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## **CONTEMPORARY SCIENCE ABOUT THE ESSENCE OF SOCIAL AND LEGAL STATE, PROBLEMS AND PERSPECTIVE OF ITS DEVELOPMENT IN UKRAINE**

The study and learning of the theoretical principles of our research gives an opportunity to understand the process of the formation of law and social state. We focus on special features of its existence in the modern period more widely, specifically in Ukraine. The analysis of this knowledge and principles makes the basis to define a clear estimate of the present social and legal status of our country. It helps to outline problems, find solutions and, consequently, develop theoretical substantiation of development prospects.

The legal state is a product of new time. This concept was unknown in ancient times or in the period of the Middle Ages. Although, according to some lawyers, the idea of legal state goes back to ancient society. The search for more perfect and simple forms of life was associated with the idea of the legal state.

For example, Plato stands at the beginnings of the concept of the legal state. He emphasized in his work "Laws" that state is only where laws prevail [5, c. 247-311].

The term «legal state» entered into scientific circulation in the early 19<sup>th</sup> century. The research of this question has gained considerable scope in most European countries at the end of the 19<sup>th</sup> century. «Various aspects of the legal state have been actively researched in pre-revolutionary Ukraine and Russia by many scientists such as B. Kistyakovsky, S. Dnestryansky, M. Dragomanov, M. Korkunov and others. The idea of legal state in Ukraine has been reviving and beginning to develop actively, since the Soviet Union fell into decay in the second half of the 1980s» [9, c. 36].

Each of the thinkers and lawyers identified certain features that distinguished or, on the contrary, summarized the understanding of the legal state. Worth mentioning is the classification of Rabinovich [6, c. 9]:

- 1) Socially significant (physical):
  - rule of law in all spheres of public life;
  - securing fundamental rights by the constitution and other laws;
  - regulating relations between the individual and the state on the basis of the principle: "a person is allowed to do anything that is not forbidden by law explicitly";
  - equality of law for all and equality for all before the law;
  - mutual responsibility of the individual and the state;

- high level of legal culture of all members of society;
- 2) Structural organizational (formal):
- legal protection of the person;
  - division of power into branches: legislative, executive and judicial;
  - accountability of state power to society, limited sphere of its activity by the right and vital public interests;
  - the independence of the court and its high position in public and public life as a fundamental guarantee of human rights;
  - steady and prevalent enforcement of laws and regulations by all participants in public life, especially those who are endowed with state-power powers.

The legal state can only exist in a democratic society, where the power of the majority guarantees the respect for rights of minority.

“However, not only the legal but also the social form is distinguishing for the modern democratic state. The legal state is focused on the protecting human rights from the state restrictions and non-interference with the life of civil society. Whereas the social state provides an active state policy aimed at ensuring high social standards [9, c. 38].”

So, the processes of formation of a democratic, legal and social state are interconnected.

The idea of social state was being formed from the late 19<sup>th</sup> to early 20<sup>th</sup> centuries. As you see it happened later than the appearance of the idea of legal state.

The state was named social in the Constitution of Germany for the first time in 1949 [2]. One way or another, the principle of social state is developed in the constitutions of France, Italy, Portugal, Turkey, Spain, Greece, the Netherlands, Denmark, Sweden, Japan and other countries.

Among the basic elements of the social state [1, c. 136]:

- the required subsistence minimum;
- social equality;
- social welfare;
- increasing of overall welfare.

The social state provides its functions by evolving social programs intended to ensure a fair redistribution of income, promote charitable activities, influence on the pricing processes, and eliminate the monopoly in production and trade by means of the budget and taxation.

To fulfill its functions effectively a social state and a legal state requires a balanced economy, an effective legal system and a reliable social foundation based on the civil society.

The Constitution of Ukraine of year 1996 states that Ukraine is a democratic, legal and social state [3, c. 4]. But, unfortunately, it proclaims not real but the desired status of the state. Only now the legal preconditions for the development of the “perfect type” state have been created in Ukraine. It is a complicated and long process.

To build a legal state in Ukraine first and foremost the civil society is to be formed, where [10, c. 55]:

1. free and comprehensive development of each individual and society is ensured, citizens and the state must act as equal partners;
2. diverse, independent, democratic public institutions (political parties, trade unions, cooperatives, etc.) are functioning;
3. freedom of speech and information is ensured, there is a diversity of ideological and cultural life of citizens;
4. public control over the activities of state authority and the officials; citizens influence on the formation and implementation of public policy through democratic institutions;
5. the level of general and legal culture of citizens, their legal consciousness, as well as the awareness of the need to balance personal interests with the interests of society and the state constantly are increased

The concept of the legal state is an integral part of the concept of the social state in many countries, so the formation of a real legal state principally depends on the level of social and economic development of the country, the accumulation of goods, which would enable effective social and economic policy, ensuring the social and economic rights of citizens.

The incapacity of the state to provide effective social guarantees, to create conditions for a sufficient standard of living for its citizens, has a negative impact on the population's support of public policy, decreases the level of their law-abiding qualities and respect for the law.

For example, the most serious problems of Ukraine include unemployment, imperfection of health care and pension systems, housing problems, corruption of the management apparatus, high commodity prices and the effects of inflation. The current state of our state is also complicated by the situation in the East.

Of course, the government is taking some measures to overcome this situation, but the lion's share still depends on the level of our civil society and its attitude to reform.

That's why the process of the formation of our "ideal" is slower than in Poland, for example. Poland, unlike Ukraine, did not suffer from such rigid totalitarian conditions. In particular, their democratic traditions were not as trampled on the ground as ours [4, c. 6].

When we consider about the prospects of Ukraine's development on the way to a social legal state, we should not be resorted to "neither extreme political or legal pessimism nor often nationally colored non-critical optimism" [8, c. 8]. Dr. K. Patrich, Chief Economic Advisor to the United Nations Development Program, said that "the fact that Ukraine is making real steps towards the implementation of the principles of the social legal state, which are manifested in the Government's development of a social budget and planning to allocate considerable funds to the social sphere, nevertheless, it gives reason to be optimistic about Ukraine's prospects" [7,c. 48].

So, we analyzed and compared different types of sources such as: regulatory and constitutional sources, scientific works of other researchers, the opinions of

some scientists. To conclude despite all the existing problems that are on the way to the formation of a social and legal state, Ukraine is holding the right course for its construction: democratic reforms.

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