METHODOLOGICAL BASIS OF LEGAL PERSONALITY OF THE STATE (CIVIL ASPECTS)

Anatoliy V Kostruba, Vasyl Stefanyk Precarpathian National University

ABSTRACT

Article deals with the investigation the legal nature of the state. It was found that the state is the allied unity of settled people provided with primary power of primacy. The essence of the state lies in creation of conditions for the development of the civil society, implementation of shared interests of members of society. The state is a means of social compromise of members of civil society. It appears not only as a form of provision of such social compromise, but also as an active and equal member of the relevant legal relations. The ability of the state to be an active participant in social communications configures its natural right that can and should be implemented. As a result, the subject gets legal opportunities for its activities and transformed into a legal person the nature of which is revealed through the signs of interest, will of the subject and its individual separation.

Since the state is a union of interests of persons united in the unified social organism for their support, the fact that the legal entity as a legal person synthesizes in itself not only characteristics peculiar to the corporation, but also characteristics peculiar to the state as a legal person is justified. Implementation of the civil capacity of the state is revealed through the institution of representation.

The justification of universal character of legal capacity of the state is given. It is proved that the subject of legal relations is not the specified one, the nature of relations in which it stands is also not specified. The volume right of an individual, who is granted with certain powers from the principal, is specified. The special capacity is not peculiar to the state as a legal person, but to a relevant government authority that implements its own competence, for which it has the rights and obligations, exercises the authority, including private-legal sphere.

Keywords: State, Legal Capacity, Capacity, Legal Person, Legal Entities, Government Authorities, Legal Personality.

INTRODUCTION

One of the modern problems of domestic legal science is the discourse of the private legal measurement of the nature of the state. The study of the nature of the state from the earliest times is the subject of the search for the humanities, including philosophy and presented in the treatises of Plato, Aristotle, Nicolas Machiavelli, Hugo Grotius, John Locke, Jean-Jacques Russo, Alexander Radishchev, Emmanuel Kant, Georg Hegel, Karl Marx, etc. Since then, despite the lack of unity in the views of scientists regarding its legal nature and sources of origin, the state is seen as a form of organization and functioning of political power.

At the end of the nineteenth century, bourgeois order is established in Europe. There is a transition to a capitalist socioeconomic formation with its complex infrastructure of industrial relations. The movement for expanding political and social rights is strengthening. As a result, it

receives its development pluralism of views on the essence of the state, formed the diversity of its theoretical and methodological foundations and conceptual categorical apparatus. However, the vector of the study of the essence of the state remained unchanged. Today it is in the wake of the general theoretical direction of its public-legal nature. In this context, the state is considered in the works of Onischenko, Petryshyn, Rabinovich, Skakun, Skrypnyk, Tymoshenko and others like that. However, in our opinion, the investigated, the determined role of the state is not exhausted.

At the present stage of development, in the state, in addition to political ones, there is a group of social phenomena that are of paramount importance in civil society. Interpersonal interaction integrates social connections, ensures the unity and harmonization of social structures in which the state is perceived as a subject of development of civil society. Therefore, the disclosure of the phenomenon of the state through the use of private legal instruments is a matter of scientific interest and is of vital importance at the present stage of the development of legal science in UkraiSne. A similar opinion is expressed by Professor Kuznetsov, who points out that "…Re-thinking of the essence and role of the state and the law, the ratio of these important institutions in modern society, the awareness of the need for qualitative changes in society itself, which will allow him to qualify as a civilian, make relevant research in this sense the phenomenon of civil law…" (Kuznetsova, 2014). And then "…It is precisely because of the institutes, structures and mechanisms of civil law as the rights of the private in society that those principles, ideas and principles that make this society civil…" (Kuznetsova, 2014). The achievement of the above is ensured by a transdisciplinary approach to the clarification of the legal nature of the state, which is characterized by the transfer of established cognitive schemes to another plane of scientific traditions, which are the subject of research and the purpose of this scientific publication.

The State is a Subject of Public Relations

The solution to this task opens to us the position of the dualistic theory of the state of Jellinek (1908), who considers the legal structure of the state not only from the point of view of legal science, but also the position of sociology.

Scientist denies the objective nature of the state, explores it as a phenomenon of subjective consciousness. The state, in his opinion, is not a universal concept and belongs both to the sphere of the essential and to the sphere of the proper. Hence the polysystem approach to understanding the state: sociological and legal. The state is a legal category, the content of which is disclosed through social.

According to the first approach, the state is considered as the sum of social relations between people in the plane of individual consciousness. According to Jellinek (1908): "…The state is provided with the primary authority of the rule of allied unity of settled people. The natural individual volitional acts of these people are transcendental to the union unity. Individual acts that are a means of expressing this unity depart from persons who generate and attribute to union unity. Persons, who are deprived of their own will, since they create such a will, become the instrument of this will, that is, the organs of the whole. If the synthesis of the human mass in the target unity is logically inevitable, it is no less logical that the will of the body is the will of the union unity…" (Jellinek, 1908).

Scientist changes the vector in the understanding of the class nature of the state towards sociocentrism. Civil society as a self-organized system should not feel the influence of the state, not due to its own expression of will. The essence of the state, according to Jellinek (1908), is to create conditions for the development of civil society, in the implementation of the solidary interests of members of society. The state is a means of social compromise of members of civil society.

It is wise that, in a sociological context, the state cannot be an objective abstraction whose existentialism is not conditioned by the activity of the community. Civil society is in the constant interaction of its members among themselves. The conflict of interests of its members is a factor in the development of society through the presence of dissipative self-organization.

In turn, with the help of the legal criterion of theory, Jellinek (1908), we get rid of its excessive politicization; we give the state a functional character of the means of realizing its social essence.

The state is considered through a set of features due to its social nature. Substrate concept of the state is objective social phenomena that occur in the civilian environment. Such a design allows us to consider the state in another social progression. The state has no organizing role. It does not serve as the foundation of civil society. The state is an instrument for the formation and proper development of such a society. The indicated convincingly indicates that the state has a derivative value from the will of the individual. It is an artificial formation, the emergence of which is due to the realization of the social interests of individuals or groups of individuals.

Consequently, the state is a legal form and a legal means for ensuring the interest of civil society, which is carried out through its structural self-organization on a cultural basis.

Thus, according to Jellinek (1908), the legal concept of the state is revealed through the philosophical category of "proper", which defines the gnosis of the state through the ontological modality of such interdisciplinary categories as an object, subject and activity. It should be noted that in his time a similar position was occupied by Alekseev (1919). In work, "Essays on the general theory of the state. The basic preconditions and hypotheses of the state science" The scientist notes that the idea of defining the concept of state with the help of a legal categorical apparatus is revealed through the realization of its three possibilities in society. Hence, the state may be regarded as the object of law, as a legal relationship, a legal entity or a special subject of law. At one time, Hegel proposed to consider the state even as legal consciousness. "…The state, the philosopher noted, is the reality of a moral idea a moral spirit as an obvious substantive will, which thinks and knows itself, fulfils what it knows and because it knows it. The state as the reality of the substantive will, which is expressed in the general special self-consciousness, is in itself, for itself reasonable…" (Hegel, 1990).

The object as an ontological category of philosophy is a real or imaginary reality, which is regarded as something external in relation to a person and becomes the subject of its theoretical and practical activity. The existence of an object implies the presence of the subject, which he (object) opposes.

In view of the above, the consideration of the state as an object implies the presence of a certain subject, as well as the implementation of an active form of efforts aimed at such an object. This approach is characteristic of patrimonial theories of the origin of the state (Aquinas, Gallier, etc.), according to which the state is the property of the monarch.

By perceiving the state as an activity, we will oppose the private interests of its persons public, who receive their priority. In this case, the state is considered as a legal relationship

between the authorities and subordinates. Such relations are of a purely public-law nature, with the aim of ensuring the political existence of the state.

The above position does not take into account the social nature of the state as a union of persons, united by the general purpose, which is achieved by compromise equal. The state acts not only as a form of ensuring such a social compromise, but also as an active and equal participant in the relevant legal relations. The state becomes a bearer of substantive-practical activity and knowledge, the source of the activity that is directed at the object through various forms of its own activities (Konstantinov, 1970).

In this case, the active activity of the state becomes a condition by which one or another fragment of objective reality acts as an object of this activity. That is, from the standpoint of philosophy, the state is the subject (carrier) of certain substantive activity the subject of public relations.

Is the state, in addition to the public, the subject of legal relations as well? This is a matter for further scientific discussion.

The State as a Subject of Law

The modern civilist doctrine inherited from the Marxist-Leninist theory of civil law a positivist vision of the institution of legal personality. It is based on the priority of the legal form of social content. The subject of law is a data that arises from the law and in accordance with the law. In addition, its provisions are based on the fact that the subject of law is not an objective legal reality, which is due to the social nature of the phenomenon, but a normatively defined category, the existence of which in legal relationships is determined by the will of the ruling class within a certain economic formation.

Thus, the scientist of the Soviet period of the development of domestic legal science Mickiewicz at one time noted that the recognition of a person or organization of a subject of Soviet law is due to the spread of such a person or the organization of the actions of Soviet laws. "…The Constitution of the USSR, various legislative acts providing for the legal status of citizens, state and non-governmental organizations, already by virtue of their actions, regardless of the participation of a person or organization in specific legal relationships, generates the quality of legal personality for citizens and organizations. Every subject of law, by virtue of the very act of the law or, as is often said, "directly from the law", That is, regardless of participation in one or another legal relationship has a certain set of rights and responsibilities..." (Mickiewicz, 1962). Krasavchikov (2005), considering legal personality, notes that in the most generalized form, its social content is the social freedom and commitment of a person in society and in society. At the same time, stresses the scientist, not every freedom and not every social obligation is the content of civil law. Some of them in general have no legal colour (shape). Krasavchikov (2005) clearly emphasizes the general thesis of the socialist theory of law that legally recognized freedom in the state exists only in the form of a law.

The politically ruling class (his interests) dictates what political, economic, organizational and other freedoms can be used by members of society, social groups or over the whole classes, which the duty relies on them before society (state). Because of this, freedom, in the opinion of the ruling class and the corresponding social debt finds its recognition, consolidation or denial in the legal acts of the state expressing the will of the ruling class. Legal personality as a specific social ability of citizens and organizations to be the subject of civil legal relations is one of the types of civil law, which is established by the state in the legal norms of the boundaries of a

legally possible or necessary way of action of persons (Krasavchikov, 2005). The recognition of a person as a subject of law arises as a result of the extension of the law to her.

I am convinced that the important role in shaping the approach to understanding the nature of the subject from the standpoint of legal positivism, at a certain stage of development of civilized thought, had the ideas of vulgar materialism. It is based on the perception of objective reality exclusively as the form of the existence of matter, rejecting the specifics of consciousness. Thus, the simplification of the perception of the content of many categories in civilized matter, for example, led to an attempt to explain the legal nature of the legal entity through the theory of the collective (Venediktov), the theory of the director (Tolstoy) and the theory of target property (Sukhanov) And so on. This approach is false. The essence of legal personality is revealed in the ability of a person to be an active participant in social communications and not in their normative enshrined. This ability of the person configures her natural right, which can and must be realized. This right does not depend on the will of the legislator. In this case, the right becomes a measure of the guaranteed possibility of own realization of the person in relations with others. As a result, the subject receives legal opportunities for his activities.

Unfortunately, the philosophical understanding of the subject reveals its legal essence only in general terms, as the form of its own attitude towards the subject of activity. The perception of this gives us a theoretical justification of the appointment of Emperor Caligula by his senator of an Inquisitor's horse. However, the subject is not solely a physical reality. This is an abstract order. It’s a priori is an active means of communication in the social environment. This reality represents the diffusion of such features and properties of the subject, which ensure its functionality in the objective reality of law. Such functionality is provided by a sign of interest, the will of the subject and his individual isolation.

Similarly, "... the right exists not to carry out the idea of an abstract legal will, but in order to serve the interests, needs, goals of the turnover ..." (Joffe, 2000) and the subject seeks to secure his own interest through his activities. Being an indirect natural right interest includes the desire to meet the needs of the individual as a reflection of the degree of individual freedom, which does not have the appropriate physical form of expression.

The etymological content of the word "interest" includes:

- Attention to someone, something, someone's interest, something; Curiosity, admiration.
- Weight and value.
- What is most interesting to anybody, which is the content of someone's thoughts and concerns?
- Desire, needs.
- That which is in favour of someone for some reason, corresponds to someone's aspirations, needs; Benefit, benefit, profit.

In the general sociological sense, the category of "interest" is understood as an objectively existing and subjectively perceived social need, as a motive, an incentive, an agent, an incentive to act; In psychology as the attitude of the individual to the subject, as something worthy of it for something that attracts (Decision of the Constitutional Court of Ukraine #18-рп/2004). Thus, the interest specifies the subject of law through the formation of his ability to self-actualization.

In spite of the numerous criticisms of scholars (Iering, Petrazhitsky, Trubetskoy, Ioffe) of the volitional theory of law (Savinya, Vinescheid), we note that the will as a phenomenon of management by the subject of his own activity and behaviour is key to the purpose and concentration of internal efforts to achieve them.

It is indisputable that the study of this question should be deduced from a purely psychological understanding of freedom in the context of the subject-activity concept of S. Rubinstein, who considered freedom as the ability by which the mind makes choices of its goals in actions and manages the efforts to fulfil their aspirations (Rubinshtein, 1997). This approach allows us to avoid clever criticism of the critics in the context of the lack of will of young people and legal entities.

In this case, the will is interpreted as a product of external determination, the nature of which is understood not only physiologically, psychologically or socially. The will of the immanent subject as a carrier of the subject-practical activity and is characterized by the appropriate opportunity of its activity, directed at the object of research, which is generated by a certain interest. Thus, freedom is the essence of the idea of rational freedom. It is always present to the subject. But the possibility of its manifestation (expression of will) may belong to third parties acting in the interests of the subject.

The sign of individual secrecy is a set of characteristic features of a person, his uniqueness, which ensures appropriate subjective individualization. It is a certain attribute series that is revealed through personal data about the individual, by which the individual is different from the others. The subject of law is a form of communicative reflection.

The indicated signs of the subject are a condition of his legal personality as a form of realization of legal capacity and capacity. Through the above, under the subject of law we understand the social reality (person), the content and nature of which is not limited to physical traits, but may also have an abstract image of its existence. For the subject of law is important not the external form. It is always considered as a set of features that characterize such a property of the subject, through which it ensures its influence on the effectiveness of legal regulation of social relations. The given approach gives the subject of law the opportunity in polyvariative forms of his existence, to ensure the operation of the mechanism of legal regulation (as an individual, legal entity, state, as well as a territorial community).

Thus, the subject of law is a person who is the bearer of subjective rights and legal obligations as a result of individualized volitional activity in ensuring the realization of their own interest in social relations.

The State as a Kind of Legal Entity

Civil law refers to the subjects of law the physical and legal person. In the context of the foregoing, it is also indisputable to attribute to the subjects of law of the state. The legal structure of the state, through the combination of its features, eclectically consists of its corresponding identifying elements, which collectively characterize the state as a source directed to the object, activity. Traditionally, such signs include sovereignty, the presence of the population and territory, the legal form of state self-organization (in the public-law interpretation, it is reduced to the presence of a coercive apparatus or control apparatus) (Skokun, 2013; Petrishin et al., 2014).

However, this position is not universal. Thus, Yermoshin on the other hand, generally denies the existence of the state as a subject of law. At the same time, the scientist argues that the

actual entity is not so much a state that retains the value of a means of developing social relations, as its bodies are endowed with appropriate capacity (Yermoshin, 2005). On the basis of the above author as subjects of law investigates exclusively individuals and legal entities. An explanation of this position is that during the Soviet period, the state acted in civilian circulation through numerous state-owned enterprises and institutions that were recognized as legal entities.

But, returning to the classification of subjects of civil law, we note that an individual, on the criterion of autonomy of his will, is primary. Other entities, from the given circle, are derived from the will of the individual. Realization of the interest of an individual can be achieved by individual actions of the subject, by combining individuals or a combination of capital, which invariably leads to the creation of an independent legal structure of a quasi-physical person. Ensuring its functioning is achieved through fiction through the establishment of quasi-independent freedom, determination of subjective interest, consolidation of other external identifying features, the provision of necessary material and financial resources, configures a new subject of law. The goal, being objectively predetermined, in the mind of an individual, acts as a factor determining the activity of the created legal construct, the basis of which is the principle quod universitatis est, noon est singulorum .

At one time, Bratus noted that unlike a physical person, the necessary prerequisite or condition for the emergence of a legal entity is conscious voluntary activity of people – bodies of state power, a certain group or, finally, one physical person (Bratus, 1947). Legal relations, which connect a certain or uncertain circle of persons in the presence of their common goal, common interests and consequently the same subjective civil rights and legal obligations, separated from other subjects, acquire a new quality: The legal person becomes a new subject of law – a legal entity. A legal entity is the bearer of new subjective rights that are different from the subjective rights of the people who created the organization (Plenyuk, 2017).

Since the state is an alliance of the interests of individuals united in a single social organism for the purpose of providing them, it is logical that a legal entity synthesizes not only the signs of the corporations present, but also the features that are present to the state as a subject of law. The main theses of this theory were proposed by Zhilin in the early 20th century (Zhilin, 1916).

Appropriate theoretical positions have received their own empirical embodiment in the legislation of many countries of the world. In particular, in Georgia, Article 24 of the Civil Code provides that the state and local self-government units participate in civil law relations, as well as legal entities of private law (Civil Code of Georgia).

At the same time, we cannot overlook the fact that the state has fundamental differences from other civil law subjects. Participation of the state in civil legal relations has specific features that are not typical for individuals and legal entities as independent entities. Such specificity is primarily due to the public and legal nature of the state, embodied in such features as: the existence of a sovereign territory and its population, the public nature of the organization of power and administration, the exclusive right of the state to rule-making, the presence of its own state symbols and the sanction of the use of a reasonable measure of violence To other people.

On the other hand, the status of the subject of civil law is obtained by the state without an administrative procedure of its legitimation in civilian circulation.

Thirdly, the state as a subject of civil law is deprived of the private legal possibility of its liquidation. Establishment and termination of state activity is transcendental. The above is done through the mechanism of international legal recognition of the state and is outside the civil legal instruments.

Fourthly, the state acquires ownership of the property in a non-typical, for private law, method. Such a method involves: a) the emergence of ownership of a thing outside the agreed upon will of the previous owner (the acquisition of ownership of the owner of immovable property (Article 335 of the Civil Code of Ukraine), the acquisition of title to stale property, the purchase of land plots, other objects of real estate that they are located, private property for public needs or their forced alienation from the motives of social necessity (Article 350 of the Civil Code of Ukraine), the redeeming of monuments of cultural heritage (Article 352 of the Civil Code of Ukraine), requisition (Article 353 of the Civil Code of Ukraine) (Civic Code of Ukraine, 2003), nationalization (Article 235 of the Civil Code of the Russian Federation); confiscation (Article 354 of the Civil Code of Ukraine); b) presumption of the right of ownership of the state to property upon acquisition of rights to it by another person (treasure (Article 343 of the Civil Code of Ukraine).

Finally, the state owns property regardless of its capacity (property that is excluded from civilian turnover and property, which is limited to it).

The above features, which have a public-law nature, do not exclude the features that are present in the legal entity (organizational unity, property separation, independent property liability, participation in civilian circulation on its own behalf), which does not give certainty to assert the distinction, in its legal nature, State from a legal entity, its independent place in the system of subjects of civil law of Ukraine.

Forms of State Participation in Civil Legal Relations

At the same time it is impossible to ignore the fact that the essence of the state is to provide public interest. The indicated allows asserting the optional nature of private-law relations in which the state accepts participation.

In addition, the optional participation of the state in private legal relations is conditioned by the fact that she has no opportunity to participate in civil legal relations independently. The state implements its own civilian capacity through a system of public authorities that have their own public legal personality to realize the civil society interests enshrined in the Constitution of Ukraine. Such public authorities are endowed by the state with their own civil legal personality.

The supporters of this point of view are Academician Krupchan. The scientist considers the state differentiated: as a general subject of management, which is a set of state authorities that carry out various types of public activities (Krupchan, 2012) not limited to public domain. By exercising various types of public-legal activity, the state provides each body of public authority with its own competence. At the same time, such a body shall be provided with appropriate public-law powers corresponding to its public-law competence. Appropriate powers are objectively necessary for the implementation of its competence in the field of public administration. Thus, the state enters into civil legal relations to meet its needs in the goods, works and services necessary for solving the most important socio-economic problems, maintaining the defence capability of the country and its security, creating and maintaining at the appropriate level state material reserves, realization of state and interstate Targeted programs, ensuring functioning of state bodies, which are kept at the expense of the State budget of Ukraine, etc. In this way, the public authority receives fragmentary functional civilian capacity of the state as a subject of civil law.

Pleniuk drew attention to this problem, noting that "...today it is necessary to state the unresolved issue of the conflict between the current legislation on the question of the civil status

of not only the state but also its bodies of state power. After all, in the regulations of some normative legal acts it refers to the state in civil relations (item 1 of Article 170 of the Civil Code of Ukraine), in others the central bodies of executive power are recognized as legal entities. Hence the unresolved issue, in which cases and in what legal relationships in the person of their bodies acts the state itself as a subject of legal relations and in what legal relationships directly act of the state authorities (Plenyuk, 2017). It is the form of state participation in civil legal relations, given the lack of its unified private legal personification, constitutes one of the problem theories of civil law.

The solution to this issue is to be solved through an analysis of another feature of the state, which is most fully manifested in civil legal relations: the polystyrene organization of its functioning. The meaning of this feature is considered in the transformation of the corresponding volume of civil capacity of the state into the structure of civilian capacity of the state authority. Such a model of relations between the state and legal entities of public law fully fits into the construction of a civil law institute of "necessary" representation, the purpose of which is to compensate for the natural defect of the capacity of the principal. The natural deficiency of the civil legal capacity of the state is the impossibility of realizing subjective civil rights and the fulfilment of legal obligations of the state in a way different from that established for the fulfilment of its public-law functions, that is, solely through the state authorities. But in this case there is a reasonable question of the correlation of the legal personality of the state and the legal personality of the relevant state authority as a legal entity of public law, the amount of which coincides with the volume of legal capacity and capacity of the state as a subject of law.

If the problem of civil-legal capacity of the state is disclosed through the institution of representation and the nature of public authorities, the realization of the civilian capacity of the state has an angle of view on this issue.

In the doctrine of civil law, there are different approaches to the issue of the legal capacity of the state. According to the first position (Krasivshikov, Braginsky & Vitryansky) the legal capacity of the state is universal. The specified circumstance finds itself at some points, in particular, that the state may be the owner of any property right. In addition, the state as a subject has the features that are present to all subjects of law. The state is equally obliged to the party to the contract, like an individual, etc. (Soviet Civil Law, 1972).

Supporters of another point of view (Sukhanov, 2000) consider it special. The logic of the authors lies in the fact that the state, as well as other public-law education created not for participation in civil law, which has an auxiliary character in relation to the main activity. The state may have exclusive rights and obligations that are consistent with the purpose of its activities. Thus, Sukhanov concludes that the legal capacity of the state has a special character (Sukhanov, 2000).

According to the third (Sergeev and Tolstoy) the legal capacity of the state is a target (functional). The state participates in civilian traffic in order to make public authorities more effective. This determines the essence of its legal capacity. It cannot be universal, because the state has no opportunity to assume certain rights and obligations. It (the legal capacity) of the state cannot have a special character. The state has its own authority in establishing its volume. Thus, in the opinion of scientists, the nature of legal capacity is determined by the state's goal of ensuring the development of civil society, which indicates its functional character (Tolstoy & Sergeev, 1996).

In resolving the controversy of approaches to the nature of the legal personality of the state should proceed from the fact that the special character of the legal capacity of the state

should provide for the existence of a higher order, which ensures the presence of something universal (universal) within which such a special one is formed. Such in the theory of law does not exist. Therefore, the understanding of the special nature of the legal capacity of the state is methodologically erroneous; because it is not clear what kind of general such special exists. The state itself is the order in which a special one is formed. That is, the legal capacity of the state is universal.

Secondly, the state's aim is to ensure the interests of civil society. For this purpose, the state enters into a sufficiently wide circle of relations with other subjects of law, including those in which it prevails in front of them (public law), as well as to those in which the state has equal rights with other sub Cites (private-law). At the same time, ensuring the private-law interests of individuals does not constitute the purpose of the state's activity, is derived from public-law interests, the realization of which is provided, including through the use of private legal instruments. But this does not specify the state as a subject of law, on the contrary, indicates the multidirectional functioning of this legal structure, the universal nature of its activities in ensuring the stated goal (Kuznetsova & Kokhanovskaya, 2016).

Specified is not the subject of legal relationships, nor is the nature of the relations in which he acts. Specifics are the scope of the rights of the person who is given certain powers from the principal. Such a feature is determined by the subject of the person's activity. Thus, we can assert that the special legal capacity is not present to the state as a subject of law, but to the relevant state authority exercising its own competence, for which it is granted the rights and responsibilities for which the authority exercises, including in private the right sphere. Taking into account that the bodies of state power operate with the purpose, defined functions of the state and within the limits of their competence, the established by laws their legal capacity has a purposeful (functional) character. This legal capacity is special in terms of the subject, which created the appropriate state authority, i.e., the state. In other words, the special legal capacity is the target (functional).

Thus, the civil capacity of the state does not exhaust the legal capacity created by it bodies of state power. Similarly, the civilian capacity of the said authorities does not narrow the corresponding capacity of the state. The legal capacity of the state as a subject of law and capacity of a state body has a different content.

The problem of conflict between the legal capacity of the state and the relevant authorities is solved by establishing and appropriate regulatory consolidation of its volume by sectoral character. In the sphere of labour, partly budgetary or civil legal relations, the state body has its own legal capacity. At the same time, the state in the field of criminal or administrative legal relations has a general legal capacity that is absent from the appropriate state authority.

CONCLUSION

The above leads to the conclusion that the legal nature of the state is revealed in ensuring the conditions for the development of civil society, in the implementation of the solidarity interests of its members.

The state is a form of social compromise. She acts as an active and equal participant in social communications. This ability of the state creates a natural right to be realized.

Since the state is a union of interests of persons united in a single social organism for the purpose of providing them, it is justified that the legal entity as a subject of law synthesizes not

only the signs of the corporations present, but also the features that are present to the state as a sub Object of law.

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