible to speak about war or is it necessary to deny the same war, and the armed operation, armed conflict? Can we call war the event that puts us on pain of death? Then this definition will be qualified as natural disasters, flood, tsunami, tornadoes and just accidents. To reason of war and its difference from terrorism, it is necessary to set criteria, which allow defining the concept of something strict, but not broad or metaphorical sense. We suggest using the following criteria for the characteristic of war: places, a means of production (weapon), a means of communication and collective bodies. The place is not just the place where the weapon is used, this suitable place that guarantees the legitimacy of arms using and, consequently, an alibi for military presence, and also the stability of the political and state discourse. It is clear that capital is mostly reliable at factories and in banks; the worker is at a machine tool and the soldier in his homeland and protects his Motherland. The real war is patriotic, in people as a full whole, but not ethnoses, classes or elite fighting for survival. The word "war" contains the unified and civil opposition. War is the "arche", the unity for each nation, for one and all, it is the war, in which there is such form of connectivity of all with all that is called one destiny and even fate. Civil opposition is referred to what can be split up, broken up to pluralities - ethnic, class, social, religious, etc. when the nation does not realize itself as a political and state whole; therefore it cannot be at war. The Russian State and its armed forces can be in the state of the armed conflict in Syria, for instance, or somewhere else, but the nation as "arche", as the primary element and the prime cause of the whole, cannot be faithful to a war event. Fidelity to an event, participation in it admits both the rational and intuitive moments, which indicate only the degree of this whole maturity, but not its absence. When arisen the need for the common goal, the Russians read "War and Peace by L. Tolstoy on all radios and TV channels for four days.

Unlike war as "arche", terrorism as well as counterterrorist operations is part of the policy of the Western, Russian and Chinese countries are the continuation of modern science and technologies, played into the system of the "double" standards of morals. Act of terrorism submits to the scheme of the cause and effect relationships, which the mind uses, it does not make any failure in the existence or any defect in ability to think. Terrorism is a reflection of our ability to learn the world, to influence world processes and to subordinate them to our interests. It was historically developed so that Europe and America had ensured the rich and comfortable existence earlier than other people and at their expense, having called themselves the center of the civilized world. It is no wonder that there were enclaves of the "uncivilized" existence - Iraq, Afghanistan, Syria, Lebanon, etc. on their periphery. These countries try to break through the civilization belt in the different ways today - terrorism, migration, creation of the "Islamic" state. In the European closed space of comfort and wellbeing, such penetration of "abnormal" individuals is considered by the "rights" as something unreasonable and intolerant, and the liberals consider it as an opportunity to carry out the civilization mission. During a small interval of time, there observed the shift in the liberals' meanings: at first they meant "mission" by education, vocational schools for migrants, social benefits and civilization advantages, but now they mean the examination of the migratory environment by police methods, cordons, creation of places for deduction and control, etc. Moreover, the voices of euro politicians, meeting inhabitants who show greater sympathy, with their intention to remove the borders of the "deviation" to Turkey and Africa, can be heard. It means that the remarkable western "machine" of mind either broke down, or is significantly broken.

Someone another as "the black demon" comes to the house of the European, takes his place at a gas station, in a supermarket, in the street, in the bar, it is qualified as damage and an Attempt upon the European values. The word-mana "the European values" does not affect the representatives of the body-ZOE. The practice in conjuration, pacification and propitiation provokes migrants' opposite affects such as hatred, envy, aggression and rage. It is necessary to address the criterion of corporality to understand the difference between those public bodies, which made contact. The mind of a western person teaches the public body obedience and order by means of technologies. M. Foucault's work "To supervise and punish" about the totalitarian zing practices of the power through school, hospital,

prison, army was adopted from the western mentality. It is necessary to distinguish "political technologies" within a certain science about police by means of which the state appropriates and cares about the natural life of individuals and "technology of themselves" by means of which the process of subjectification and submission leading to the fact that the individual appears to be connected with his own identity and consciousness and, simultaneously, he is subordinated to the external control (Foucault, 1996). The Islamic public body perceives the techniques of the civilization as external ones in relation to itself as abstract ones, violating their biological and religious body schema. It is appropriate to remember the difference between the Dionysian and Apollonian corporality, which Nietzsche had attempted long before when there was a current civilization collision. Any public body represents a battlefield between the body-ZOE and the social body, the only difference is that there prevailed an impulse of spontaneous forces, connected with the biological human nature (affects and passions, according to Spinoza,) in one body; order, discipline and form forces are prevailed in the other. The Dionysus cult is an element that the person is capable to break in either the external act (a fivefold namaz) or to overwork internally in the form of ideology, outlook and moral (Bourdieu P., 1991). Why is the terror? Why is the weapon? Does the rifle give birth to the person? There objectified the "fight" of materials in a weapon as it is: biological material (person) makes inhuman things such as steel and fire, t.e. he becomes the means of domination and destruction. The weapon as a means of total destruction (war as a Dionysian field; this idea belongs to Ernst Jünger) possesses the Dionysian forces and coincides with them until fully merged (Jünger, 2000).

It is much simpler to take possession of "mechanical death" such as rifle than any other tool - a tractor, machine or even a plough. The affected public bodies connect with the destructive force of arms and act as a unified power of steel and fire (Sjuria, 2003). Apostle Pavel compares faith with action (vow and work - the uniordinal phenomena), love with hard work and hardships. Vow as well as work is referred to firmness, persistence and patience. Act of terrorism is an instant and formal action: Bang! You are in Abraham bosom. Allah's soldiers are a usual phrase, but is there any contradiction here? The soldier, who is turned into the instrument of another man's will, is only capable in external submission, he is not a mister of himself, and he is the slave of faith. That is how, for instance, T. Suzuki states the Zen obedience: "When a blow is struck on silicium, the spark is cut from it, and there is no temporary gap between these events. If it is ordered: "To the right!" you must turn to the right at a lightning speed. If anyone's name is cried out, for instance, "Uemon" you must just answer "I", but not to think why your name is cried out" (Zhizhek, 2009). According to this approach, it can be assumed that Allah's soldier does not act as an identity, he is completely affected by another, he is not himself, but he is a striking sword.

Terror and *attemp*t, one more conceptual link that will allow us to define terrorism as an existential experience. The atmosphere of a modern western person's life, as well as the Russian's is an Attempt; we live under the sign of the fact that somebody attempts us. "The slightest disorder, accident, earthquake, the failed house and bad weather - this is an attempt, too. Therefore, the growth of wrecking, terrorism and gangsterism is not so much interesting as the fact that all events are interpreted as an attempt. The nature and political actions are merged in one category: attempt. It must be so in the rational system: ANY accident must be only attributed to someone's human will; therefore, any trouble is regarded as damage or, in the political context, as an attempt upon the public order. Some political groups are just engaged in taking the responsibility for this or that accident or an act of terrorism, whose origin is unknown, "all their practice" is to turn any case into the subversive activity" (Bodrijjar Zh., 2006). Terror is different from tsunami, flood, earthquake, etc. by the fact that the natural and technogenic catastrophes do not go beyond the "accident", which nobody is responsible for. Even oil spillage from the tanker is only conditionally "guilty" because there are the forces of the sea, elements, the preset defects of technical means and so forth behind the accident. An attempt is the result of someone's evil intention, this someone's wrecking, and so, somebody must be responsible for it. The necessity to answer causes the figure of "Punishment" that is capable to call the Hell forces upon the head of enemies.

The situation of War and Attempt is different. War assumes the enemy that is spatially localized and separated from us by the national frontier, the public communication with him is ceased. Moreover, the adverse party articulates itself as an enemy, extends notes of protest, threatens and so forth. Each of the parties defines itself from the place of the nation and state. "The Islamic state" is a perverse place, t.e. it is nomadic. The nomadic life of the one, who attempts, makes him misidentifiable, t.e. more dangerous than all the former enemies (it is known, where America and Germany are, but nobody knows where the Islamic state is). The one who attempts is not spatially localized; he has no place, to be more exact, he is everywhere, in each point of the public space, he can find himself in the most unexpected way. "The potential victims" are in the state of paranoia, acts of terrorism can take place worldwide, at any time, and we cannot foresee them and escape. War is not so prosecuted: it is clear where insiders and outsiders are in the war, for this reason, terrorism is not a war. The symbolical register of terrorism is always behind towards the fact without any articulation (the Russian plane crash and the announcement of the terroristic act) is of great importance. People are in fear, alarm and danger. The name gives relief, despite the tragic register of values, t.e. the number of the dead and wounded, means of explosion, etc. The name of the one, who

attempts, possesses the feature of the demon: he was the owner of the cafe or the employee of the airport yesterday, and he is a terrorist today, so attempt … all and nobody. Suddenly, there appears the enemy, and the "soldier" who performs the elimination functions. A new subjectivity that challenges the possibility of the response to the appeal of another was formed. Should we call the Islamist: who are you? Can we receive the answer from the one who is not included into the register of the one who calls? I shall explain: Abraham? - Here I am, the response is possible only because his faith is great, and he has it, because he knows God.

The terrorist corporal machine is not an Islamic religious body as it can be assumed, it is a Gestalt. As Jünger showed by the example of a worker, Gestalt is not the set of parts; it is something transcendental in relation to a certain Islamist, to the mass of the Islamic people and even to the Muslim corporality. The public body of the Islamist is a Gestalt that is indifferent concerning bodies by means of which it constitutes itself - the Englishman, the Frenchman, the Russian, and the Arab, only the bodies of this cruel and ruthless mechanism.

5. Conclusion

The authors assume to research the types of corporality, which constitute the essence of terrorism and war. It is necessary to differentiate the types of corporality: the corporality that is affected by the discipline, management and obedience (the corporality of a soldier) and the passive one is affected by the corporality of the Islamic fighter, who is capable of committing suicide bombings in an "irrational state".

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The analysis of the financial and economic examination of draft government programs

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Abstract: The article considers the results of researching the practice of carrying out the financial and economic examination of government programs as measures of administrative influence on the processes of social and economic development of the Russian Federation. The conclusion about the necessity to form the unified normative and methodological base and to establish the standard requirements to planning, the organization of carrying out and summing up the financial and economic examination at the federal, regional and municipal levels was drawn. Proposals for expanding control and calculating bodies' authority at the expense of their participation in coordinating the forecast parameters of social and economic development and carrying out the financial and economic examination of strategies for the social and economic development of constituents in the Russian Federation. The results of researching the practice of carrying out financial and economic examination of government programs as measures of administrative influence on the processes of social and economic development.

Key words: Financial examination; Government programs; Targets; Economic projection; Strategic planning

1. Introduction

A transition from the traditional bureaucratic model of management to the program target principle, based on launching programs for developing branches and spheres of public administration should be considered as one of the directions for improving the public administration system in the Russian Federation. The principles of the maximum coverage of all spheres of public administration and the budgetary expenses within the key state functions implementation, directed to the achievement of the priorities and purposes of the country's social and economic development and safety are taken into consideration in setting up draft government programs. The integrated application of measures and instruments for the state regulation in the sphere of financial, tax, budgetary and industrial policy for increasing the competitiveness of the key branches of economy, their innovative development as well as the improvement of the quality of the state services promotes the efficiency of the policy measures.

Using the program structure of the budget, public authorities provide a coordination between the budgetary expenses, the purposes, tasks, priorities and the expected results of the state policy in this or that sphere. The program purposes and tasks, which are correctly formulated and accepted from the viewpoint of practicability, influence the increase of the public administration efficiency in general. The financial and economic examination of draft government programs provides the objectivity of the choice and application of program and target methods of administrative influence on the processes of social and economic development (Andreev et al., 2015).

Executive authorities in Russia and abroad actively use various methods of assessing the efficiency of measures on target programs. The results of the research establish the connection between the social and economic development of regions, introduction of program control principles and availability of the developed indicators of efficiency. It is noted that the improvement of the economic situation regionally can be provided as the increase in the number of the implemented projects and programs as the improvement of their management efficiency (Ortova and Rehorova, 2010).

Moreover, the researchers note that there are no unified methodological approaches, which allow evaluating the expected results of programs being implemented, including the assessment of social and economic consequences and risk as well as there are no unified approaches to the calculation of the expected data, which are the basis for the quantitative and quality indicators of a draft program and tools for the budgetary efficiency of programs measurement. The results of the research in Russia and abroad show that the efficiency of municipal management directly depends on the unification of planning systems and the rationality of administrative procedures at the local self-government level (Kanufre and Rezende, 2012).

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2. Research methodology

The research methodology is based on the functional and structural analysis of the organizational and functional contours of the process of carrying out the financial and economic examination of government programs in the Russian Federation. Examination efficiency as a measure for an administrative influence on the processes of the social and economic development of the constituents in the Russian Federation and municipalities was being successively analyzed during the research. The studies of the Russian and foreign authors about using the program and target methods of territories management were carefully analyzed. The efficiency of the standard and legal base that regulates the order of the financial and economic examination of government programs was researched.

According to the Budgetary Code of the Russian Federation (Chapter 26, Article 269.2), the bodies of the internal state financial control are vested with authority to carry out the internal state control, including the control over the completeness and authenticity of reports about government programs implementation.

The Federal Act of February 7, 2011, No. 6-FA "About the general principles of organization and the activity of the control and calculating bodies of the constituents of the Russian Federation and municipalities" (Article 9) establishes that the control and calculating body of the constituent in the Russian Federation carries out the financial and economic examination of draft laws of the constituent of the Russian Federation and the regulations of the public authorities of the subject of the Russian Federation, including financial and economic justifications preparation so far as it relates to the expenditure commitments of the constituent in the Russian Federation, and also the government programs of the constituent in the Russian Federation. The above-named Act also establishes that the control and calculating body of municipality exercises authorities on the financial and economic examination of the drafts of municipal legal acts, including financial and economic foundations preparation, so far as it relates to the expenditure commitments of municipality and also municipal programs.

It should be noted that besides the financial and economic examination of draft program, executives assess the efficiency of government programs implementation. By the resolution of the Government of the Russian Federation of August 2, 2010, No. 588 "About the approval of the Order of developing, implementing and assessing the efficiency of government programs", the requirement to the executive concerning summary annual report preparation about the efficiency of government programs implementation and assessment was defined. It contains:

a) Information about the main results of government programs implementation during the reporting period;

b) Information about the compliance of the set and achieved targets and about performances of government programs during the reporting year;

c) Information about the fulfillment of the expenditure commitments of the Russian Federation connected with government programs implementation;

d) Assessment of executives' activity so far as it relates to government programs implementation.

The process of assessing the quality of budgets of all levels setting for the annual financial year and planning period in the so-called "program format" and the financial support of government programs is defined by the external state audit (control) standards, for instance, State Audit Standard (SAS-201) "Preliminary audit of the federal budget setting", approved by the Board of Audit Chamber of the Russian Federation. The purposes, tasks and procedures of the financial and economic examination of draft government programs are defined by the external financial control standards of control and calculating bodies of the constituent in the Russian Federation. For instance, in Primorski Krai the external state financial control standard of the Control and Calculating Chamber of Primorsky Krai-3 (general). Moreover, it should be noted that there is no of normative and methodological base that defines a procedural order of carrying out the financial and economic examination of government programs and sets the unified criteria for measuring the efficiency of the proposed program measures in the Russian Federation.

3. The main part of the research

The most specific tasks of the financial and economic examination of government programs can be as follows:

-Legality, completeness and validity checking of inclusion, change or cancellation of the basic parameters and (or) structural elements of draft government program and subprograms;

-Assessment of the sphere of program measures implementation, including the analysis of the current situation, problems and projected growth in the considered sphere or branch;

-Assessment of priorities correctness, the purpose and problems of the state policy in the relevant sphere;

-Assessment of the expected results of the program objectivity as well the efficiency of measures on the state regulation and mechanisms of program implementation;

-Analysis of the sufficiency in volumes of financial support and the objectivity of funding source determination;

-Formulation of proposals for removing the available remarks and improving the content of the draft government program (subprograms).

The expert opinions and conclusions can reflect the results, respectively, the economic and financial part of the examination. The economic part of the examination includes:

a) The analysis of problems, priorities, purposes, tasks and the expected results in the programmable branch or the sphere of public administration;

b) The analysis of the government program structure, including subprograms, separate actions, the state services, works and functions;

c) Assessment of mechanism implementation, measures of the state regulation, participants being involved in government program implementation.

The financial part of the examination includes an assessment, expressed in monetary terms of the potential benefits and expenses from government program implementation by using the mechanisms of market-value appraisal for indicators of expenses and benefits formation from government program implementation considering the possibility of the potential expenses or benefits expression in the unified units of measure (Bratanova, 2012). The financial estimate includes the analysis of the volume of the program financial support, the planned ways and sources of financial support, directions and ways of fund applications. During any examination other government program provision can be also analyzed if any. The systems of the quality and efficiency of management monitoring, based on the standard requirements to the criteria for target programs evaluation setting are actively introduced in the system of public and local administration in Russia and abroad. The researchers conclude that the public and municipal strategic planning system and monitoring system allow solving the specific problems of management such as the interconnection between management strategy and target system of management efficiency (Moretti et al., 2010).

At the initial stage of the financial and economic examination the validity of the government authorities' activity being referred to the sphere of program implementation at the expense of the analysis of the current situation, problems, priorities, purposes and tasks in the corresponding sphere is defined. By the results of the initial stage of the examination, members of the control and calculating bodies can draw conclusions about the degree of the relevant program statements mutual consistence, availability of the problems, which determine the priorities, purposes and problems of the state policy setting. The tasks and measures, directed to the solution of the special problems, the purposes and priorities of the program achievement are specified.

At the second stage during the analysis of subprograms and the main measures on the government program implementation, there proved the conclusions about the sufficiency for information coverage concerning the content of its subprograms, measures, the list of state services, work and functions, the compliance of subprograms and measures on program implementation with its tasks and their sufficiency for the purposes and the expected results achievement in the program, including:

a) There analyzed the opportunity and necessity to implement alternative subprograms and measures as more economic and productive ones;

b) There made conclusions about dynamics nature, ways of calculation and program indicators prediction and compliance with their established requirements at the expense of the analysis of the expected results of the government program implementation, predictions and targets;

c) There defined the compliance of the expected results with program tasks, their sufficiency for covering the purposes achievement, forecast validity of targets and possibility of achieving the expected results (Volkov, 2014).

As the practice shows, different countries, which began using the program based budget, focus their attention on various aspects of the efficiency of the budgetary financing of expenses for programs by transferring allotment money to different items of expenses. The problem of considering various factors could be solved, provided that the efforts of all parties concerned will be concentrated on developing the complex system of assessing government programs efficiency (Afanasyev and Shash, 2013).

At the third stage of the financial and economic examination there analyzed implementation mechanisms, measures and instruments for the state regulation, the number of participants who are involved in the government program implementation. By the results of the analysis, there proved the conclusions about the completeness and validity of the real available and planned measures of the state regulation and participants who are involved in the government program implementation, coverage of the ways for achieving its purposes and the expected results of social and economic development and factors for the spatial development of regions' economic system being included in the program. It is noted that the cluster approach that promotes coordinating the proper interests of state and local government bodies, commercial organizations, and educational institutions in solving the problems of the social and economic policy can be considered as a basis for the strategic public and municipal administration system in the Russian Federation. It is noted that the cluster synergetic effect has a considerable influence on target programs productivity (Anokhina and Mochal'nikov, 2015).

At the final stage of the financial and economic examination, the estimation of alternative administrative decisions within the program implementation is given; the opportunity and the necessity to use other measures of the state regulation, other risks identification and prevention, the attraction of other participants for program implementation are assessed. It should be noted that there are no unified methodological approaches by the estimation and substantiation of the alternative solution of the task at the stage of the draft program examination.

By the results of the examination there made conclusions about sufficiency or redundancy of the means for implementing the necessary measures on program at the expense of analyzing the financial support and its sources, ways of calculating the volume of money. During the financial analysis availability of the received expenditure commitments is found out in the program, the completeness and validity of the conditions for providing the design procedure of inter-budget subsidies are estimated; availability and need of other sources and ways of receiving resources, directions and ways of their use are found out. Meanwhile, the efficiency of budgetary expenses must reflect the level of the spent resources for achieving the special results. When developing the complete system of assessing the efficiency of programs, groups of indicators are chosen to all the above - stated criteria by means of which, it is possible to give a quantitative assessment to program activity (Borodin and Shash, 2014).

When carrying out the examination, the results of the earlier control and expert analytical measures on the government program implementation as well as the typical drawbacks of government programs, found out in the course of the earlier examinations are considered. When analyzing the financial support of government programs, the results of examining the Finance Draft Acts of the Russian Federation (the constituents of the Russian Federation) for the annual financial year and planning period are considered. When analyzing the program targets, the mathematical model is possible to be used, t.e. the so-called balanced open economy for the interrelation of the main macroeconomic (predicted) indicators, used for setting up programs, for instance, the planned volume of gross domestic (regional) product, indicators of investments, final consumption, consumer price index with other program indicators (Vladimirov, 2015).

The researchers elude the importance of the synchronization principle of forecasting the directions of developing regions socially and economically, considering the priorities and purposes of developing macroregions and the state generally in the Russian Federation. Accordingly, the participation of control and calculating bodies in developing and coordinating forecast parameters of developing the constituent of the Federation socially and economically is of great importance. Meanwhile, the system formation of assessing forecast efficiency must consider the peculiarities of region development. The basis of this approach can be input system, t.e. the target quality and quantitative indices of administration efficiency and output system, t.e. the results assessment of the public and municipal administration efficiency. In this regard, the organization of management is offered to be subjected to the appropriate transformation for the most accurate use of program approach advantages, and the actions of authorities are allowed to be built on the basis of the approaches, accepted in the effective enterprises management (Fattakhova et al., 2015).

4. Conclusions

Following the results of researching the practice of carrying out financial and economic examination of government programs as measures of administrative influence on the processes of social and economic development, the following conclusions should be drawn:

It is necessary to have the unified normative and methodological base for defining the standard requirements to planning, the organization of carrying out and summing up the financial and economic examination of draft government programs in the Russian Federation. Methodology guidelines on carrying out the financial and economic examination of draft government and municipal programs, approved, for instance, by the order of the Ministry of Finance of the Russian Federation can be as they are. The multicriteria analysis that allows finding out, classifying and ranging the basic and alternative approaches to solving the purposes and problems of government programs is offered to be considered as a methodological basis of examination. The multicriteria analysis will allow proving the alternatives of solving the task due to criteria development and weight coefficients formation for determining the relative importance of each of the chosen criteria for analyzing the sensitivity of results of the draft program to the change in single parameters of assessment.

It is necessary to establish the requirements to the planning and organization procedures of carrying out the examination by law, considering the scale of expert measure, the volume of financing government programs, and availability of the financial and administrative resources, which are accessible for carrying out the financial and economic analysis within the terms, established by the legislation. When planning any examination, it is necessary to consider data availability for carrying out the qualitative and quantitative analysis, and also the required extent of aggregation and need for the quantitative representation of the analysis results. It is efficient to provide the possibility of coordination by the standard (regulations) of the control and calculating body, when examining actions with the executive (collaborators) of the government program for providing the validity of the conclusions by the results of the examination.

It is efficient to include the documents, which are subject to the financial and economic examination and strategic planning documents, formulated within the goal-setting, provided by the Federal Act of June 28, 2014, No. 172-FA “About the strategic planning in the Russian Federation” the list of the drafts by law. First of all, it is about the strategy of social and economic development of the constituent in the Russian Federation that defines the purposes, tasks, priorities and directions of a long-term development

and contains the information about the government programs of the constituent in the Russian Federation, approved for strategy implementation. It will allow drawing valid conclusions following the results of the examination about the mutual consistence of strategy provisions and the relevant program statements. As well, it allows drawing conclusions about availability of the common problems, which determine to set the priorities, purposes and problems of the state policy in programs.

To provide the consistence and equation of strategic planning documents, which are formulated at the level of constituents in the Russian Federation, first of all the forecast of social and economic development and government programs, it is efficient to vest control and calculating bodies with authority to participate in coordinating the forecast parameters of the social and economic development of the constituent in the Russian Federation. It will increase the authenticity of the forecast of national measures, provide the appropriate compliance of the forecast data with the expected results of the program and increase forecast validity of targets and possibility of achieving the expected results.

To provide the completeness and validity of the available and planned measures of the state regulation and implementators, coverage degree of the ways of its purposes and the expected results, measures and instruments for the state regulation achievement in the mechanism of program implementation being included in the draft program, it is efficient to vest control and calculating bodies with authority to establish the standard requirements to the content of strategic planning documents, formulated in the constituents of the Russian Federation. First of all, it is about the strategy of social and economic development and government programs considering the provisions, provided by the Federal Act of June 28, 2014, No. 172 - FA “About the strategic planning in the Russian Federation”.

The main proposals for improving the processes of the financial and economic examination of draft government programs of the Russian Federation are to form the normative and methodological basis for establishing standard requirements to planning, the organization of carrying out and summing up the financial and economic examination at the federal, regional and municipal levels. Besides improving the normative and methodological base, it is important to expand powers about the control and calculating body’s participation in coordinating the forecast parameters of the social and economic development for providing the appropriate compliance of the forecast data with the expected results of programs. It is efficient to vest control and calculating bodies with authority to establish the standard requirements to the content of strategic planning documents, formulated in the constituents of the Russian Federation and the strategy of social and economic development and government programs without establishing excess measures on regulating the sphere of the state strategic planning.

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The policy of Russia in relation to China citizens in the aspect of Far East stability and economic development maintenance: historical and legal aspects (1858 - 1917)

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Abstract: In connection with the December 29, 2014 of the Federal Law of the Russian Federation "On the territories of advancing social and economic development in the Russian Federation", which entered into force on 30 March 2015 the Russian Far East has once again attracted the attention of foreign investors wishing to participate in this project. Among the companies that have expressed such a wish, are large companies of the Asia-Pacific region: China, Singapore and Japan. In this context, the question of labor forces becomes urgent, whereby foreign investors will be able to realize their ambitions. A partial answer to this question gives the history of the Russian Far East, which is inseparable from attracting manpower from countries bordering it. Firstly China. In this relation it is interesting excursion into the history of attracting foreign labor from the country. This article discusses the formation of Russia's policy towards the Chinese population, which began with the accession of the territory of modern Far East in the middle of the XIX century. Features of this policy are studied through analysis of laws and other official documents of the Russian Empire, which focused on the economic development of the Far East. Due to the small Russian population in this region is the bet was made for the use of the population of neighboring China. To this end a number of laws have been adopted in the Russian Empire. This situation lasted until 1886, when it was concluded that the dangers of "Chinese elements" for politics and economy of the developing Russian region. Since 1893 the direction of policy in relation to the Chinese population in Russia has begun to change. Russian administration began to make decisions that restrict the arrival of ballot China. However, already in 1903, it was recognized that the Chinese workers are simply necessary "to ensure the correct flow of the industry," the Far East. In the future, Chinese labor was used with certain restrictions. Since the beginning of the First World War in the region has sharply felt shortage of working hands. In this connection, the Council of Ministers of the Russian Empire encouraged not only to hire and even write Chinese workers. The main conclusions reached in the article, is the conclusion that in the conditions of deficiency of the Russian population in the Far East, with a view to its economic development involvement of Chinese labor is an objective necessity.

Key words: Territory of advancing social and economic development; The Chinese labor; Migrant workers; Russian Far East labor forces

1. Introduction

The Russian Federation has great ambitions for the development of the Russian Far East. With a view to their implementation made a number of federal laws, including the Federal Law “On the territories of advancing social and economic development in the Russian Federation”, which entered into force on 30 March 2015. In this regard, the Russian Far East once again attracts international attention investors wishing to participate in this project. Among the companies that have expressed such a wish, are large companies of the Asia-Pacific region: China, Singapore and Japan. To ensure the implementation of economic projects was established a new Institute of the Far East, its name is the Agency for the development of human capital in the Far East, in front of which the state set the task to ensure that existing and future businesses of the Far East with highly qualified personnel, the development of vocational education and adaptation coming professionals in the region. Creating such an agency is due mainly to the lack of manpower in the region that is traditional since the inception of Vladivostok.

In this context, the historical experience question of solving the problem of attracting labor resources in the region for its economic development becomes actual, in particular by attracting manpower from countries bordering it, such as China, first of all.

2. Methods and materials

The present study is based on empirical data, which is represented by the normative legal acts adopted in the Russian Empire in the period from 1858 to 1917; as well as international treaties with its participation. Legal acts in the study are not used as a form of law, as well as documents, which reflect the social experience. This makes it possible to view them as sources of empirical information. Specially legal methods were used in addition to the scientific

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methods of research, such as dogmatic, legalistic and interpretation.

3. Results and discussion

Formation of Russian policy toward the Chinese population is mainly started with the accession of the territory of modern Far East. The final mastering Russian Amur and Primorye occurred in the second half of XIX century. Officially, it was enshrined in Aigun agreement on borders and in 1858 the mutual trade of Beijing and the 1860 agreement.

By mastering the Amur region, Russia pursued its purely political and military-strategic purposes and only in the long term could plan for myself some economic benefits. Creating your outpost on the shores of the Pacific Ocean, surrounded by representatives of other races and other civilizations, she could count on his holding only by settling the edge Russian (Larin, 1996). At the time of the arrival of Russian citizens on the territory of The attached, there already was active in the international cast. In the Far East, the Russian administration was faced with a pendulum migration flow, and with the Chinese, who lived in the region before signing contracts Aigun and Beijing, whose identity was close to the self-knowledge of the colonists, and not temporary migrants (Nesterova, 2001).

Russia needed to develop the Far East, and it was necessary to pay the slightest attention to the development of the economy of this region. Despite the fact that for her there was a real threat on the part of the Chinese population, Russian political leaders of the Siberian Committee in 1858 discussed the rules on the settlement of the Amur region, which stated that the resolution of the admission of foreigners to the outside edge of a very beneficial effect on its development. In 1860 from the edge of the settlement project was made by the Russian envoy in China N.P. Ignatieff, who presented a note to the Minister of Foreign Affairs A.M. Goncharov. In particular, he proposed "to populate the barren part of the Amur below Khabarovk and Nikolaevsk to create special rules of settlement in the area of the colonists, people from abroad" (Alepko, 1999).

Regulation of the activities of Chinese immigrants was the adoption of the "Charter of the trade" (1857) and "Code of laws on the status of people in the state", in which migrants into the territory of the Amur Territory was allowed to open trade and factory to factory enterprise. According to the "Charter of the trade" entrepreneurs who are engaged in mechanical engineering and production of equipment for factories, we had the opportunity to not get a license to trade if they are carried on its production sites. Foreigners are also allowed to hire workers under the same conditions as the Russian, this item showed; 100 "Charter industry".

Along with these charters there was "Charter of foreign colonies in the empire". He introduced a 10-year-old resident alien privilege. Later this privilege was extended twice by the government until January 1st 1886. The "Code of law on the status of people in the state" was limited to a period of business 10th years, after which the foreign entrepreneur must have been either to take Russian citizenship, or to sell their land tenure, which should not exceed 300 acres.

In 1862 Emperor was approved a bill on 50 versts (a Russian unit of distance equal to 1.067 km)duty-free shopping strip along the far eastern Russian border with China. It is appropriate also to note that pursuant to Art. 273 "of the Charter of the trade" in a duty-free border zone, Chinese merchants were exempted from repayment merchant certificates.

With the 80s; of XIX century it has become much more efficient to pass the Chinese trade in Russia, heavily favored the "Regulations for the overland trade between Russia and China", which is authorized to import and export of gold, silver, and foreign coins.

Thus, during the formation of Russia's policy in relation to citizens of China, Russia did not send it all its own advantage. Pursuing political objectives, it is little thought about the economic consequences of giving foreigners, particularly the Chinese, the possibility of putting together a big profit. This possibility could be considered in the legislative acts published.

January 26, 1882. Russian government has made the first steps to ensure that reduce the number of foreigners in the Far East, this was reflected in the decree that abolished all the privileges set forth in the "Rules for the settlement in the Amur and Primorye regions" from 1861.

The official appearance of the Amur governor-general on the map of the Far East on his appointment as head of the region A.N. Korff was a definite beginning in determining the legal status of Chinese citizens on Russian territory. The regional administration realized the urgent need to regulate the immigration process, as a result of the A.N. Korf was an attempt to introduce ticketing systems accounting of Chinese citizens.

In 1886, he held the second congress of Khabarovsk on the initiative of the Governor A.N. Korf, in which he said: "China is harmful element for the Territory and in the political and economic relations" (Larin, 1996). At this congress, one of the options such as the adoption of the Chinese in the number of Russian citizens, and thus subjecting them to the action of Russian law in its entirety - has been recognized as undesirable for political reasons (Nesterova, 2000).

November 22, 1886 the Emperor on the proposal of Baron A.N. Korf signed a decree banning the Committee of Ministers of the Chinese to settle in the border with the territory of China.

The situation seemed to have improved on 17 of May 1888, when Alexander III approved the proposal of the State Council on the Law of the Amur Governor-General to take Chinese to Russian citizenship for 10 years, to regulate the flow of immigrants of Chinese, by levying special taxes those

who had property in Russia and did not conduct trade. Although it reduced the red tape, but not simplified the situation, as many visiting Chinese do not have the necessary documents, in addition to a certificate of baptism.

By the end of the 80s for the Russian administration's most urgent problem for Chinese immigrants has become a more effective management system and determine the position at which they were sitting. The source of the problem was that there was no such document that talked about whose laws is obeyed by the Chinese on Russian territory. How could judge a person for what he has taken action, approved in his own country? The laws address situations or with foreign settlers (colonists), or with travelers. The situation prevailing in the Amur region, which attracts thousands of Chinese migrant workers, was unique, and there were not candidates (Nesterova, 2000).

Then in the 80 years of the nineteenth century, there have been great changes in the policy of the Amur Governor-General, headed by A.N. Corfu. The Chinese began to be under the leadership of the Russian administration, their activities became controlled, that was much better than their uncontrolled activity. But we should not forget the fact that the control of the Chinese population demanded even greater reforms.

Since 1893 the direction of policy in relation to the Chinese population in Russia has begun to change. Russian administration began to make decisions that restrict the arrival of ballot China.

In 1900, N.I. Grodekov on the post of the Amur Governor-General accepted the rules restricting admission to the Chinese gold mining. This in turn suggests that economic activity in the Chinese gold mining began to go beyond reason. This was confirmed by the rules adopted by the Governor General in a different area of the Amur P.F. Utenbergom in August 1908. They said banning the entry of Chinese workers in the mines without compensation of the passport, as well as the fact that the border crossing is possible only in designated areas (Nesterova, 2001).

In 1903 the IX Congress of Khabarovsk took, where there were discussed issues which included: use of "yellow labor" and the impact of the "yellow race" on trade in the region. Speaking at a meeting of section H. Shestun called "the Chinese worker and doubtless the biggest enemy of the Russian business in the region and a great danger in the political sense". But the majority of opinions Section members agreed on the fact that the Chinese are too dangerous submitted to the Far East. The final conclusion was that the Chinese workers are simply necessary "to ensure the correct flow of the industry". This decision states that, although the government understands the danger of an influx of Chinese population, it still turned a blind eye to it (Larin, 1996).

The situation changed dramatically after the Russian-Japanese war, if to it the concept of the "yellow peril" largely invested economic overtones, then after the war began to present clearly political overtones.

Policy limit was also seen from the number of legislative acts. In these acts were: the decision of the Duma in 1908 on the construction of the Amur railway only with Russian labor; order from 1910 for the issuance of the Gulf of Peter the Great Russian boat tickets only filed; the law of the same year "On the establishment within the Amur governor-general of some restrictions for persons who obtained a foreign citizenship", one of the points of this law was the prohibition of the use of foreign workers working in the state-owned enterprises; law on the development of shipping in the waters of the Far East by 1911, which forbade foreigners sabotage in the Russian Far East. While all of these laws and were aimed at regulating the number of foreigners in the Far East, there was no point in them that would just talk about it, in all cases there was a workaround.

An order concerning "Golden earnings" was issued on 1st of January 1912 by the Priamurskaya Governor N.L. Gondatti. It was attached to the decision to evict all Chinese mines which do not have national passports endorsing. In practice, this measure caused the eviction of nearly continuous Chinese workers, since very few had proper documents (Alepko, 1999).

It should also refer to the question related to the Chinese discrimination on racial grounds. This question in Russian legislation, as a rule, was not raised and, consequently, such a problem at the official level does not arise. Yet it was possible to find and retreat in that direction so that in 1911 were adopted "Regulations on the procedure of formation and operation of state-owned selection round of articles in the Amur General Government", which prohibited the tenant in the captured area to use for agricultural work hard foreigners, and also took place in Russian citizenship yellow race people.

Over the years, limited policy became more active. For example, in 1912 the Ministry of Internal Affairs has developed a new draft law "On the conditions of introduction into the Amur Governor-General of Foreign filed and their living within the designated area", which was established strict control over the crossing of the border and stay of Chinese to Russian Far East. But the bill has not been realized, since the beginning of the First World War in the region has sharply felt shortage of working hands. On this occasion, it was noted that "the need for workers in the Far East so acute, so the government decided to suspend the application of measures aimed to limit the use of yellow labor" (Kochegarova, 2001) in a note from the Ministry of Foreign Affairs in December 1914. Moreover, the Council of Ministers has recommended not only hiring and even writing Chinese workers. Approved September 15, 1916 the position of the Council of Ministers puts the responsibility of the Russian consulates in China to register the Chinese national passports, and provides them to the three-month delay for the repayment of Russian tickets.

4. Conclusions

History has shown that in the Far East cannot do without Chinese labor. However, the Russian experience has shown that the Chinese population on the Russian territory can be controlled, thus allowing them to self-government due to the urgency of acquiring a deep analysis of the organization of the Chinese community, taking place at the end of the nineteenth century.

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The publicity of court procedure: the pre-revolutionary normative model and its corrective amendments

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Abstract: This article analyzes the normative model of the Institute for Criminal Procedure Publicity that was contained in the judicial statutes of 1864 and its post-reform development. There created the democratic model of penal justice that had corresponded to the best European patterns, based on the Russian Judicial statues in the 19th century. Framing the judicial and criminal procedural legislation, the drafters of statues made an emphasis on publicity. They proceeded from the fact that publicity was a guaranty for the independence of the judicial power and prevention from influencing the court on the part of the executive authority in resolving criminal disputes. Publicity was also considered as a means of court control on the society's part and a means of legal consciousness formation and respect for court. The dis balance between the feudal form of the Russian state and the democratic model, created on the basis of the judicial statutes and penal justice, determined the post-reform correcting of the judicial and criminal procedure legislation that had mainly a protective character. The changes in the regulation of publicity principle, made by the post-reform legislation, created the construction for the institute that is reproduced in the Russian modern criminally-remedial legislation. This consequence predetermines the importance of the research of this kind, as it allows finding out the genesis of the normative regulation and defining the desirable directions of it being corrected.

Key words: The pre-revolutionary Russian law; Judiciary reform; Criminal procedure; Judicial statutes; Publicity principle

1. Introduction

The judiciary reform of 1864 is the most successful experience in the Russian penal justice transformation. The judicial and criminal procedure institutes of the judicial statutes, their advantages and disadvantages have been determining the construction and content of the modern legal substitutes by now. This circumstance updates the historico-legal studies of the root principles of penal justice organizing and functioning.

The history of developing the fundamental principles, the results of discussing various approaches to their regulation, the followed correction of the legislation give the richest material that is valuable not only from the historical point of view. This material allows retracing the evolution of this or that institute and finding out the possible directions of its improvement considering the expressed ideas before, which turned out to be unclaimed for some reason upon working out the final Statutes. For the normative regulation to be improved, it is also important to study the corrective amendments after adopting the Statutes, which smoothed the contradiction between the feudal form of the Russian state and the progressive one that had been the best sample of the regulation, the model of the penal justice. These corrective amendments allow establishing the most significant constructive elements of this or that judicial or criminal procedure institute whose changes deform the elemental idea of the regulation.

This publication makes an attempt to analyze the normative model of the Institute for Criminal Procedure Publicity that was contained in the judicial statutes of 1864 in order to find out its advantages and to establish the post-reform corrective amendments. It is submitted that it can be used for improving the modern regulation of the Institute being considered.

2. Research methodology

During the research the author followed the principles of the general philosophical method, which objectivity, systematicity, historism and dialectical contradiction are referred to, the formal logic techniques, the juridical and dogmatical approach (the interpretation by means of various ways and the estimation of the normative statements) and also the comparative method (the comparison of the initial and followed regulation of the publicity principle in the Judicial statutes) were used in the research.

3. Literature review

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Despite the undoubted importance of the publicity principle and the indisputability of the need for its being consolidated in the judicial statutes, the material about this principle is not so much. All the existing sources can be divided into 1) those, which concern the principle of publicity as one of the correct arranged judicial authority institutions and 2) the monographic works which are especially devoted to the principle of publicity.

The first group of studies is rather various. The importance of publicity for the pleadings was proved by the representatives of the Russian civil society in the first quarter of the 18th century (Pososhkov, 1951). Later S.E. Desnitskiy (Desnitskiy, 1959), the first professor in the field of law, "native Russian", studied this question. D.I. Fonvizin (Vereshchagina, 2003), etc. did the same.

In the first half of the 19th century, especially in its first quarter, such representatives of the governmental authorities as N.S. Mordvinov (The development of the Russian law development, 1994), M.M. Speranskiy (Speranskiy, 1961), as well, the participants of the Decembrists' movement N.M. Muravyev, S.P. Trubetskoy, N.I. Turgenev (The development of the Russian law, 1994), the Russian lawyers, in particular, A. Kunitsyn (Giessen, 1905) and others wrote about the importance of publicity.

The translated works of the famous European scientists, in particular, the works of I. Bentham (Bentham, 1860) influenced the formation of views on the fundamental principles of penal justice, including publicity. In the course of making out the drafts of Statutes and preparing them for implementation, K.P. Pobedonostsev (Pobedonostsev, 1996) and B.N. Chicherin (Chicherin, 1998) were writing about the social importance of publicity and one of the compulsory attributes of the judicial power.

Such authors of the pre-revolutionary educational publications as S.V. Viktorskiy (Viktorskiy, 1912), I.Ya. Foinitsky (Foinitsky, 1912) and others studied the principle of publicity in the system of the fundamental principles of the court procedure.

The article, written by S. Barshev (Barshev, 1857), was the only pre-revolutionary work that was devoted to the principle of publicity.

Modern authors consider the principle of publicity in their works, as this question is their research subject. For instance, stating the corrective amendments of the post-reform judicial and criminal procedure legislation, M.V. Nemytina (Nemytina, 1999) mentioned some changes in the principle of publicity. A number of authors such as S.V. Ignatenko (Ignatenko, 2014), V.A. Larionova (Larionova, 2013), A.F. Rekhovskiy (Rekhovskiy, 2014) and others consider the modern formulation of the publicity principle. However, the modern monographic studies of the normative regulation of the publicity principle and its development in the pre-revolutionary period have not practically existed up to the present day.

4. Research

The need for consolidating the principle of publicity for the authors of the judicial statutes, as the above-mentioned, was axiomatic. They proceeded from the fact that publicity was the best guarantee for the correctness of judicial procedure (Foinitskiy, 1912). According to the State Council that voted for the introduction of this fundamental principle unanimously: "Publicity in criminal procedure promotes explaining the truth, protecting defendants and motivating judges to study cases carefully and to decide them legally that there can be no doubt about its usefulness" (the Case of the court system transformation in Russia, 1862). In some sense, the publicity of judicial procedure bears a judicial charge. The public control over the activity of judges is exercised through it. Simultaneously, it is the guarantee from the baseless claims to judges concerning decisions, made by them.

The original version of the publicity principle in the judicial statutes contained just two definite types of crimes, which were removed from it. The first type included the crime against the sexual immunity and the sexual freedom of an identity, the crime against the belief and defiant and offensive words pronunciation against the Imperator and the Members of the Imperial House. The second type included the crimes, in hearing the cases of which, the information about the intimacies of the parties to a criminal proceeding or the information that humiliated their honour and dignity could be disclosed. As it is seen from the given list of the reasons for hearing criminal proceedings in the closed court session, an emphasis was made on the private life of a person protection.

The minimization of the reasons for closing the judicial session turned out to be undesirable for the authorities. They were being expanded while the independence of the judicial power was being restricted. The formation of the judicial power was the main purpose of the judiciary reform of 1864 (Vereshchagina, 2006; Vereshchagina, 2014).

The cases of the state crimes, which were heard in the presence of the Directing Senate, were added to the Acts of June 7, 1872 (The opinion, consolidated by the Imperial Court, 1875). In this regard, the cases of "defiant and offensive words pronunciation against the Imperator and the Members of the Imperial House were particularly heard in the "closed court sessions". The cases of other crimes were solved either in public or in the closed court session at the court's sole discretion. In the last case, the pleading could be closed either entirely before the judicial pleadings ended or during the single legal actions procedure (Article 27 of the Act of June 7, 1872) (The new version, consolidated by the Imperial Court, 1875).

According to the Act of August 9, 1878 (Edict of His Imperial Majesty, 1880), the Act of April 5, 1879 (Edict of His Imperial Majesty issued to the Directing Senate, 1881) and the Provision of September 4, 1881 (Edict of His Imperial Majesty issued to the

Directing Senate, 1885), the governor-generals and the Minister of the Interior were vested with authority to close a court session in hearing any criminal case if they come to the conclusion that its public consideration can influence the state of mind and public order. From the strict defined system of the grounds for hearing cases in the closed court session, the law-maker went over to their open list that allows him to consider any criminal case in private.

Publicity was limited not only to laws, but also bylaws. The confidential circular note of January 18, 1879, the Minister of the Interior L.S. Makov informed all the governors about the Imperator's will "... to prohibit printing the independent verbatim records on the cases of the state crimes for the future …", having limited the information about them only to the reprints from the official publications (The official and provincial gazette) (Troitskiy, 1976). It took the press some time to obey the circular note. Therefore, in his special attitude towards the chief of gendarmes A.R. Drenteln, L.S. Makov complained about the continuing publication of the detailed judicial reports and suggested obliging the provincial authorities to be limited "to print only the crime bill and the sentence full-scale", and to state the evidence and the speech of the parties "in brief" on the 17th of October in 1879 (Troitskiy, 1976). A.R. Drenteln and L.S. Makov brought their general consensus to the governor-generals' notice by telegraph on the 20th of October this year. After that the newspaper reports on the political processes became much shorter and more tendentious before they had been generally cancelled at all.

The Act of February 12, 1887 stroke at publicity highly (The opinion, consolidated by the Imperial Court, 1889). It radically changed the formulation of the question about the publicity of criminal procedure. We shall remind that the original citation of the Article 620 of the Criminal Procedure Statute (CPS) contained the absolute list of the arguments allowing the court to make a decision on the closed mode of hearing the case: 1) sacrilege, the violation of a sacred place and faith censure; 2) crimes against the family rights; 3) crimes against honour and chastity of women; 4) lascivious behaviour, unnatural blemishes and pandering. The Article 621 of CPS emphasized that "closing the doors of the court session for the public as an emergency measure was admitted if it is just obviously necessary with the exact instruction: what kind of actions must happen behind the closed doors and for what reasons?".

According to the Act of February 12, 1887, the Minister of Justice was given the right to make a decision on the closing of the court session on a par with the Court. The closing of the court session could happen on such uncertain arguments, introduced by the considered law as the fear to offend religious feelings, to violate morality requirements, to lose the government's dignity, to make a negative influence on the protection of the public order or on the procedure of legal actions (Article 620^3 of CPS) (The opinion, consolidated by the Imperial Court, 1889). The court could expel some categories of persons from the hall of the court session: students, minors and women if it was demanded by the features of the considered criminal case or single legal actions (Article 620^1 of CPS) (The opinion, consolidated by the Imperial Court, 1889). The Minister of Justice estimated the arguments about closing the court session individually and made a decision on its closing either in full or with regard to the single procedural actions. The decision of the Minister of Justice on this matter was told to the chairman of the court who was obliged to execute it. This decision was not subject to be disputed. Besides, the Act reduced the list of the procedural actions, which were necessarily carried out avowedly, irrespective of the pleadings mode. The announcement of a sentence was the only action. In fact, the consolidation of the grounds, given above, allowed hearing any criminal case in the closed court session.

The motive of the stated corrective amendments was the desire to draw the interest of the state in hearing cases of the state crimes. "… sometimes the criminal action that is subject to the judicial examination is so closely connected with the circumstances, concerning the state crimes or the judicial decrees of the highest officials of the state or the objects of the highest government agencies' activities. So, the consideration of these circumstances is inevitable. Meanwhile, if they are considered in public, data disclosure can follow before the public that turns out to be bad for the state crimes to be successfully investigated" (The Ministry of Justice in hundred years, 1902).

The adoption of the Act of February 12, 1887, analyzed above, was initiated by the Minister of Justice. Arguing about the need for it being adopted, he insisted on giving him the exclusive right to make a decision on closing the court session and to strip the local court of such powers, as it does not possess all the information that allows making this decision. Most of the members of the State Council took this idea watchfully, having regarded it as an invasion into the prerogative of the judicial power. Contrary to the opinion of the majorities, this Act contained the opinion of the minorities with only that difference that the both parties (the Court and the Minister of Justice) had the right to make a decision on the closing of the court session.

According to the Act of June 2, 1897 that consolidated the features of pleadings on the criminal cases concerning minors, the court was given the right to close the doors of the court session on the criminal cases concerning this category of defendants (Article 620 of CPS) (The opinion, consolidated by the Imperial Court, 1900).

5. Conclusions

The regulation of the publicity principle, stated in the judicial statues of 1864 and the hindsight of its corrective amendments, allows us to draw the following conclusions:

1. The principle of publicity was considered as a certain need for the beginning of the court functioning by the Fathers of the judiciary reform.

2. The elementary regulation of the publicity principle contained a small number of grounds for hearing criminal cases in the closed court session.

3. The correction of the publicity principle was made in the protective interests of the government and determined by the undesirability to consider some circumstances in public, which could make a negative influence on the population's state of mind.

4. The elementary regulation of the publicity principle was being mispresented against the statutory restriction in the independence of the judicial power, regulated by the judicial statutes.

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The question of the Russian society's readiness for mediation procedure

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Abstract: The topicality of this article is determined by foreigners' interest in establishing the personal and business relations with the representatives of the Russian society that has the characteristics, including the features of resolving the arising disagreements and conflicts, which are just peculiar to it. This feature is researched through analyzing the regulations, which are used as an empirical material reflecting the social experience in the historical hindsight. This article draws a conclusion that in spite of the Federal Act "About the alternative procedure of settling disputes with the participation of a mediator (mediation procedure)" being adopted on the 27th of July in 2010, the Russian society has not been ready for resolving conflict situations by means of a mediator yet. It is proved by the statistics of the Russian citizens and legal entities' appeal to the mediation procedure and by the results of the sociological surveys. This situation is determined by the fact that the mediation procedures, provided by the legislation in the USSR and Russia, had a number of features: they were obligatory in the cases, determined by the law (in divorce, origin of labour disputes, cases of blood vengeance) and in other cases reconciliation had a non-legal character. The specified features do not give the opportunity to speak about the legal traditions of the Reconciliation Institute (mediation). Moreover, the Russian society is not ready for implementing the standards of the mentioned Federal Act not just owing to the absence of the traditions to resort to the mediation procedure and owing to its mental constants, which prevent "voluntary" implementation. Such features of the Russian mentality were marked out in the special literature. One of them is a legal nihilism that is shown that the adopted laws in practice do not find their vital implementation because of the chronic weakness of the Russian traditions to observe and execute laws. This feature of the Russian society is not always treated as a negative one. Nihilism is a quite normal phenomenon for the legal culture not providing the evidence of the low level of legal sense, weakness of legal traditions at all. It is rather on the contrary: the situation of the mass standard nihilism assumes the very high moral and legal consciousness of the society that confirms the cultural and social adequacy of the written law. Despite law existence providing the mediation procedure, the main way of resolving disputes remains legal recourse in Russia.

Key words: The Russian society; Mediation procedure; Mediator; Reconciliation; Legislation; Nihilism; Disputes

1. Introduction

The Federal Act of July 27, 2010 "About the alternative procedure of settling disputes with the participation of a mediator (mediation procedure)" became one of the innovations of the Russian legislation. According to Part 2, Article 1 of this regulation, its statutory provisions are applied to mediation procedures for disputes being arisen from the civil legal relations including business and other economic activities conduction and also from labour and family legal relations. Both legal entities and citizens can resort to mediation. In this regard, the mediator can intervene in dispute between legal entities (economic disputes), citizens (family disputes), legal entities and individuals (labour disputes).

Its aims are defined in the Act. They are as follows:

1) To create legal conditions for using the alternative procedure of settling disputes with the participation of a mediator as an independent person (mediation procedure) in the Russian Federation;

2) To promote developing partner business relations;

3) To promote forming the ethics of a business conduct;

4) To promote harmonizing social relations.

The necessity to develop the institute being considered for modern Russia is obvious. It is quite possible to agree with the opinion of the developers of the law "About the alternative procedure of settling disputes with the participation of a mediator (mediation procedure)" who believe that the introduction of the mediation procedure will lower a propensity towards the conflict of civil turnover relations and also will relieve the Russian judicial system significantly and orient the country on the further development of the civil society.

Endorsing the opinion of the developers as to this Law, the members of the public also think that the revival and active use of the reconciliation procedures (in particular mediations) in settling the legal conflicts are the innovative direction in developing the domestic law, a powerful

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contribution to strengthening the legal culture of the Russian society, an immutable condition for the successful social and economic growth of our country.

However, the first results, summed up by the participants of the round table on the theme: "The Federal Act 'About mediation' - one year of practicing the law enforcement and development prospects of the legislation on mediation", held by the Mediation Resource Center on the 14th of May in 2012, show that during the time that had passed after the promulgation of the law, the promotion of the mediation procedure in general was reduced to staff training and a number of private initiatives. For this reason, the usage of mediation procedures bears not mass, but exclusively a single character. The law has made a great influence neither on decreasing caseload level that is rather high in the Russian Federation, nor on legal culture development (Litvinova, 2014).

In the supporters' opinion considering the law, the problems as to the legal regulation owning to which the legal system demands them being specified and changed, and also lack of the state program on developing the reconciliatory mediation in Russia are referred to the main reasons, which determine the unsatisfactory situation in developing the reconciliatory procedures. It is difficult to agree with the first reason as, in fact, it means that "lack of practice has found out the legal regulation problems". Nevertheless, it is impossible to deny that the law has not been implemented in due course, because of the lack of the state program on mediation development in Russia.

This program is necessary, as the law adopted in Russia is directed to forming the new relations, which are to settle disputes with the participation of a mediator in society. It is impossible to agree with the opinion of a number of supporters who think that the reconciliatory mediation provisions being included in the existing Russian legislation answer the long-term domestic legal tradition that was unreasonably interrupted twenty years ago.

The supporters of the law consider it as a reflection of those processes and phenomena, which are happening in our society and the state now (Ostanina, 2011). They give the official statistics as a proof that reflects the activity of the Russian Arbitration Courts regarding dismissal of cases in connection with the amicable agreements, concluded by the parties. According to the available statistics of 2007, the dismissal of cases in connection with the amicable agreements on 2,5% of the cases (out of the total cases, considered in the first instance), 2,7% of the cases (in 2008), 3,5% of the cases (in 2009), 3,3% of the cases (in 2010), 2,8% in 2011 (the official document). The given statistical data concern the entrepreneurial entities, which are generally legal ones. The number of the concluded amicable agreements cannot become a criterion for evaluating businessmen's readiness for resorting to the mediation procedures, as reconciliation of parties procedure by its nature is the institute of the entrepreneurial relations, but not the processual ones. The criterion of businessmen's readiness for resorting to the mediation procedure can be the information about the number of the disputes, resolved by businessmen on the basis of negotiations. It is obviously difficult to collect this information.

N. Maximova concludes about the current paradoxical situation in Russia. In her opinion, the paradox is that this "new" service (mediation) has really been used long since. However, this new service is still incredulously perceived in our country (Maximova). N. Maximova gives a reference to the mediators asking them to help to resolve the conflict as a historical tradition as a proof of the "demand for this service" (for instance, to listen to the decision of fathers in any serious dispute/the existing Caucasus custom). N. Maximova writes: "The experts hope that the strengthening of the conditions for carrying out and the rules of mediation at the legislative level will increase the popularity of the service that is widespread in the West". The author also notes that, according to the experts, the main obstacle in this case is the problem of citizens' confidence: no doubt that the government is much more authoritative than private individuals.

It is real so that the reconciliation of parties including the participation of a "third party" is a "normal" and "ordinary" behaviour, owing to some people's traditions. First of all, it is observed in those societies, where the senior generation has the special authority. With good reason, it is possible to admit that the appeal to fathers is the special mental constant of these people. If there were certain traditions of reconciliation, based on the moral standards and customs in society, the new law will not able to increase the quantity of such cases and to force the arguing parties to conclude the written amicable agreement.

2. Methodological approach

The author of the article considers that there is no tradition of reconciliation and the conditions, which promote its being formed in Russia. In spite of the fact that the reconciliation existed in the Russian Empire, in the Russian Soviet Federated Socialistic Republic (RSFSR) and the USSR, this institute had a specific character. This position is argued on the basis of analyzing the empirical material that is presented in the form of regulations. Considering the forms of law as the empirical material is determined by the fact that they are considered as the legal regulation experience in the historical hindsight. Another type of the empirical material is also used as the proof of the conclusions, drawn on the basis of the legal acts analysis. It is as follows: the results of the sociological surveys.

3. Conclusions and discussion

Reconciliation as a possible way of family preservation and resolution of conflicts between

citizens was mentioned in the legislation of the USSR. The reconciliation of the spouses who were willing to dissolve their marriage was provided by RSFSR Code of marriage, family and guardianship laws, dated November 19, 1926 by the Decree of the Presidium of the Supreme Council of the USSR "About some change in the order of considering cases of divorce", dated December 10, 1965, the Code about the marriage and family of RSFSR, dated November 1, 1969. These regulations indicated that courts must take measures to reconciliate spouses who wanted to get divorced. The ways and methods of this reconciliation were applied at the courts' discretion. In practice, the persuasion method was general. The practice of courts was the subject for considering the highest judicial authority - The Plenum of the Supreme Court of the USSR. But these decrees specified the fact that "The court must take measures to reconciliate spouses and has the right to postpone the trial of cases, fixing the term for spouses to reconciliate within six months".

Thus, the reconciliation procedure is applied by the court regardless of spouses' wish and opinion.

The Soviet legislation allowed the reconciliation for labour disputes resolution. The Code of labour laws (1922) provided resolving the labour disputes in the Disputes and Wage-Rates Committees, Courts of Reconciliation and Arbitration Courts. In the pursuance of this code, the Resolution of the Central Executive Committee of the USSR and the Council of People's Commissars of the USSR, which approved the Rules about reconciliatory and arbitration, and judicial examination of labour conflicts on the 29th of August in 1928. These rules defined the order of the organization and the competence of these bodies.

The code of labour laws (1971) provided the possibility of appointing the commissions on labour disputes in the enterprises. According to it, the Decree of the Presidium of the Supreme Council of the USSR, dated May 20, 1974, the Order of labour disputes adjudgement was approved.

The feature of the pre-trial reconciliation of the parties on labour disputes was the fact that it was obligatory.

The Resolution of the All-Russian Central Executive Committee and the Council of People's Commissars of RSFSR, dated November 5, 1928 "About the reconciliatory production on a fight against the custom of blood vengeance" is paid attention in the Russian legislation. It was adopted for eliminating the cases of blood vengeance resulting from murders and infliction of bodily injury. To achieve this purpose, the reconciliatory commissions, approved by the relevant executive committees could be organized in the district or regional executive committees. They included the representative of the relevant executive committee (chairman), the people's judge, two representatives of the public organizations and the representative of the local women's organization. If required, the reconciliatory commissions were granted the right to involve other persons with the right of an advisory vote in participating in the reconciliatory production as well as to call witnesses (item 1 of the Resolution). The reconciliatory commissions were also vested with the function to collect the information about the persons who had a conflict between themselves resulting from the blood vengeance (item 2 of the Resolution). According to item 3 of this resolution, the special reconciliatory case considering all the hostile sides must be opened on each established hostility case resulting from the blood vengeance: those who committed a crime and their adult relatives, and other tribesmen (relatives-in-law). As well, the injured persons and their adult relatives, and other tribesmen (relatives-in-law). Each opened reconciliatory case must be considered in the public meeting by the reconciliatory commission. The hostile sides are informed about the date of the case being considered in advance and are invited to be in the commission (item 4 of the Resolution).

In any consent to reconcile, the hostile sides give the corresponding signed up document to the commission. According to the existing criminal legislation, in persons' refusal of reconciliation, the commission sent the copy of the refusal act of their non-attendance to the people's court for bringing them to the court.

As it is seen from the above-stated regulations, the reconciliation procedure was not voluntary for the hostile sides. In any avoidance of reconciliation, they had to be put on trial. The reconciliatory procedure began on the initiative of the reconciliatory commission whose chairman must explain the value of the reconciliatory production and responsibility for the refusal of reconciliation to the hostile sides. This feature of the reconciliatory commissions' activity distinguishes it from the activity of the modern reconciliatory bodies, which begin their work on the initiative of one side or all the arguing ones.

Together with the Legal Reconciliation Institute, the legislation of RSFSR provided the legal consequences for reconciliation extra legally in some cases. For instance, reconciliation as a basis for terminating the criminal prosecution of the person on certain categories of cases was provided by the codes of the criminal procedure of RSFSR dated February 15, 1923 and October 27, 1960. The comrades' courts had to make the decision about cases discontinuance in any reconciliation of the participants of the civil dispute and about the cases of the insult, slander, beating and infliction of slight injury on the victim, brought to responsible in the reconciliation. This situation was provided by the Provision about the Comrades' Courts, approved by the Decree of the Presidium of the Supreme Council of RSFSR, dated March 11, 1977.

Thus, it is obvious that the reconciliation had a number of features within the Soviet period. They were as follows:

1) It was obligatory in the cases, determined by the law (in divorce, origin of labour disputes, cases of blood vengeance);

2) In other cases, it had a non-legal character.

4. Conclusions

The above-specified features do not give the opportunity to speak about the legal traditions of the Reconciliation Institute (mediation).

The Russian society is not ready for implementing the standards of the Federal Act of July 27, 2010 "About the alternative procedure of settling disputes with the participation of a mediator (mediation procedure)" not just owing to the absence of traditions to resort to mediation procedure and owing to its mental constants, which prevent "voluntary" implementation. Such features of the Russian mentality were marked out in the special literature. Nihilism that is expressed in the denial of something, in many cases, of something complete and definite, except but it had admired before. The social nihilism is a legal one. The adopted laws in practice do not find their vital implementation because of the chronic weakness of the Russian traditions to observe and execute laws (Ovchinnikov, 2015). The legal nihilism does not always characterize the negative society and is considered as the very high moral and legal consciousness of the society that verifies the cultural and social adequacy of the written law rigidly (Sinyukov, 2010). The function of nihilism as part of mentality is shown in it. It is proved by the results of the sociological surveys. For instance, only 13% of the respondents agreed with the statement about the necessity of the education to be focused on the Western civilization's way of life and values. 65% of them did not agree with this statement. This world outlook reflects the relation of people to mental values definitely enough (Bakurskiy, 2006).

Based on the above - aforesaid, we can conclude that the Federal Act of July 27, 2010, No. 193-FA "About the alternative procedure of settling disputes with the participation of a mediator (mediation procedure)" is aimed at forming the new relations in society. It is necessary for its effective implementation to overcome its function that contradicts the function of mentality.

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Theoretical foundation of human rights: J. Maritain philosophy of natural law

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Abstract: The paper is focused on the impact of philosophical ideology of Jacque Maritain -one of the most prominent French philosophers of XX century - onto modern concept of human rights in their legal implementation. The perspectives of Maritain's basic developments for modern democracy are proved to be rather promising. J. Maritain was the first one who managed to unite philosophical anthropological theory (personalism) with actual participation in elaboration of the ideas of human rights oriented against totalitarian offence against the liberty of a person. An author of more than 60 books, J. Maritain helped to revive St. Thomas Aquinas for modern times and is the principal drafter of the Universal Declaration of Human Rights. The foundation of Maritain's thought lays in Aristotle, St. Thomas and the Thomistic treatments. Maritain was a strong defender of a natural law ethics. He viewed ethical norms as being rooted in human nature. For Maritain the natural law is known primarily, not through philosophical argument and demonstration, but rather through "Connaturality". Connatural knowledge is a kind of knowledge by acquaintance. We know the natural law through our direct acquaintance with it in our human experience. Of central importance, is Maritain's argument that natural rights are rooted in the natural law? This was the key to his involvement in the drafting of the UN's Universal Declaration of Human Rights.

Key words: Maritain; Natural law; Human rights; Political society

1. Introduction

Search for the legitimizing foundations of human rights is of the same age as the theoretical research in the history of law that are particularly relevant today (Cicero, 2006). This urgency is amplified by epochal changes in the value paradigm of the modern evaluative world. Maritain's concepts and views on the influence of the philosophy of Natural law on the formation of the Institute of Human Rights found today the special significance for the understanding of the anthropological nature of legal imperatives of normal functioning of humans, civil society and a democratic state.

The starting point of this excursus into the history of the issue is the doctrine of natural law as the philosophical basis of human rights that are set forth in the summary of Maritain's lectures on Natural law (Maritain, 1951). Maritain regrets that the phrase "Natural law" was simplistically connected to rational foundation of human rights, that, as a result, emasculated the richness of its content and meaning: In an era of rationalism, lawyers and philosophers have abused the concept of Natural law, whether for conservative or revolutionary aims, they represented it in such simplistic and voluntaristic manner, that it is difficult now to use this concept without awakening the mistrust and suspicion in our contemporaries (Maritain, 1951; Pascal, 1921).

The question of the genesis and destiny of human rights leads a long-standing history of the idea of Natural law, coming from the Antiquity and middle Ages, and subsequent development of this idea within philosophies and doctrines of the New Age. Maritain had focused his study on the analysis of the content of the idea of Natural law and its basic stages. An important factor for discussion of that period was an open attack of the positivist critique of Natural law, which compromised the ideological foundations of the theory of human rights (Hittinger, 2002; Lyubashits et al., 2015; Shestopal, 2014).

2. On the vulnerability of rational model of natural law

From Maritain's point of view the vulnerability of the modern concept of human rights is caused by the artificial and incorrect systematization and rationalistic processing of the ideas of Natural law performed by Hugo Grotius and Cartesian project called "mathematized thinking". In early period of New Age philosophy and science have demonstrated a turn to subjectivity. Cartesianism is based on the following principle: the rationality is a major factor of science. Rationality arises from the advantages of a systematic, objectified cognition over the everyday knowledge. All that is alien (heteronomous) to cognizing person and arbitrary exercise of his intellect can deprive him of the power of comprehending; destroy the picture of the world and its structure, ordered by reason. "Mathematicized"

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concept of "knowledge" has resulted in subjectivity of modern European philosophy and extremes in rationalization of Natural law doctrines.

It makes Maritain thinking (Maritain, 1951) that due to a fatal error *Natural law,* which is within the being of things like their very entity, which precedes all formulations and is even known to the human mind, not in terms of the conceptual and rational knowledge, started to be treated according the models of written codex applicable to everything declared in just law, defining a priori all aspects and norms of human behavior through decrees, which were thought prescribed by nature and reason, but in reality formulated voluntarictically and artificially.

In the XIX century aprioristic rationality gives way to historicism. The laws of natural science have not been identified with the social laws and could not be applied to society and to explain the nature of the law. However, by the end of the XIX century, in Western culture doctrines of "absolute" and "fair" natural law were accompanied by a large proportion of subjectivity and phantom shadows of "correct", "morally justifiable" law of amorphous content. This was largely predetermined by attempts of predecessors to justify the category of justice as the principal criterion of rationality and purpose of natural law as the *universals*.

3. Maritain's criticism of abstract justice

The philosophers of the XVII century began to perceive the Nature and Reason as the Platonic heaven abstract deity. The consistency of human action and the Reason have been understood as conformity of the human action to ideal model that inerrant Nature ordered to inerrant Reason to establish. In this case a human action should be recognized rationally justified at any time anywhere in the world. Such comprehension has allowed B. Pascal (1623-1662) to believe that justice in human socium should be treated and recognized same universal category as the of Euclid's theorem. The task of genuine philosophy consisted in facilitation humanity with cognition from the Nature what justice is. "Then the splendor of true justice, - said Pascal - would have conquered all the nations, and legislators would have to take it (true justice) as samples instead of this invariable justice fantasies or caprices of the Persians or Germans. One could watch it (true justice) establishment in all countries worldwide and throughout the ages" (Pascal, 1921). Maritain considers such an understanding of justice "completely abstract and unrealistic". However, a century after Pascal, another representative of the French rationalism Marquis (Marie Jean Antoine Nicolas) Condorcet (1743-1794) insisted on the same universal dogma: "A good law should be good for everyone, as well as a true statement is true for everyone". The idea of a universal Natural law gained popularity; at Leipziger Messe new books about Natural law had appeared. German writer Jean Paul Richter (1763-1825) reasonably sneered on this occasion: "Each fair and every war give rise to the new Natural law" (Condorcet and Richter statements are cited from the Maritain's book (Maritain, 1951)). There Maritain pointed out that in addition to the previous artificiality and abstraction, in the new systems of law after Rousseau and particular after Kant, the philosophy of law started to empower the individual with all absolute and unlimited rights of God. Now the Man, as God from the medieval scholastics, became self-sufficient guarantee of triple absolute: Nature, Reason and Natural law. Ultimately, it is not God and Nature, but the human Will and human Freedom have become to be interpreted as the ultimate source of natural law.

4. Culture centrism of Maritain's philosophy

It is important to take into account that legal convictions of Maritain most likely could not be considered outside the concept of culture. He could not perceive the human rights issues and their semantic basis that is the Natural law outside the general concept of the semantic foundations of the society culture. Defining the place of the individual in the legal system Maritain following Christian theologians A. Augustine, P. Abelard and T. Aquinas and being in line with the modern Catholic cultural studies, took as a base for his own theory the theological understanding and perception of culture, which he considers to be the divine revelation.

"What determines the unity of a culture is first and above all a common philosophical structure, a certain metaphysical and moral attitude, a common scale of values-in short, a common idea of the universe, of man and of life, of which the social, linguistic, and juridical structures are, so to speak, the embodiment." (Maritain, 1958).

The cultural process he perceives as an attempt to learn the Divine wisdom and the Divine fundamental principle of the world. All the achievements of culture, especially of the spiritual culture, including private law and privacy, are connected with Divine Will (Gallagher, 1990). This cult urological position explains why Maritain criticized the artificial philosophical position of absolutisation the personality unlimited will that is "equal to God" and that defines the limits of personal rights. Maritain, takes into consideration person's Will (when a person does not have to obey any law except the law of his own will and freedom), he quoted as saying Kant: "A person subjects only to the laws that he (self, or at least in conjunction with others) establishes for himself" (Kant, 1886). He did not directly mention Hegel, but Hegel's interpretation of human rights is, obviously, equally abstract and artificial, as hypostatized will of abstract person in Rousseau and Kant. The only difference is that Hegel prefers to talk not about a Person or God, but about the Absolute Spirit as the source of Natural law and of the State ("an earthly God") as a guarantor of that law. Maritain summarizes: this extremely abstract version of Natural law does not create a strong theoretical basis for the rights of the human person. It only

discredited these rights, encouraging people to think of them as divine in themselves and therefore these rights are not subject to any objective measure and are expressing absolute independence of the human subject and the so-called absolute right. But when people believed in "absolute right" and when facing throughout its limitations, they came to disappointment, skepticism and nihilism regarding the rights of the individual. Extensive distribution of such pessimism, Maritain says, was one of the warning signs of the cultural crisis as an element of European civilization. Maritain obviously has in mind the positivists' criticism of doctrine of Natural law, with which even J. Bentham made his debut, and then, independently of him, the representatives of the historical school of law (Bentham, 1843).

Despite the temporary victories over the theory of Natural law in the XIX century that positivism and historical school in Germany, or analytical jurisprudence Bentham-Austin in English-speaking countries acquired, they were not able to discredit completely the doctrine of Natural law. Already in the end of XIX and in early XX century the movement for "the revival of Natural law" had begun (Maritain referred to the works of C.J. Haynes (Haines, 1930) and others). A new appeal to Natural law in the second half of the XX century was quite understandable reaction of scientific thought to the onslaught of arguments of the positivism philosophy. A consequence of its invasion into the jurisprudence was a theoretical justification for the legitimacy of any value- and ethically- neutral authorities' solution as legal.

The response of supporters the doctrine of Natural law is becoming particularly sensitive and operative in the historical situations of the tightening of political regimes, when the government uses force resources without regard to the legal grounds, and is transforming into an authoritarian (totalitarian) system. The appropriate public interest in the concept of Natural law including "revival" of Natural law appears. The rational part of this concept goes into the sphere of moral consciousness, wherein is filled with common ethical imperatives with an irrational sensory content (the ideal of justice and goodness, the absolute value of the person) against the background of an abundance of historical facts manifestations of pluralism in the sense of *justice* and *good* in different people at different times. Every society settles down in his illusion of the existence of the universal ideal law in the image of "correct" law (adjusted to the historical period and its system of values), expressed in the form of inalienable natural rights, acquired by man by virtue of sufficient evidence of his birth. The very human nature acts as legitimizing basis of his natural rights. The peculiarity of the historical and socio-cultural context of Western Europe of the second half of the XX century is characterized by particularly keen perception of the value of human life. On the background of the victims of wars the idea of existence of natural and inalienable human rights (right to live by virtue of the fact of a person's birth and priceless newfound life) does not need the search by science or by disputes of theologians of a rational justification. The legitimized foundations of inalienable rights enclosed in the society are constantly at a gunpoint of external and internal military threats.

The process of "renaissance" of the idea of Natural law took place in the discussions all along the XX century (e.g., a discussion between H.L.A. Hart and Lon. L. Fuller), and continues even today (The Hart-Fuller debate in the twenty-first century, 2010.)

Probably the debate between proponents and opponents of the idea and sense of Natural law in the theory and philosophy of law will continue through the end of human civilization. However, under any circumstances, an anthropological component of the doctrine of natural law in the cultural space of civilization is the closest to the Western civilization even today, in the XXI century, maintaining continuity with doctrines and basic values the New Time (freedom and autonomy of the individual, private property). In addition, it meaningfully fit into the Western European tradition of jus, which opposes the Natural law to the positive law, and is expressed in aggregate of immutable principles and inalienable rights corresponding to human nature and independent from changing human institutions. This tradition is represented in the French Declaration and the Universal Declaration of Human Rights. Within the frames of the ideological antagonism "East-West" the principal foundations of Natural law were indispensable in differently oriented confrontation of nationalist, communist and capitalist doctrines in XX century. The renaissance of the trust in human rights is possible, according to Maritain, only on the basis of genuine philosophy. "This genuine philosophy of human rights is based on the idea of Natural law, which is considered within the ontological perspective and transmits through the core structures and needs the wisdom of the Creator to be present in the created nature" (Maritain, 1951).

Maritain rightly discerns the origins of the idea of Natural law in the ancient Greek and Christian thinking. Its appearance he sees in the chef-d'oeuvre of the great poets of antiquity. In Sophocles "Antigone", the Stoics and Cicero, in the great moralists of antiquity (obviously referring to Epictetus, Seneca and Marcus Aurelius). Christian philosopher Maritain sees special importance in the appeal to the Natural law of Apostle Paul: "For when Gentiles, who do not have the law, by nature, do what the law requires, they are a law to themselves, even though they do not have the law". (Rom. 2:14). This message was the impetus for the formation of the Christian doctrine of Natural law and the rights of the early Church Fathers, especially St. Augustine. Maritain believes that this teaching "at the most perfective aspect" was developed by St. Thomas Aquinas, Suarez and Francisco de Vitoria. Although "unfortunately, it had been formulated in the insufficiently clear terms so that its most profound traits soon ceased to be noticeable and taken into

consideration" (Maritain, 1951). Thus, it was not Grotius, but the ancient and medieval thinkers who long before have become genuine authors of the doctrine of natural law and the law. Grotius, according to Maritain, only distorted and assigned the wrong direction to the further development of this doctrine (Maritain, 1951; Lyubashits et al., 2015).

5. Natural law and natural human rights

Research aimed at cognition of the nature of law are mainly appearing just recently (Hittinger, 2002), but Maritain put to them his efforts already after the Second World War, in the late 1940s. According to Maritain, the (cognition) knowledge of the law has epistemological element (aspect). This knowledge is always blurred and having no obliging force of law until the time as it can be proclaimed by law. "And only insofar as it is cognized and expressed in postulates of practical reason, this natural right has the force of law" (Maritain, 1951). At the same time the prescriptions of Natural law are not open to the human mind in a ready abstract form (like geometric theorems) or by logic inference. At this point, the French philosopher follows the teachings of Thomas Aquinas. St. Thomas believed that human mind opens prescription of Natural law being driven not by rational knowledge but the tendency of human nature to the good. After the establishment of the internal principles of Natural law, all further arguments about the rights should be the logical conclusion from these principles. Maritain rejected apriorism in the characteristics of the original inclinations, which are intertwined with the unconscious mentality and are developing and die off during the formation of human consciousness. Judging from the findings of comparative cultural anthropology, historical knowledge deployment of Natural law and, accordingly, of law leads to diverse forms of its representation in moral life of a particular society. In the history of every society where the dynamic schemes of Natural law and natural rights are generated, the knowledge of this schemes leads to a more complex system of regulations in the form of prohibitions and permissions. For example, it is generally accepted that to deprive the life of a person is not the same thing as to take off the life of an animal; family group must be subject to certain established patterns of behavior; sex should be subject to certain restrictions; people should live according to the rules of communication and subject to certain restrictions. In conditions permitted either approved deformations of moral consciousness expressed in the inhumane treatment of other ethnic or social group within the ethnic group (when killing an enemy is a feat, the theft of the stranger has merit, punishment of slave is a duty, etc.) the dynamic schemes create preconditions for unification and universalization of Natural law and natural right. This happens through the recognition of the possibility, and then in the necessity to spread them from us to others by virtue of consciousness of some superior and transcendental instructions. Maritain rightly points out that the Natural law is an unwritten law. "As our knowledge of the Natural law is not a free conceptualization, but is the result of inference subordinated to essential inclinations of being, nature and reason, acting in person, to the extent that the unwritten law is evolving in accordance with the level of moral experience and self-reflection, and social experience, which people are able to reach in different periods of their history" (Maritain, 1951). This capacious description of Natural law and natural rights opens a perspective of comparative historical understanding. At the dawn of a theoretical reflection on the natural law, in the ancient and medieval times, it was paid more attention to the duties of man than to his rights. Maritain considers a shift from human obligations to human rights a great achievement of the philosophy of law of the XVIII century that became possible due to the development of moral and social experience. However, the shift in focus exclusively onto the rights is ideologically wrong, since the theory overlooks the duties of the person: "The true and comprehensive theory should pay attention to both the rights and the duties of a man that Natural law embodies" (Maritain, 1951). Following the judgment of Maritain, one could argue that the theory of Natural law should be focused on the dynamic balance of rights and obligations, showing the unity of freedom and responsibility of a man in political society.

Philosophical understanding of Natural law is a prerequisite for further research into the nature of human rights, the reasons of their structure and dynamics. "How could we understand human rights, if we did not have enough adequate understanding of the Natural law? The same Natural law that sets our most basic duties and, thanks to which every law is mandatory and is precisely the kind of rules that define for us our basic rights" (Maritain, 1951). According to Maritain, Natural law arises from the natural rules as a universal order, which is defined by the Creator of the Universe. Human relationships are part of the natural order of the universe and, therefore, ultimately, these relations must be balanced against with the Natural law. "... A person has the rights thanks to the Law belonging to God, who is pure Justice" (Maritain, 1951).

The fundamental requirement of the Natural law to establish justice is an imperative in cases when there is a gap in the positive law (legislation) and there is a need in a new legal rule - precedent. For the legitimization of the activities of international tribunals after World War II the universal values and ideals were needed. An example was the trial of Nazi war criminals at Nuremberg, including, for action to execution of the legal in terms of positive law, orders of command. In the opinion of Maritain, this event and discussions about it clearly demonstrated the failure of any other form of philosophizing about the law to justify human rights, in addition to the Thomistic "perennial philosophy". The central idea

of the legitimacy of the Nuremberg Court was the conviction in the existence of the rights that a person has in a natural way "the rights primary and superior with respect to the written law and the agreements between the governments, the rights that civil society should not grant the man, but to acknowledge and affirm as universally valuable and that any public necessity cannot force us to cancel or ignore even for a moment" (Maritain, 1951). Maritain claims that this idea in any way could not occur and could not get justification in the framework of legal positivism or in the framework of materialistic or idealistic the philosophy of law. The position of natural human rights seems to be archaic and illogical prejudice to representatives of these trends. They prefer to rely only on the *facts* (positivism), or only on the *nature* (materialism), or only on the *reason* (idealism), avoiding reliance on absolute human values, orientation to which underlies the genuine (i.e., within the meaning of Maritain, Thomist) philosophy. According to this philosophy, the right does not exist as long as there is no such set of order, coinciding with the God-given eternal law, in which the values - life, work and freedom - will not be guaranteed to every person, endowed with soul and free will. You cannot claim a right if you do not believe in that values. "If the statement of intrinsic value and dignity means nonsense, then the assertion of the natural rights of man means nonsense too" (Maritain, 1951).

In the concept of human rights Maritain not bypasses the problem of the relation of Natural and positive law. The error in rationalist philosophy of human rights, he said, was a treatment of positive law as a simple copy of the Natural law. It was assumed that the Natural law prescribed on behalf of the *nature* all that the positive law prescribed in the name of *society*. Supporters of rationalism abstracted from those areas of human relationships, about which Natural law either says nothing or is leaving them in legal limbo, due to their high dependence on changes in the socio-historical conditions and spontaneity of the human reason. For example, it is difficult to strictly define the limits and content of the right of nations (jus gentium), because it is intermediate between natural and positive law.

Maritain considers most appropriate judgment about the right of peoples, which suggested Thomas Aquinas (Summa thologiae, II - II, qu. 94). In Aquinas the right of peoples as a common law of civilization is different from the Natural law, as the right of peoples is known not through the intuitive tendency, as a Natural law but through the rational conceptualization and logical inference. In Aquinas jus gentium is clearly separated from the Natural law and is closely related to positive law, though it is derived from Natural law as conclusions of its basic principle. Jus gentium is the result of rational activity and by its form relates to the positive law, constitutes a legal order (not even necessarily formulated in the Code). And the content of jus gentium, as the common law of civilization, like Natural law deals with the rights and obligations as defined by basic principle - to strive for the good and to avoid evil in civilian life.

The positive law in the form of the housing of laws of acting of a given social group also deals with the rights and obligations arising from the first principle. But this connection is sporadic, because it is focused on patterns of behavior created by the mind and will of the people who establish the laws or customs of a particular society. The result is a variety and often the direct opposite between the legal norms valid in different societies.

Nevertheless, thanks to the Natural law, the right of peoples and the positive law enter into a legal consciousness of society, finding legitimate base and mandatory. They are an extension of Natural law. "The very Natural law requires: that what was left in limbo, was subsequently identified as the rights or obligations existing for all people and realized by them, not by learning but through inclination, by means of conceptual thinking (i.e. jus gentium or positive law) as a right or obligation" (Maritain, 1951). Transition over time from of natural law to positive law and to the right of peoples is only visible on the historic interval. However, the evolution of the appreciation of human rights results in their official legal form. Human rights to life, personal freedom, and others have a natural-legal nature and are already formalized in positive law at the level of all its various sectors.

Maritain asserts that the right to private ownership of material goods also applies to Natural law and jus gentium, as it is caused by natural right to use natural resources and is not contrary to the common good. At the same time, it provides the freedom of man in the community. Natural law determines the content of private property, and its specific forms recognized by the society, are determined by the positive law (Maritain, 1951). Soviet ideologists could not accept this Maritain's judgment because in that time the communist ideology and the practice within which the private property and entrepreneurship were considered as a crime.

The natural human right to life has many interpretations, but in conjunction with the jus gentium it is filled with clear content. An example of such content Maritain sees in nominated by US President F.D. Roosevelt's "Four Freedoms" - religious, political (to vote and have their political views), "freedom from poverty" and freedom from terror. All of them are included in the text of the "Universal Declaration of Human Rights", defining the content of the modern law of peoples and states, their responsibilities embodied in the positive law and imperative to the unconditional implementation.

Finally, the natural right of the people to self-government shall be implemented through secured by positive law and guaranteed by the state the possibility of using the citizens' right to free choice of legislators and senior government officials, representative bodies of self-government in a democratic society.

In the process of the modern integrative jurisprudence formation positive law appears as the embodiment of a multi-dimensional and universal Natural law, which includes the already registered human rights; the rights for self-government (regional importance); rights of the people; the rights of the nation (the preservation of their own identity and self-determination).

Natural rights are inalienable because they are based on *nature*, which human person is unable to lose under any circumstances. Some natural rights (to life, striving for happiness) are absolutely inalienable. But certain natural rights are restricted, as their use is unacceptable to the detriment of the common good, the public interest (for example, the right to association, to freedom of expression). Therefore, their inalienable character is relative, and they are implemented under the conditions of legitimate restriction. Due to existence of possible limitation for absolutely inalienable rights Maritain proposes to distinguish between possession of right (eligibility) and implementation of the right. The latter one is always related to the common good, while restrictions are dictated by the need to ensure justice. Maritain gives the example of a criminal who can be deprived justly the right to life, because "he has morally separated himself from the human community exactly in that is concerning the use of this fundamental and "inalienable" right, which the penalty imposed on him forbids him to implement" (Maritain, 1951). The declared absolute right to education is necessary for inclusion of person into the heritage of human culture and it is also absolutely inalienable. However, its implementation is deeply dependent on social and economic opportunities in every such historical periods of society, when the right gets in the conditions of collapse in social and economic institutions.

Maritain considers social revolution unacceptable and prefers evolutionary structural changes in society, adequate to the level of economic development of this particular society. He states that the main contradiction, which is found only by the philosophy of Natural law are in the fact: "the man has inalienable rights but he is deprived of the opportunity to demand justice for the implementation of some of these rights that is the result of some element of inhumanity that is present in the social structure in any period of time" (Maritain, 1951).

The methodological difference between possession of rights and its implementation creates and keeps up in the legal consciousness of society the acceptability criterion of just (legitimate) restrictions maintained by the authorities of only some of the rights in the presence of socially justifiable causes, circumstances and guarantees of non-infringement of the whole group of fundamental rights.

Maritain believes that this distinction also allows us to understand why "in certain periods of history it is useful renounce the implementation of certain rights, which we, nevertheless, continue to have" (Maritain, 1951). He was referring to the situation with a change in forms of private property in the process of economic transformation and, on a wider scale - some limitations of sovereignty of States in the international community.

Thus, the philosophy of human rights should recognize the inevitable conflict among the claimed provisions about inalienable human natural rights and their implementation by individuals in specific socio-economic conditions. The absolute nature of the right is permanently correlating with their relativity. Maritain draws attention to the peculiar people's "desire to exaggerate and to make the rights which we are aware of to acquire absolute, infinite, unbounded in any respect character, thereby obscuring themselves from any other right that might balance their" (Maritain, 1951).

Another type of collision in the subject of philosophy of law is established between "new" and "old" rights. Even R. von Jhering noted that any right is acquired through purposeful and more or less long struggle. Maritain saw in this thesis additional meaning: "In human history, none of the "new right"... was acknowledged without a struggle and without overcoming the rigid opposition of some "old" rights" (Maritain, 1951). At the time, in such a way the "new" rights to a fair wage, fixed working hours and the best working conditions have been approved within the context of the "old" rights to freedom of mutual agreement and private property. The "old" rights like the "sacred" right to private property were subjected to attacks by the "new" social rights since the beginning of the XIX century. When in the United States on the eve of the Civil War the law against fugitive slaves was toughened, assisting them or recognition of their rights and trespass on private property rights were treated as criminal.

Maritain admits that the "new" rights are developing not always for the better and sometimes turn out to be worse than the "old" rights. For example, in revolutionary France, the law of 1791 prohibited the attempt of workers to unionize and to stop work in the event of dissatisfaction with the amount of wages, as saw in such actions "encroachment on the freedom and the Declaration of Human Rights". The basis for the adoption of this law was the desire to prevent a return to the feudal system of corporations and their "old" rights.

In the contemporary epoch already other "new" rights are relevant, the rights about which there was no idea in previous historical periods, such as the rights of producers and consumers (Maritain, 1951). To this group of "new" rights Maritain also includes rights of experts, i.e. persons devoted themselves to intellectual work, and more generally - human rights of persons involved in the labor process. This is the right to work and free choice of profession; the right to the free formation of professional groups and unions; the right of workers to be recognized as socially mature subject; the right to participate in economic life and to take responsibility for it; the right of trade unions and other associations to

freedom and independence; the right to fair wages sufficient for the sustenance of the family; the right to be entitled to an allowance and unemployment insurance, social protection; initiation to the basic right, to the benefits of civilization, both material and spiritual, independent of personal income, but only on the capabilities of the social structure.

"All this requires first of all dignity, feeling of possession of human rights, which gives the worker a feeling of justice in his relations with the employer, the feeling that he acts as a mature person, not a child or servant. Here there is something essential, significantly exceeding problem of pure economic and social means as it is a moral fact, acting on a human in his spiritual depth" (Maritain, 1951). Thus, the question of the philosophical foundation of human rights is inevitably converted into social and practical level of the implementation of the "new" rights, which occurrence is due to the development of productive forces.

Maritain believes that the antagonism between the "old" and "new" human rights is greatly exaggerated by the struggle of ideologies and political systems. For the sake of social justice this antagonism must and really can be overcome. "The recognition of a distinct category of human rights is not the privilege of one school of ideas at the expense of others; to be a follower of Rousseau in order to recognize the rights of the individual it is now necessary not to a greater extent than to be a Marxist to recognize the economic and social rights" (Maritain, 1951). According to Maritain, the antagonisms between people are caused by the struggle for the establishment of the ladder of values that determines the degree of implementation of the specific structuration of various rights. Thus, the conflict between "old" and "new" rules is defined not only by their meaningful antipodes, but by the conflict between incompatible forms of political philosophy, recognizing each of these rights generally.

Experience in preparation of the "Universal Declaration of Human Rights" showed that the supporters of the liberal-individualist, communist and personalistic model of social structure can make similar lists (catalogs) of human rights. However, they have different interpretations of the law. "Everything depends on that supreme value, according to which these rights will be ordered and will limit each other. It was thanks to the hierarchy of values, with which we therefore agree, we define the way in which human rights, both economic and social, as well as the individual can ... proceed into the sphere of existence" (Maritain, 1951). Defenders of liberal-individualistic type of society see human rights in that human were free to do what he wants. Supporters of the Communist type of society they see them in the goal to "liberate" human labor, while subordinating him to economic community and to gain control over the history. Finally, proponents of personalistic type of society to which Maritain classed himself, tend to compound individual self-interest and human dignity and the common, truly human, moral and spiritual values, providing true freedom and autonomy of the individual in society.

The positions argued by Maritain acquired with time the status of axioms and principled priorities in the modern science of philosophy of law. But they are not fully implemented even in the practice of institutions of developed democracy in the West. In science they acquire a special significance for the new findings in the philosophical foundations of human rights theory, in the general theory of rights, updating legal values in EU law, in constitutional law of nation-states, in their legislative and judicial practice.

The philosophical and legal ideas and principles acquire even greater importance as a result of awareness of the idea of Maritain about the unity of values and interaction of ethics and law as the spiritual-value normative regulators. Accordingly, in the modern theory of law the prerequisites are emerged and the position of legal axiology (axiological theory of law) is strengthened: because all prominent concepts of value comprehension of rights have Natural law roots.

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