

THE METHODOLOGY OF RESEARCH OF ATYPICAL ELEMENTS OF THE FORM OF GOVERNMENT

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ABSTRACT

In domestic legal science is absent the theoretical understanding of what elements compose state government and how among them are expressed atypical ones, how they are functioning and what potentially destructive consequences for state government they can lead to. Methodology of their research includes 1) conceptual provisions on which the research is based; 2) methods in possession of subject - researcher; 3) tactics and strategy of research. Form of state government in general and emergence of atypical elements in it in particular is under the impact of multiple internal and external in relation to it factors. Special place in research of atypical elements of state government form is occupied by objective law that can impact at it both positively, initiation positive practices, and destructively, leading to aggregation of large number of defective standards. That's why atypical forms of state government can be divided into innovative and archaic (anachronisms). They can be expressed at different levels of state government form (doctrine, normative or legal-realizational). in its functions and signs, Form of state government of Russia also comprises several atypical elements that are bringing in it certain corrections. Atypical elements are legal result of course of complicated and controversial social-political-legal practices, and their research allows to understand in deep and exact manner, first, how functions and develops the state government, and second, what should be done for its strengthening and counteraction top destructive factors.

Keywords: *form of government, untypical elements, innovative elements, element-anachronism, disfunction of state government*

1.INTRODUCTION

In domestic legal science is absent the detailed theoretical understanding not only of what elements compose state government but also of how among them are expressed atypical ones, how they are functioning: develop and improve the state government or vice versa, make a negative impact on it, lead to its degradation, i.e. mechanism of emergence and functioning of atypical elements of form of state government is not disclosed neither in legal doctrine of law nor, of course, in any legislation sources. Multiple and quickly replacing each other or overlaying each other social-politic-legal processes lead to impregnation of cloth of state government if not a completely new institutes than such amendments that are correcting the development of statesmanship and thus need theoretical comprehension.

Both separate elements and form of state government of contemporary states in general are developing dynamically. At this very often such development has a destructive nature and leads to degradation of state government. In this connection we can say that on not always positive experience of these states [1; p. 326] should learn Russian legislators and government leaders and learn respective lessons in sphere of

state government, and problem of atypical elements of form of state government has for domestic law not only mere theoretic but also a completely sensible practical interest.

Within recent several years the mismatch of state government forms of any state to prevailing in the world ideas of its democracy (or typicality, standardness from point of view of separate institutions) was often used as a reason for establishment of uncharacteristic state institutes and models, including via not too peaceful methods. Since recent times such type of forces export of democracy became one of serious problems in sphere of international relations. That's why the accumulation of sufficient experience and knowledge about such conflict situations makes their quality analysis necessary. About this was speaking the President of Russia Vladimir Putin in his speech at plenary session of jubilee 70th session of UN General Assembly on September 28, 2015: "We all are different, and this should be regarded with respect. Nobody should adapt to one model of development, acknowledged by somebody as once and forever only one right... Export of social experiments, attempts to accelerate changes in one or another countries, based on their ideological settings, often led to tragical consequences, led not to progress but to degradation" [2].

2. MATERIALS AND METHODS.

Methodology of atypical elements of state government research includes: 1) conceptual provisions on which the research is based; 2) methods in possession of subject - researcher; 3) tactics and strategy of research. Let's consider the first element of methodology in more details. Research of atypical elements of state government form lead to the development of theoretical knowledge about the system (form) of state government in statics and dynamics (because the form of government is not only legal but also a factual; construction [3; P. 204]). IN statics it includes state and non-state institutes, subjects, ideology, resources and methods, values, regulators. And in majority of these elements can exist atypical expressions. In dynamics these elements can interact in process of law realization, extralegal or even criminal activity. At this one should see the differences between statics and dynamics in state government. Defects (destructive elements) on dynamic level (on level of "alive law", "alive constitution") are expressed both in form and in content and provoke social-legal conflicts [4; P. 25].

3. RESULTS.

On form of state government in general and on emergence of atypical elements in it in particular impact multiple factors that are in fact the most important precondition of such elements emergence [5; P. 79-80]. To the number of factors impacting at state government and emergence of atypical elements in it are related the following:

a) internal - drawbacks immanently inherent to form itself, strive to improve the state government, interaction of higher bodies of state power, national traditions and customs [6], religious and national composition of population, proportion of social and political forces and their conflict, level of culture, first of all legal, historical development, economic conditions, mentality of population, court practice;

b) external - impact of humanistic ideas and institutes, foreign experience, migration of constitutional ideas and legal transit [7; P. 532], spreading and perception of general human values in more and more states, information impact (information war of both internal and external destruction institutes and subjects).

Separately should be distinguished such factor as objective law. It is capable to positively and negatively, via law realization, to impact at state in general and its form of government. Negative role of the law is expressed in excessive number of defect standards (defects of law), for example, corruptiogenic standards, outdated standards, contradictions between standards of the law etc. Negative impact of

objective law at state government increase multiply when private and public subjects are actively and purposefully use defects of law in their activity.

At contemporary state positively (at certain conditions negatively too) impacts not all objective law, but inly those standards that are directly addressed to the state, i.e. strengthening its government system, structure of administrative-territorial arrangement of state bodies, state social-legal regime, competence of one or another state body, determine social-legal status of state serviceman, regulate relations between servicemen of different level and structural sub-division of state power.

Atypical forms of state government are divided into innovative and archaic (anachronisms). First ones are results of improvement of state government quality in accordance to dynamic of society and state development. In ideal such positive dynamics have to be initiated, effectively supported, and if necessary - to be protected and defended by state [8; P. 37]. Atypical elements-anachronisms are related to out-dating of separate elements of form of state government. Innovative and archaic atypical elements in structure of state government can perform both constructive and destructive functions.

Atypical forms of state government do not exist in contemporary world, all of them are classical (typical) in their basis, but have atypical elements in structure. Even state government of USSR represented classical republican form of government with a large number of atypical elements.

To determine existence of atypical element on example of one state is very difficult, more reasonable from methodological point of view to do it in result of research of large number of states and within more lengthy period of time [9; 20] (at this an important role is played by creatively comprehended and constructively applied in system methods: structurally-functional, system-structural, comparatively-legal [11], comparatively-historical [12; P. 11]) and already on example of this group of states, on basis of this empiric knowledge can be detected atypical elements in particular states. Mechanism of emergence of atypical elements-innovations include such stages as articulation, institutionalization, formalization in law, estimation of effectiveness, acceptance of decision about use or refusal from use, traditionalization (tolerance). For atypical elements-anachronisms is consists from such stages as reduction of use activity, refusal from use or continuation of use, estimation of effectivity, de-institutionalization, de-articulation.

4.CONCLUSIONS.

Atypical elements can be expressed at different levels of state government form (doctrine, normative or legal-realizational), in its functions and signs. So, for atypical elements can be related the existence of institute of non-citizens in Baltic states, existence in some states of rules on holding of state jobs by national-ethnic sign (so called "Lebanon model"), use of criminal methods of power, extremely wide authorities of presidents in some South American and African states or long history of wide application of state of emergency in state government [13; P. 1812], factual absence of limitations for re-election of presidents in Middle Asian republics, presence in some states of collegial head of state etc.

In case when atypical elements of form of state government reaches in it the critical amount and had a destructive nature, functioning of form of state government can be violated: emerges the disfunctionality of state government, i.e. impossibility of achievement os set goals and tasks in activity of subjects of state government. This is expressed in non-quality results of functioning of state government. These results are no according to existing resources and means; the main this is that they (results) are nor adequate to essential challenges of practice, destabilize vital activity if a man, social group, society, state [14; P. 126-127].

At analysis of legislation and social-politic-legal practices (including non-formal) in form of state government of the Russian Federation ca be detected several atypical elements, which, without changing

the form of state government with republican, are making certain corrections in it, in result of which many researchers are making the conclusion about "superpresidential" or other peculiar nature of Russian form of state government. In particular, the absence of detailed analysis of procedure of replacement of job of the President of the Russia Federation in case of simultaneous incapacity to perform duties by him and the Chairman of the Government of the Russian Federation. At this the post at the fact of the existing gap is to a certain degree complemented by provisions of Federal constitutional law "on the Government of the Russian Federation" (ch. 8) is not only not solving the problem by in aggregation with that fact that the structure of federal bodies of execution power is determined by orders of the President of Russia, creates even more legal uncertainty.

5.CONCLUSION

Stable effective and dynamically developing in accordance to legal procedures interaction of contemporary society and state is in many ways connected to institutional-organizational construction of system (form) of state government. It is not accidentally that all information attacks and even direct violent actions of terrorist organization, unfriendly states are finally directed at its erosion and destruction. This system is integrated into national and international practices, first of all at institutional-organizational level, and it under constant impact from their side. Atypical elements are legal result of complicated and controversial processes of practice. Research of atypical elements in the system of state government allows to deeply and accurately understand, first, how state government functions and develops, particularly its institutional-organization structure; second, what should be done for its strengthening and counteraction to destructive factors etc.

In spite of absence of theoretical developments on this question, participants of state government, legislators, government leaders, need a sufficiently developed quality theoretic knowledge about atypical elements that can emerge in form of state government, for understanding of their possible positive and negative impacts on society and state. Such knowledge should promote acceptance of proper political and management decision by government leaders. IN context of development of quality theoretical knowledge on atypical forms of state government a great significance for legal science and practice gains the formation of integral conceptual apparatus of researches phenomenon and complementing of conceptual apparatus of theory of state and law in general.

CONFLICT OF INTERESTS

Authors confirm that above provided data do not contain conflict of interests.

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