

ON THE DEFINITION OF «AUTHORITY» IN JURISPRUDENCE

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The article examines the evolution of the concept of «state authority» in pre-revolutionary, Soviet and contemporary foreign and domestic jurisprudence, determined the general and specific features of the concept.

Device state, the state, the mechanism of the state, state agency, public authority.

In Art. 3 of the Constitution of Ukraine is stipulated that a person's life and health, honor and dignity, inviolability and security are declared in Ukraine as the highest social value. Human rights and freedoms and their guarantees determine the essence and orientation of the state [1]. This requires creation of the respective effective system of government in the state. Thereby, research of theoretical definition of «authority» in jurisprudence is topical. In the literature, this category refers ambiguously.

Analysis of recent publications and sources shows that some issues of the evolution of the authority is actively developing both foreign and domestic experts. Theoretical, legal and constitutional aspects of the authority are highlighted in the works of Ukrainian researchers V. Averyanov, S. Husaryeva, V. Kopyeychykova, O. Obolensky, V. Shapovalov et al. However, the notion «authority» needs more attention of researchers. Thus, the aim of this study is to analyze the evolution of the notion «state authority» in jurisprudence.

As V. Shapovalov noticed notion of public authority acquired items in

the XIX century, when on the basis of spreading the ideas of sovereignty and separation of powers developed imagination of the state as a means of exercising power that belongs to the people. This means (mechanism) was seen as which had objectively complex organization, elements of which are public bodies [2, p. 25–29].

Pre-revolutionary scientist O.Zhylin, noted that public authority – is, in fact, «a technical term to describe certain relations in political union, formed this alliance with existing law and order» [3, p. 84]. According to him, the authorities are called to act on behalf of the state, expressing its will. F.Kokoshkin affirmed that «the authority of the State can be called only one that performs certain legal acts that are manifestation of the will of the state of law, or at least are involved in the commission of such acts» [4, p. 209].

In Soviet times, the problems of government has been the area of interest of many researchers. Most soviet scientists noted that not every public institution is a government agency. However, the notion of «public authority» was opposed to the notion of «government agency», state mechanism was seen as a system of different organs of the state – especially public authorities and public administration, the judiciary and the prosecution service. Only councils at all levels were considered as proper state authorities [5, p. 14]. However, gradually this situation was refuted and all the authorities gradually began been recognized as the public authorities. Hence the term «state authority» moved into instruments of national jurisprudence burdened with uncertainty.

In independent Ukraine continued attention of researchers to studying of the legal principles of the State. In the work of local scientists O.Skakyn public authority is defined as part of the state apparatus – a group of people or one person with a legally defined state-government jurisdiction" [6, p. 91].

M.Zwick, V.Tkachenko, A. Petrishin believe that the authority of the

state - is «structurally separated, internally organized groups of civil servants, which has the competence to perform certain powerfully-management functions and tasks of the state» [7, p. 119].

In the law encyclopedia authority is described as «element of state mechanism organized by the structure , vested with discretionary powers and the necessary material bases for task» [8, p. 286].

Most modern Russian and Ukrainian authors continue soviet tradition by defining the state authorities through a set of characteristics that distinguish them from other social formations.

Russian researcher V.Hropanyuk understands the term "state authority" component of the mechanism of the state, which has its own structure, clearly defined authority to manage and interact with other parts of the state mechanism [9, p. 105].

A.Vyenyherov defines the authority of the state as an element that is part of the state apparatus and has the necessary competence to carry out its functions [10, p. 161].

Particularly noteworthy is position of V.Chirkina that defines the most common features of authority: performance of public functions, including regulatory, coordination and other forms of administrative activity in a particular sector, industry or region; the legal status of the parent authority of state authority; the right management decisions within the Constitution and law; complex internal structure, the unit body often consists of units (other organs) and are always civil servants according to the staffing of the body, state funding, responsibility and accountability to public authority that created the agency. The very same government agency as V.Chirkin defines is an independent unit of government that is endowed with state-of authority required for partial implementation (according to the profile of its work) features some branches of government [11, p. 84–85.].

P.Rabinovich defines state authorities as which it has been given by the state discretionary powers in relation to other participants in public life

and material resources necessary to carry out these responsibilities. Ruling powers of authority lies in state granting opportunities to establish formal and binding rules of conduct of general or individual nature (legal services) and to demand, enforce them [12, p. 58]

Ukrainian researcher M. Volyanskiy describes government agency as aimed at the specific public functions regulated by the relevant legal provisions activity and the relationship between man united by common idea or group of people, acts which are perceived by the society as state [13, p. 32–36].

In the book on the theory of state and law, edited by V. Kopeychikov, the authority of the state - is structured and organized directly by the people or by the state civil service staff (or Councils Deputies), which (body) has the power of the state, provides state-organizational, administrative, judicial and other functions according to its destination [14, p.88]. Authority of the state – a person or structured group of persons acting on behalf of the State and endowed with authority and state authority, including the right to apply the tools of state coercion and implement state-organizational, administrative, judicial and other functions according to its destination [15, p.105].

S.Bobrovnyk defines the authority of both collective and individual structural units of the state system, which has regulatory authority assigned, accepts compulsory solutions, ensuring their implementation, including enforcement agents [16, p. 160].

Domestic scholars S.Husaryev, A.Oleinik, A.Slyusarenko note that the authority of the state - is structurally organized groups of civil servants (or one employee) who are endowed with the necessary powers and means formed legally for specific tasks and functions of the state [17, p. 81].

O.Obolensky provides definition of «public authority» as organizational and legal institution practical implementation of competence

as a set of tasks, functions and powers on the subject of reference established by the Constitution and laws of Ukraine [18, p. 234].

Thus, in our opinion, appropriate and reasonable is V.Aver'yanov's assertion whereby the authority of this concept can be interpreted more broadly than the concept of public authority. If the status of a public authority may be specified in regulations, adopted, of course, based on the so-called status law, the status of public authority is determined solely by the Constitution and (or) the laws of Ukraine. Thus, public authorities may be considered a form of government that has the highest level of legal status [18, p. 52–53].

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