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## **THEORETICAL-LEGAL ASPECTS OF A RIGHT OF NATIONS' SELF-DETERMINATION**

Among recognized right for the peoples, there is a right of self-determination. It is possible to determine this possibility as a real right to decide their own legal status, their present, and future, more else it may mean the formation of another country by their own will. On the one hand, this right is given to the people according to the general principles of International Public Law. On the other hand, its implementation may be really just according to an order accepted by the international community. Otherwise, it may violate one more imperative principle of International Law that is territorial integrity and inviolability of its borders. It is quite important to understand its content because nowadays, for example, because of the situation with the Crimean Autonomous Republic, the misunderstanding of this principle leads to conflicts between states.

The right of the peoples to self-determination in constitutional and international law is the right of the peoples (nations) to determine the form of their state existence as part of another state or as a separate state. In addition to the separation, a significant number of self-determination opportunities from the complete abandonment of some special rights to self-government, autonomy or various forms of cultural isolation is meant here [1].

Also in the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights dated December 16, 1966 (in both covenants it is Article 1), it is stated that all peoples have the right to self-determination. On the basis of this right, they freely establish their political status and freely ensure their economic, social and cultural development. Article 3, paragraph 1, of the Covenants says that all States participating in this Covenant, including those responsible for the management of non-self-governing and trusted territories, must, in accordance with the provisions of the Charter of the United Nations, promote the exercise of the right to self-determination and respect these rights [2].

The Declaration on Principles of International Law of October 24, 1970 states that by virtue of the principle of equality and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine their political status without external interference and to exercise their economic, social and cultural development, and each state is obligated to respect this right in accordance with the provisions of the Charter.

The same Declaration states that the means of exercising the right to self-determination may be “the creation of a sovereign and independent state, the free admission to, or association with, an independent state, or the establishment of another political status” [3].

At the same time, it is noted that the provisions of this principle should not be construed as authorizing or encouraging any actions that could lead to the dismemberment, partial or total violation of the territorial integrity or political unity of sovereign and independent states [4].

In order to gain the status of peoples’ struggling for self-determination and to be recognized as a subject of international law, a nation has to meet the following criteria:

- has to know and indicate the territory in which it involves the organization of its state;
- military formations have to be placed on the territory of the state;
- has to have a political center or organization recognized as having a close connection with the population of the country and to which the mentioned military units will be a subject;
- has to be recognized in a certain way by international structures [5, p. 81].

At the same time, recognition of a state makes real condition for implementation of its functions that may be determined as the social appointment of law, as well as the main directions of its influence on social relations[6, p. 16].

Although the recognition institution is a purely voluntary act of a state that is not regulated by international law, and there is no recognition obligation, but the problem of obtaining international legal personality is closely connected with it. According to Professor M.O. Baimuratov, recognition is a unilateral voluntary act of a state in which it expressly or indirectly declares that it considers another state as a subject of international law and intends to maintain official relations with it or that the authorities consider that has been established unconstitutional in the state or in part of its territory, sufficiently effective to act in the interstate relations as a representative of this state or the population of the territory [5, p. 103].

It is possible to admit that the self-determination of nations foresees recognition of a new country by other states. If such an act has been made according to the rules of the international community, so a self-determined nation will get its own territorially separated country. At the same time, if a mentioned above act was made with violation of the mentioned rules id est with violation of national domestic legislation that in most of the cases is a criminal offence, such a nation would be judged by the international community and would not be recognized by it as a sovereign state.

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## **THEORETICAL-LEGAL ASPECTS OF A MECHANISM OF A STATE**

Nowadays efficiency of any state in the world depends on a list of requirements. Highly constructed and strong in its power state's mechanism is one of them. At the same time, in the period of world changes and global social transformations its concept determination is still topical. A structure of a mechanism of countries is the same but the functions, tasks and even common aim of its elements may be different. It is always important to investigate those issues with the purpose of scientific opening in jurisprudence and prediction of the state's future development.

The practical realization of the tasks of the state implies the functioning of a specially formed mechanism for this, consisting of state bodies, which are united into a multi-sectoral hierarchical system - the state apparatus, and other state organizations. The mechanism of the state is its attribute, reflects the institutional aspect of statehood. This is based on an understanding of the essence and content of statehood at an angle the view of an institutional approach, the main feature of which is that the state is interpreted primarily as a mechanism (apparatus) of power and governance in society [1, p. 122].

According to O. Skakun, a mechanism of a state is an integral hierarchical system of state bodies, that make state power, and also public institutions,