

STATE SUPPORT: CONSTITUTIONAL FIXING IN FOREIGN COUNTRIES

Aleksej N. Nifanov¹, Andrey V. Sushkov², Abdurahman A. Shahbanov³, Vasilij A. Zajcev⁴, Elnur E. Veliev⁵
^{1,2,3}Belgorod State University, 85, Pobedy Street, Belgorod, the Belgorod region, 308015, Russia, ⁴I.D. Putilin Belgorod Law Institute of the Ministry of Internal Affairs of the Russian Federation, 71 Gorky St., Belgorod, 308024, Russia, ⁵State University of management, 99 Ryazanskiy Prospekt, Moscow, 109542, Russia.
E-mail: ¹asia@prescopus.com, ²michael.l@prescopus.com, ³peter.seliverstov@prescopus.com, ⁵editor@prescopus.com, ⁵nif@list.ru

Article History: Received on 25th July 2019, Revised on 31st August 2019, Published on 03rd October 2019

Abstract

Purpose: Taking into account the domestic experience, the present study was aimed at carrying out a comparative analysis of the constitutions of foreign countries in order to identify the norms related to the state support in them.

Methodology: The present study was carried out based on a dialectical approach to investigate the legal phenomena and processes, using general scientific (system, logical, analysis and synthesis) and private scientific methods.

Result: The findings of this study revealed the opportunity for the organization of various recipients of the declared support; and identification of alternative approaches to consolidation of the constitutional laws regarding the state support.

Applications: This research can be used for universities and students in politic.

Novelty/Originality: In this research, the model of constitutional fixing in foreign countries is presented in a comprehensive and complete manner.

Keywords: *State Support, Constitutions, Provision, Guarantees, Unprotected Categories of Population, Traditions.*

INTRODUCTION

Constitutions of modern states are distinguished not only by the fact that they reflect the diverse subjective rights of the individual in their texts, but also in terms of the legal means included in their texts guaranteeing and securing the rights of individuals [Jack Donnelly, 2013; 3, p. 3682-3685; Walter Kälin, e al. 2009]. It is believed that the notion of state support deserves special attention, which is considered as one of the specific security legal resources addressed to a limited list of people, statuses, states, etc. [Nifanov and Sushkov, 2016, p. 11-115; Muyambiri & Chabaefe, 2018].

The experience of the Russian Federation demonstrates that the Basic Law in the chapter on the constitutional system has secured state support in relation to the family, motherhood, fatherhood, and childhood, the disabled and senior citizens (part 2 of article 7). Thus, at the state-constitutive level, a certain list of recipients of such support is presented. It is noteworthy that in Russian Constitution, state support has only appeared in one specified norm. According to part 5 of Article 43, the Russian Federation is obliged to support various forms of education and self-education. Of course, in this case the verb "support" is considered to be interpreted identically with guaranteeing, rendering assistance. But due to the fact that there is no legal definition regarding the notion of state support in Russia, the following information presented in this part of the study was taken into account as a type state support [Jean-Yves, 1995, p. 391-415; Kolodeznikov & Kolodeznikova, 2016].

Taking into account the experience of the Russian Federation, it is considered to be expedient for referring to the wording of the constitutions of foreign countries for the purpose of conducting a comparative analysis. It is believed that the presence of some historical community is an argument in favor of research attention, with respect to the countries in Eastern and Central Europe. And also, it is considered to be expedient for paying attention to experience of the states in Western Europe regarding the constitutional laws on state support [Fernández, et al. 2018-12; Losilkina, e al. 2018].

RESEARCH METHODOLOGY

The present study was carried out based on a dialectical approach to investigate the legal phenomena and processes, using general scientific (system, logical, analysis and synthesis) and private scientific methods. The latter include formal -legal, linguistic -legal, comparative-legal, collectively used to identify the institutions governing state support. The focus group consisted of European countries; texts related to the constitutions of countries [Baroughi & ZAREI, 2013; Jenaabadi & Khosropour, 2014].

RESULTS AND DISCUSSION

The results of the analysis regarding the constitutions of the countries in Eastern and Central Europe and formalization of laws on state support in them showed that the studied laws did not consist the basic laws of countries including Albania, Bulgaria, Bosnia and Herzegovina, Macedonia, Slovenia, Croatia, the Czech Republic, and Estonia. Therefore, the remaining constitutional norms were discussed in the following [Story, J. \(1858\)](#).

In Article 110 of the Latvian Constitution, the state is obliged to protect and support the marriage, as a union established between a man and a woman, as well as family, and the rights of parents and children.

The constitutional provisions of Lithuania were found to be more diverse. According to Article 39 of the Constitution of Lithuania, the state is obliged to support the families raising children at home, providing them support in the manner prescribed by law.

Culture and science were defined as the addressee of state support in the Lithuanian Constitution (Article 42).

The Lithuanian state is obliged to provide support for national communities (Art. 45), socially beneficial economic efforts and initiatives (Art. 46), and local governments (Art. 120).

In Article 7 of the Romanian Constitution entitled "Romanians living abroad", there is fixed state support for strengthening ties with Romanians living outside the country [Hix, S. \(2013\)](#).

Part 5 of Article 29 of the Romanian Constitution reflects that religious cults shall be autonomous from the state and shall enjoy support from it, including the promotion of religious assistance in the army, hospitals, prisons, shelters, and orphanages. Probably, as a result of the border neighborhood and common historical development, a similar norm has appeared in the Constitution of Moldova [Beard, C. A. \(2012\)](#).

Original Part 2 of Article 58 enshrines the obligation of public authorities to provide Advocate of the People needing the necessary support in the exercise of their powers.

Similar to the Article 7 of the Constitution of Romania, the Constitution of Slovakia formalized the provision indicating that the Slovak Republic is obliged to support national consciousness and cultural identity of the Slovaks living abroad, as well as supporting their organizations established to achieve this goal and to maintain their links with the homeland.

According to Part 2 of Article 55, the Slovak Republic is obliged to protect and support economic competition.

Numerous languages have existed on state support in the Constitution of Hungary. Namely, Article D determines the main points of the agreement, according to which Hungary should be responsible for fate of the Hungarians living outside its borders and should continue to support their efforts in order to preserve their Hungarian culture.

In Part 2 of Art., the main points of the agreement are fixed by the following wording "Hungary supports the birth of children" [Thayer, J. B. \(1893\)](#).

In Part 3 of Art., the IX text in the Constitution of Hungary enshrined the state support at the expense of state funds for scientific and artistic freedom of the Hungarian Academy of Sciences, Hungarian Academy of Arts and higher education institutions, ensuring their institutional autonomy for the responsible management of income and assets of state institutions.

Based on Part 4 of Article XVIII, Hungary is obliged to support an integrated state pension system designed based on social solidarity and the functioning of voluntary social institutions.

In Part 2 of Article XXIX, Hungary is obliged to support a voluntary reservist system for national defense.

In the Polish Constitution, support is not connected with the state, but it is connected with the public authorities. Fragmentary similar wording was found in the Constitution of Romania.

So, according to Article 68 of the Constitution of Poland, public authorities are obliged to support the development of physical culture, especially among children and young people.

In Article 74, it is stipulated that public authorities are obliged to support the actions of citizens aimed at protecting and improving state of the environment.

According to Article 75 of the Constitution of the Republic of Poland, public authorities are obliged to support development of social construction, as well as actions of citizens aimed at acquiring their own housing.

The results of a comparative analysis showed that state support in the constitutions of Eastern and Central European countries is associated with the following areas:

- Marriage, family, rights of parents and children (Latvia);
- Culture and Science (Hungary, Lithuania);
- National communities, socially useful economic efforts and initiatives (Lithuania);
- Strengthening ties with compatriots living outside the country (Hungary, Romania, Slovakia);
- The duties of public authorities to provide Advocate of the People needing the necessary support in the exercise of their powers (Romania);
- Economic competition (Slovakia);
- A pension system designed based on social solidarity and functioning of voluntary social institutions (Hungary);
- Voluntary reservist system for national defense (Hungary) [Yoo, J. \(2011\)](#).

- Development of physical culture, especially among children and young people (Poland);
- Actions of citizens aimed at protecting and improving the state of the environment (Poland).

to the results of the analysis of constitutional formulations that reinforce state support in Western Europe showed that the Constitutional Acts of Great Britain, Basic Laws of the Grand Duchy of Luxembourg, Malta, Principality of Monaco, the Austrian Republic, Principality of Andorra, Belgium, Norwegian Kingdom, San Marino, France, and Sweden (Kingdom of Sweden) did not consist the desired formulations at all.

Therefore, the remaining constitutional provisions were discussed to draw the following conclusions.

A very brief rule on state support is included in the Constitution of the Danish Kingdom. In the p. 4 I of its Constitution, it is determined that the Evangelical Lutheran Church is the official church of Denmark and as such it enjoys the support by the state.

The content of article 62 of the Constitution of the Republic of Iceland is similar to the rule mentioned above [Wright, S. \(2010\)](#).

The norms of the Constitution of Spain are substantially addressed to a greater number of recipients. It's part 3 of Article 16, it is determined that public authorities must take into account the religious beliefs of Spanish society and maintain the cooperation resulting from this relationship with the Catholic Church and other denominations.

It is believed that this provision has objectively appeared at the constitutional level of this state. Despite the fact that in Spain church is independent of the state, but religion has been considered as one of the most controversial aspects of life and attitude of the Spaniards to [Rosset, P. \(2009\)](#).

In Part 2 of Article 51 of the Constitution of Spain, it is determined that the public authorities must contribute to the dissemination of information and necessary knowledge for consumers and people entitled to use, supporting their organizations and considering issues influencing the interests of consumers in accordance with conditions established by law.

It should be noted that similar to provisions in the Constitutions of Romania and Poland, the wording “power” (“public power”) is also used, but there is no wording as “the state “in the Constitutions of Spain and Finland (as shown below) [Kauzlarich, D., Matthews, R. A., & Miller, W. J. \(2001\)](#).

Limited to specific addressees and number of individuals, the provision h. 4 of Article 6 of the Basic Law of Federal Republic of Germany enshrined the right of every mother to receive the protection and support by the state.

In the Constitution of the Italian Republic, only one article is devoted to the formalization of support from the Republic, which is concerned with international organizations and agreements aimed at securing and streamlining labor rights (Article 35).

Article 19 “The Right to Social Security” is the only provision of the Constitution of Finland is regarding the state support, either for various categories of population and subjective rights. According to this, the authorities should also support efforts of everyone in building their own homes.

In the Greek Constitution, state support is associated with student statuses and political associations. In part 4 of Article 16, it is determined that the state is obliged to provide support for distinguished students, as well as assisting students who need help or special protection in accordance with their abilities. Part 5 of this article refers to financial state support for higher education institutions that have the status of legal entities under public law and are fully self-governing.

According to Part 2 of Article 29 of the Constitution of Greece, the law may regulate matters relating to financial state support of the parties.

In the Constitution of Ireland, the list of recipients of state support is also expanded to include not only a subjective right (even natural) but also certain categories of the population, as well as economic sectors.

According to Part 3 of Article 40, the state recognizes right to life of the unborn; the equal right to live for the mother is also guaranteed in this regard and, as far as possible, there is protection and support in relation to this right.

Article 45 of the Constitution of Ireland guaranteed state support for private initiatives in industry and commerce, sector, if necessary.

In part 4.1 of this article, it is determined that the state is also obliged to participate in supporting the weak, widowed, orphans and the elderly, if necessary.

Norms of the Constitution of Principality of Liechtenstein are addressed to separate social and economic branches.

According to Article 17 of the Constitution of Principality of Liechtenstein, training, and education is supported and promoted by the state.

Based on Article 20, in order to improve the purchasing power of the people and promote their economic interests, the state will encourage and support activities in the sectors of both mountainous and lowland agriculture, trade, and industry. It is believed that this rule is mediated by the fact that agriculture sector in the Principality of Liechtenstein is characterized by a parcel, i.e. predominance of small plots of land. It is clear that mechanization is difficult in such conditions. As a rule, while maintaining their allotment, family members work in industry, serve tourists, and etc.

According to Article 26, the state should support and promote insurance systems for the sick, elderly, and disabled people as well as people who lost their properties in the fire accident.

Certain categories of citizens and institutions can count on state support in accordance with the Constitution of the Kingdom of the Netherlands.

According to Part 3 of Article 20, citizens who permanently reside in the Netherlands and do not have means of livelihood, are entitled to the support of state bodies in a manner prescribed by the Act of Parliament [Krash, A. \(1953\)](#).

In Part 7 of Article 23, it is stipulated that the conditions under which state support is devoted to institutions of secondary and complete secondary education are established by the Act of Parliament.

FINDINGS

Summing up the results of this part of the study, the recipients of state support, formalized in the Constitutions of Western European States were determined as the following:

- Church (Denmark, Iceland)
- Cooperation relations with the Catholic Church and other faiths (Spain);
- Consumer organizations (Spain);
- Various categories of population (Germany, Greece, Ireland, the Netherlands, Finland);
- International organizations and agreements aimed at consolidation and streamlining of labor rights (Italy);
- Efforts of everyone aimed at building their own homes (Finland);
- Higher education institutions (Greece, the Netherlands, Switzerland) / training, education (Liechtenstein);
- Political parties (Greece);
- Subjective rights (Ireland)
- Private initiatives in industry and commerce sector (Ireland);
- Activities in the sectors of both mountainous and lowland agriculture, trade and industry (Liechtenstein);
- Insurance systems (Liechtenstein).

CONFLICT OF INTEREST

The author confirms that the data do not contain any conflict of interest.

REFERENCES

1. Baroughi, E., & ZAREI, M. H. (2013). The Ranking of Effective Factors on Efficiency of Commercial Ads In Attracting Viewers In Tehran, Iran, *UCT Journal of Management and Accounting Studies*, 1(1): 22-28.
2. Fernández, R. P. M. L. H., Borrero, T. C., & Pacheco, L. A. M. G. V. (2018). Estructura financiera de la microempresa colombiana. *Opción*, 34(86), 757-794.
3. Jack Donnelly. (2013). *Universal Human Rights in Theory and Practice*. Cornell University Press. 319 p.
4. Jean-YvesDuclos. (1995). Modelling the take-up of state support. *Journal of Public Economics*. Volume 58. Issue 3. pp. 391-415. [https://doi.org/10.1016/0047-2727\(94\)01484-6](https://doi.org/10.1016/0047-2727(94)01484-6)
5. Jenaabadi, H., & Khosropour, A. (2014). AN INVESTIGATION ON THE AMOUNT OF EMPLOYING TOTAL QUALITY MANAGEMENT PRINCIPLES BY SCHOOL PRINCIPALS AND ITS' CORRESPONDENCE WITH THEIR AFFECTIVITY, *UCT Journal of Social Sciences and Humanities Research*, 2(1): 13-17.
6. Kolodeznikov, S. K., & Kolodeznikova, L. D. (2016). Specificity of teaching Sakha as an official language in the Russian-language schools of Yakutia. *International Electronic Journal of Mathematics Education*, 11(10), 3477-3485.
7. Lopes, I. M., & Oliveira, P. (2018). Evaluation of the Implementation of the General Data Protection Regulation in Health Clinics. *Journal of Information Systems Engineering & Management*, 3(4), 28. <https://doi.org/10.20897/jisem/3939>
8. Losilkina L.O., Novikova A.E., Shadzhe A.M., Tkhabisimova L.A., Zajcev V.A. (2018). Formalization of Guarantees of Human and Civil Rights and Freedoms in the Constitutions of the Commonwealth of Independent States // *Helix*. 2018. Vol. 8(5): 3682-3685. <https://doi.org/10.29042/2018-3682-3685>

9. Muyambiri, B., & Chabaefe, N. N. (2018). The Finance–Growth Nexus in Botswana: A Multivariate Causal Linkage. *Dutch Journal of Finance and Management*, 2(2), 03. <https://doi.org/10.20897/djfm/2634>
10. Nifanov A.N., Sushkov A.V. (2016). State support in the decisions of the constitutional Court of the Russian Federation // Bulletin of BSU. Series «Sociology. Philosophy. Right» 2016. # 24 (245). Issue 28. pp. 111-115. (In Russian)
11. Walter Kälin, Jorg Kunzli, Jörg Künzli. (2009). The Law of International Human Rights Protection. Oxford. 538 p.
12. Story, J. (1858). Commentaries on the Constitution of the United States (Vol. 2). Little, Brown. <https://doi.org/10.2307/3302170>
13. Hix, S. (2013). What's Wrong with the Europe Union and How to Fix it. John Wiley & Sons
14. Beard, C. A. (2012). An economic interpretation of the Constitution of the United States. Simon and Schuster.
15. Yoo, J. (2011). Fixing failed states. Calif. L. Rev., 99, 95. <https://doi.org/10.2139/ssrn.1552395>
16. Wright, S. (2010). Fixing the kingdom: Political evolution and socio-economic challenges in Bahrain. CIRS Occasional Papers. <https://doi.org/10.2139/ssrn.2825922>
17. Rosset, P. (2009). Fixing our global food system: Food sovereignty and redistributive land reform. Monthly Review, 61(3), 114. https://doi.org/10.14452/MR-061-03-2009-07_9
18. Thayer, J. B. (1893). The origin and scope of the American doctrine of constitutional law. Little, Brown. <https://doi.org/10.2307/1322284>
19. Kauzlarich, D., Matthews, R. A., & Miller, W. J. (2001). Toward a victimology of state crime. *Critical Criminology*, 10(3), 173-194. <https://doi.org/10.1023/A:1015744304749>
20. Krash, A. (1953). A More Perfect Union: The Constitutional World of William Winslow Crosskey. U. Chi. L. Rev., 21, 1. <https://doi.org/10.2307/1598025>