

## RUSSIA: FROM THE STATE OF CORPORATION TO THE STATE OF CREATION

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### ABSTRACT

The article substantiates the need for measures to overcome the threat of turning Russia into a state of corporation. The author believes that the unstable economic situation, caused by a decrease in hydrocarbon prices and the Western countries economic sanctions broke existed balance between the society and the state in Russia. That fact creates the risk of further reducing of the authority of civil society institutions. The state of creation is regarded as a promising model of forming new relationship between the people and the ruling elite on the basis of consensus and fairness in the Russian society. Modern democratic principles involve strengthening the role of civil society in the implementation and reorientation of public functions. In this sense, the state of creation helps to form cooperation with citizens. Unfortunately, such cooperation is not developed and wide spread. This weakness of the state policy minimizes its results at the federal and the regional levels as well as at the municipal level. That can be of fatal strategic importance for the democratic development of Russia.

**Keywords:** state of corporation, state of creation, civil society, law, policy, modernization

### INTRODUCTION

State power in Russia is characterized by a special status. Expansion of the state influence range is seen by the government as a factor of ensuring macroeconomic stability and budget balance. Modernization of public relations in Russia is accompanied by a clear intensification of the government. The increase in the proportion of the state involvement in economic management is regarded as a necessary anti-crisis measure. Obviously, the policy which the Russian government publicized for overcoming the consequences of the western countries sanctions by means of intensification of domestic resources usage will not only influence the domestic economy, but also determine our priorities in the development and modernization of social relations in the coming years. The term "modernization" quickly penetrated into all areas of human life, including our thinking, so that confirmed its general philosophical significance.

The unstable economic environment, caused by a decrease in hydrocarbon prices and the economic sanctions applied by the western countries has broken the usual atmosphere of welfare. At the same time the public authorities were not ready to make new behaviour standards and to protect old ideals imposed by the market chaos in the 1990s, 20th century. The crisis has shown that the institutional system of the Russian

state is riddled with defects and many representatives of regional and federal structures haven't drawn any conclusions.

The theory of legal regulation established under socialism can't explain the changes taking place in the political and legal system of Russia. Our country is in danger of transformation into a state of corporatism in which there is no civil society, and all its decorations are under strict state control - professional and artistic associations, non-profit and religious organizations. Social state cannot function with such line-up of forces.

In such conditions, only a state of creation can confront the threat of a state of corporatism. Using the authority and power of the public authorities, the administrative resource, a state of creation can fulfill the role of a powerful activator of public life, organize effective society management, ensure implementation of social obligations, creation of incentives for private sector development and business activity increasing.

Functions of the state belong just to it. The state of creation has no right to refuse from its functions, but it is obliged to implement them in order to achieve the goal. No one but the state must or can perform these functions, as well as the cases, in which the public participation is backed by law or a contract and derived from its social purpose or determined by social needs [1].

Everything else that is not included into the functional of the state, cannot be called its function, since it is the activity the state cannot do without at the present stage of legal-political modernization, as well as in the whole course of its historical development.

The philosophical meaning of the categories "form", "contents" and "activity" should be correctly understood in the scientific sense interpretation of the matter. Tasks and functions of the state activity are implemented by state agencies and officials through their actions. These actions are expressed by special forms of the state activity. Consequently, the form is objectified expression of the essence of the activities of agencies and officials who carry out state activities. Since tasks and functions of the state are implemented through the forms, then the success of the state activity depends on various forms usage. The forms are designed to ensure the most appropriate implementation of the state functions.

The variety of tasks and functions of the state leads to various forms of the state activities, which are backed by laws and other legal acts.

Not by chance the prominent Russian lawyer Alekseev S.S. noted that the existing legal forms are the means, the tools for the optimal social problems solving. [2]

The creative activity of the state is both an urgent need and substantial characteristic of the entire legal system. At the end of the twentieth century we observed the destruction of the state ownership monopoly accompanied by semi-legal process of privatization, the deterioration of the overall economic situation of the country that resulted in the decline of living standard of many people. Today the redistribution of property rights is being implemented and the state is evidently intervening in this process.

The nature of relations between the state and the civil society in Russia is significant nowadays that is explained by the deterioration of relations with the West and the inevitable transformations in domestic policy. Discussing the dialogue genesis between the state and the civil society over the recent twenty years, it should be emphasized that the causes of the apparent discrepancy are objective and subjective circumstances.

Probably, the objective causes may include a variety of factors, ranging from the foreign policy situation to the concrete life conditions of an individual, who feels increasing state pressure. It is not a secret that the subjective causes include individual psychological characteristics of people and their relationships, the current state of mind of individuals who are trying to achieve justice, that each of us understands in his / her own way.

Avrutin Y. E., the St. Petersburg lawyer, observed that legal guaranty of subjective rights does not necessarily mean their practical implementation. [3]

Moreover, the course of it is not a refusal of the citizen from the realization of his/her legitimate interest, but inactivity (if not the active opposition) of authorities. In such cases quite common throughout Russia, a cooperation of the state and the population, implying constructive dialogue and effective cooperation, is replaced by a conflict situation.

The ways to implement certain types of the state activity show not structural but functional differences between public authorities. The problem of improving the state activity has a special character. The problem solving, especially in crisis conditions, requires the general methodological scientific research to develop a common concept of public management and its legal components.

This may be a guarantee that the law in the case of political expediency is not combined with the arbitrariness, as it happened many times in our history. After all, according to Nietzsche F., arbitrary law is necessary, we do not have the traditional legal sense so we have to reconcile ourselves to arbitrary law, which shows the need for the law in general [4]. Some modern politicians maintain this view.

Policy, in contrast to a formal definition of law, is determined as the scope of actual relationships and interactions of individual, social communities, political institutions, and it creates structures, standards, relationships, political environment within which the strategy and tactics of development of society and state are determined.

Despite this, we fully share the position of the English lawyer Shaw M., who believes that law and policy should not be separated. They are in constant close cooperation. None of them can not diminish the importance of other [5].

Policy "materializes" in a standard component in the system of public institutions and forms, and, of course, political, economic, social and other structures involved in the governance process. We do not tend to exaggerate the capabilities of state activity. In a civilized state it is formed and implemented within the framework and under the influence of the absolute human values (freedom, equality, justice), i.e. within the limits and boundaries of the legal context of these values, and corresponding institutions and other forms.

Excessive politicization of the various lives aspects destructs and destabilizes society. It is especially dangerous for state and law. Historical experience clearly demonstrates that a relatively easy manipulation of the statehood base for the sake of

political ambitions and selfish interests eventually turns into a painful and lengthy return to general civilized principles, stability and balance in the life of society and state. Therefore, the policy source is a continuity factor and legal limits based on general civilized principles.

Civil society does not exist outside the state. However, while the state is diffusing into the Russian social structures, the boundary separating state and society is becoming increasingly illusory. As a result, civil society itself acquires a face of myth. No matter how hard some government politicians and "nationalized" media try to create the image of democratic institutions of civil society for the parliamentary parties, they increasingly acquire the rudiments of the Communist Party of the Soviet Union.

State of creation initiates the preconditions to create new relationships, overcome the crisis and stabilize the economic situation. The transformation of the nature of property relations inevitably entails the modification of legal regulation relations. State activity in a market economy cannot be implemented under the same legal forms and limits as before.

Therefore one of the tasks of the state of creation is to adopt political, socio-economic and legal systems to the new situation. Improvement of state activity should give the necessary dynamism and effectiveness to state activity to overcome the crisis, and become one of the determining factors in the development of democracy, civil society, legal state.

Revision of fundamental legal approaches to the relationship between the state and an individual, a citizen and the law has crucial importance. Obsolete ideological stereotypes still prevail in the public legal sense and that does not facilitate modern understanding of the state activity legal forms as a way to ensure the primacy of human rights in the sphere of public authority. Though this matter is not practically discussed in scientific circles today, there is no common opinion that gives us reason for our own understanding of it. New approaches to the assessment and development of state activity are of particular importance. In any state as well as in any science, there must be a basic methodological approach, a national idea, which is lost in Russia now.

Alekseev S. S. pointed that in Russia there is a severe phenomenon - the collapse of the law in its general civilized, high value. And it should be a great concern to the public. Because the collapse of law means that society loses one of the most important values of civilization which can bring it to a new stage of progress [6].

In this sad situation inefficiency of modern state activities has to be established. Attempts of the government to start active work to improve it are successfully blocked by the business bureaucracy usurped power in a number of regions and federal agencies of Russia.

The national anti-corruption plan has generated a great number of other plans, programs and activities developed at all levels of state and municipal government. But all these measures can unwittingly wreck a good general idea by lots of anti-corruption reporting. It is obvious that the state is unable cope with its responsibilities in the field of law enforcement, and its supervisory activity does not satisfy the philosophy of the reforms.

Therefore, the transition from the developing state to the state of creation should be carried out in a coordinated manner, basing on a single concept, considering their interdependence, though they differ in the tasks performed, and, accordingly, the nature of actions, methods, techniques, means of solving, as well as the orientation of legal procedures and the sequence of their usage.

Unfavorable general economic conditions forecast may be significantly aggravated by progressive negative processes. However, the mechanism of legal regulation requires a certain logical structure, algorithm of actions, their recurrence, functional relationship with other public entities of different branches and levels of government, aiming at the effective implementation of the tasks in all public bodies. The efforts of all the constituent elements of the legal regulation mechanism should be applied to achieve such results.

Having analyzed the existing approaches to the assessment of correlation of politics and law it becomes clear that so far the scientific community has not developed a unique idea of the matter research methodology. The changed economic, political and socio-cultural conditions inevitably cause the shift of emphasis from society interests on individual interests. This significantly affects the paradigm of social management, initiating the transformation of its objectives, content, technology. This also stimulates innovation processes that require comprehension and substantiation on the theoretical and methodological level.

The spread of the crisis is connected with the fact that Russian society didn't realize the extent of the danger caused by the expansion of uncontrolled market space. Public opinion on the importance of governance, strengthening the so-called "vertical of power" for a long time hadn't formed or formed arbitrarily in a distorted way till the socio-economic problems affected the interests of the active part of the population.

There are a lot of statements of politicians, heads of legislative and executive authorities, scientists, representatives of creative intelligentsia, which presented a worrying objective picture of the developing crisis in the country and paid attention to the need to take urgent measures to strengthen the government. But they failed to consolidate society to solve the problems.

Appreciating the benefits of free market and democratic principles, we should understand that the formation of civil society, real democracy, state of creation implies domination of the Constitution and law. A strong state of creation, corresponding to the modern nature and structure of society must have an effective methodology and the actual tools that allow to confront emerging threats.

In Russia, the legislator has established the necessary fundamentals to realize democratic legal principles. Now it is necessary to formulate a clear concept of nature and content of the creative activity of the state in modern conditions. It should have the best practices of legal regulation of the corresponding range of problems.

Public-legal reality in the Russian society is often artificially simplified, but the number of legal problems in the society does not reduce. The existing scientific information, unfortunately, does not provide a sufficient understanding of social processes and phenomena. In addition, the relevance of conducted research, which has a theoretical and applied focus, is enhanced by the fact that the public is more interested

not only in explaining the causal relationships or in forecasting future developments, but in the justification of acceptable way out of the situation. [7]

The state has not yet managed to mobilize society in the interests of effective protection against incipient confrontation with the West. Structural and personnel changes in the number of federal departments and some subjects of the Federation, attempts to minimize corruption do not mean a real change in the situation. Social problems for most people are not solved, but get worse. Any society, regardless of its degree of development, has disagreements, which affect the fundamental sides, the problems of public life.

The state of creation leads society to a new, higher and more effective level of development, and under certain conditions, can perform an integrative function, help to unite people, promote the most effective way out of the problem situation, concentrate the potential of public groups.

Not denying the importance of improving the legislation, we believe that the most accurate legal norms, as well as the most detailed legal regulation, will not succeed without effective public policies and civil society institutions. The law, acting as a legal symbol of power, is able to mobilize only the state structures, while good governance is a social and political matter. Traditional for our country support of law enforcement and the expansion of the repressive measures practice cannot provide an adequate response to the danger of the crisis.

Therefore, research in the field of the state activity improvement should go beyond an explanatory or predictive function and end with suggestion of real actions. The corresponding public policy aimed to optimize the management of the process under study should be a methodological tool for further state activity development.

Consideration of the legal model of the state of creation means that the improving methodology of its activity is built not only systematically, but also functionally. This gives us good reason to estimate the process efficiency in the framework of the political and legal systems. That means to diagnose the quality of collaboration of the state of creation and the citizens to modernize the society.

The state of creation is to provide stability and further modernization of the society. It regulates the aspirations of the society. Moreover the state activity is a reflection of the main values and expectations of the citizens which are the basis to maintain the balance in the state. Reconsideration of the fundamental legal approaches to the relationship between the state and the individual, the citizen and the law is of great importance for supporting the presented view.

The state activity modernization is not a strict regulation but provision of directed society development on the basis its own legal activity. New understanding of the principles of interaction between the theory and the practice of social management based on the priority of human purposes and values is one of the attributive signs of the state of creation.

## CONCLUSION

The relevance of the general theoretical studies of the state of creation is caused by several factors: social (change in state activity in conditions of the crisis and sanctions), theoretical (the need in a comprehensive analysis of the nature and content of the state activity forms); practical (the need to improve the efficiency of the state bodies activities in the crisis situation).

The new legal perspective cannot be based on a simple set of legal norms and rationality of the state of creation without the practice of legal communication guaranteed by the state activities. The prerequisite is public confidence in the public authorities. Without this confidence it is not possible to guarantee full public participation in efforts to overcome the negative trends. The state can contain significant internal resources, but actually be weak, unable to fulfill the mandatory scope of functions because of irrational usage of its forces, which are artificially restrained or falsely redistributed.

Such situation is possible where there are managerial errors, so-called "blind" space of authoritative vertical, where the "force of law" cannot do anything with the "law of force", where the administrative resource has overpowering domination. Therefore, the leading strategic line to develop the state of creation is to develop the system of active citizens impact on the state through the institutions of civil society.

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