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THE PROBLEM OF THE INTERRELATION OF THE POLITICAL POWER AND LAW IN THE TRANSITIVE SOCIETIES

The problem of the interrelation of the political power and law is one of the key one in the philosophy of law and one of the most complex in the society practice as without its solving it is impossible the formation of the legal state in Ukraine and other transitional states. It is well known that interrelation of the political power and law is quite paradoxical one. From one side, law cannot exist without power as it is only the state power by its nature is capable to provide rigorous and timely realization of the legal rules and principles with the help of their law enforcement authorities and institutions, from the other side, the power is the antipode of law. Power- as it is stressed by the well-known Russian philosopher of law S. Alexeev - especially - it is the political and state power which makes «law by law»; at the same time it is the phenomenon which to some extent is incompatible with it, the phenomenon that acts as to relation to law in the form of the confrontational and sometimes even as acutely hostile factor. The sources of this political power hostility to law is rooted in a deep contradiction of the power as being the necessary element of the people life organization, control of the society, the power at the same time has at its disposal such an immanent qualities which in the process of the affirmation and consolidation of the power can convert it into a self-sufficient and authoritarian power. This imperious power is capable to reduce the role of law, convert it into the power «maid» and by this actually creating the «unlawful» reality.

The especially actuality has the problem of the interrelation of the political power and law in the transitive society. It is connected with that fact that during the process of the society transformation it is taking place the violation of its equilibrium state that cause a need for conversion of the society main spheres in order to

achieve the new ordering. To the most important constitutional conversions providing restoring of balance of the social system and between its subsystems one can relate changes in spheres of policy, law, economic, spiritual life which in the self organizational social systems taking place by such a way to provide the most effective functioning of various parts of these subsystems and the social system as a whole.

With the aim of the termination of the unjustified great concentration of the political power and turn it out into the self sufficient power, the society has to create the certain political and-legal institutions : separation of powers, separation of the state and municipal power, holding open and democratic elections etc. But the way to the harmonious interrelation between the state and power is not short and easy.

It is necessary to recognize that on the way to the harmonization of the political power and law in the transitional society there are a lot of problems and negative factors. Among such negative factors are - realization of the reforms in the conditions of the permanent crisis; growth of the shadow economy share in combination with economic activity; criminalization of the society; omnipotence of the power and lawlessness of the population; persistent and widespread legal nihilism; absence of any significant experience of will, self-government, democracy, constitutionalism, political and legal culture ;subordinated state of the society in its relations with having no restriction and uncontrolled power etc. To the problems and negative factors which resist to the harmonization of the political power and law one can add a number of other ones: absence of the effective mechanism of realization of the new rule of laws, necessary number of the well trained legislators in order to perform the legal reform, preference in some cases during its implementation of narrow departmental, clannish or even criminal interests etc.

Successful harmonization of the political power and law is impossible without solving of these problems, removing of negative factors and also without creation of the real conditions for the establishment of the legal state in Ukraine. Such conditions include the following: solving of the problem of the increase of the effectiveness of the executive power bodies activity including local government bodies; carrying out

of the real administrative reform; implementation of further reform of the court power bodies; achievement of the high level of the political and legal consciousness of people; humanization of the people relations ;creation and development of the alternative concerning the state social structures(cultural, scientific, religious ones etc.) for the purpose of widening of the direct democracy sphere; restriction of the state intervention in the economic sphere; conducting of the legal reform with the aim of the creation of the single internally deprived of contradiction legislation and the whole number of others.

The important condition for the harmonization of the political power and law in the transitive society is also the formation of the civil society. In the modern interpretation the civil society is the society with well - developed cultural, legal and political relations between its members which does not depend from the state but interacts with it ,it is society of citizens with high social, economic, political, moral and cultural status, which creates together with the state well- developed legal relations. Whereby in the framework of this compatibility the state has the obligation to provide conditions for the normal functioning of the civil society and the civil society acts as a counterbalance against the state in order to prevent the violation by it of its main obligations and observance of law. The main quality characteristics of the civil society are: openness, pluralism, plasticity, high level of organization , possibility of the vertical and horizontal mobility and availability of the optimal composition of the inverse social ties and the whole number of others. It is achievement of the defined beforehand significance of these quality characteristics is evidence of the completion of transformation, that is, transition from the totalitarianism to democracy.

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