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**THE FORMATION AND ESTABLISHMENT  
OF THE SCIENTIFIC CATEGORY  
OF "STATE FUNCTIONS"**

(ABSTRACT, KEY WORDS)

"State functions" is the basic scientific category of the theory of state and law that was established in the legal science through the evolution of legal, political and philosophical thought. The study of the main activities (state functions) is possible only in combination with other categories, such as state aims and state tasks, the reconceptualization of which caused the establishment of the scientific category "state functions". The purpose of the article is an in-depth analysis of the evolution of legal and political thought about the aims, tasks and functions of the state, the result of which is reflected in the novelty, which is to establish at the scientific level, the ratio of aims, tasks and functions of the state in different historical periods, and the formation of "state functions" as an important scientific category, which ensures the implementation of the social purpose of the state. The establish and transformation of scientific views coincides with historical epochs, which corresponded to the realities characteristic of a certain historical period. The state aims responded to the real social status and remained a philosophical category, because they did not find practical implementation, which was explained by the low development of legal science, and the law was not the main regulator of social relations. The revolutionary period in the development of the doctrine of "state functions" was a Modern Period, which was characterized by the formation of constitutionalism and was associated with European law schools. In addition to the establishment of new categories, such as state tasks and state functions. Scientists of the Modern Period have been improved philosophical, abstract doctrine of the state goals and were laid the scientific foundations of a democratic, liberal, rule of law state. In the research of the state functions, the great importance had the work of domestic legal scholars of the late 19th – early 20th centuries, in which the whole state was finally formed as a political category, which is reflected in the aims, and should be implemented through the function. As of today, the aims and tasks have become correlated and express the social purpose of the state, which has found its consolidation at the constitutional level. "State functions", having a relationship with the tasks ensure the implementation of its social purpose.

**Key words:** *state; state goals; state objectives; state functions; political thought; state power; legal thought*

**Problem statement**

Many scientific concepts and categories pass a considerable way of the formation, and the legal science is a striking example of that. As a result of the evolution of the meaning, essence of political and legal thought and the development of society, many concepts have passed their way from an ephemeral philosophical idea to a complex legal category. John Gering emphasizes: "Concepts are not static. Work on the subject necessarily includes the reconceptualization of the subject, and progress in the sciences is due to changes in concepts and definitions" [1, p.35].

Such a scientific category as "state functions" is a striking example of such a long-term and

complex process of forming and establishment in the legal science. The state acts for the aims for which it originated. The main directions of its activity are called "state functions". In "state functions" are realized the state will, power of the state, and state activity. Functions are determined by the main tasks of the state and may be different in different states, and the same state at different stages of its development [2, p.100].

The most important aims and directions of activity of the state, at one or another stage of development of the latter, are stipulated by economic, political, social and other conditions of its existence. Based on this, the main directions of its activities

are objective, due to the needs of the civil society. Implementation of the main activities of the state has a permanent, systematic nature, which takes place within a certain time of the existence of individual tasks that require a common solution from the state, to meet the needs of society and preserve it as a whole legal institute of state [3, p.83].

All functional activities of the modern state are aimed at achieving the general aim: the welfare of man, his moral, material and physical well-being, maximum legal and social protection of the individual. The state must always act as the supreme defender of the legitimate interests of the individual [4, p.124].

To date, the formation and establishment of the scientific category "state functions" was made possible by the evolution of legal, political and philosophical thought, starting from Plato and Aristotle. The active stage of its development was associated with the world's social transformations of the Modern Period, in particular, with such tracts as "The Spirit of the Laws" by Charles de Montesquieu, "Two Treatises of Government" by John Locke, who based their teachings on the theory of separation of powers. Georg Jellinek in his work "General Doctrine of Law and State" developed a theory of correlation of state functions and functions of public authority. In domestic science firstly allocate pre-revolutionary period by which M.M. Korkunov concluded about the formality of the aims and tasks of the state, and S.A. Kotlyarevsky delimited the aims, tasks and functions of the state. In the Soviet Union era scientific direction is connected with doctrines of A.M. Vasilyev, A.I. Denisov, G.N. Manov. Among foreign scholars can be called Brain Tamcinaha, Charles Howard McIlwain, M.J. Vile – their doctrines about state functions based mainly on constitutional principles, and concentrated to ensure of human rights.

In view of this, the purpose of the article is to in-depth analysis of the evolution of legal and political thought about aims, tasks and functions of the state, the result of which is reflected in the novelty, which consists in the establishment on the scientific level the ratio of aims, tasks and functions of the state in different historical periods, and the formation of "state functions" as an important scientific category, which ensures the fulfillment of the social purpose of the state. Achievement of the aim is based on the tasks of analysis of political and legal thought about state aims: from Ancient Times to Modern Period, research of development of the doctrines about

functions and aims of the state during the Modern Period, and establishment of category "state functions" in the works lawyers of the late 19 – early 20 centuries, and in the domestic legal science.

### **Political and legal thoughts about aims of the state: from Ancient Times to Modern Period**

Ideas about the aims of the state were largely formed in Ancient Greece, in particular for understanding the nature of human and his place in society. Also Ancient Greece we owe the formation of the Western legal tradition, the ideas of constitutionalism, the development of methods of management and the principles of its limitation [5, p.10].

On a more qualitative level, the doctrine of the ideal just state was formed by Plato in the dialogue "The Republic". When he constructed the state, he believed in the possibility of practical implementation of his project. Plato speaks of the correspondence of the five types of government – aristocracy, timocracy, oligarchy, democracy and tyranny, according to the five types of the spiritual state of people. Under this opposes ideal-aristocratic where a common and the main aim can be point to justice, which must become the basis of all spheres of four other – vicious (immoral). Here, in turn, the aims in each state structure of their own, based on a certain public abundance, to which we do not aspire to, that in the end and lose this system, such a boon in timocracy – military successes, in oligarchy – wealth, democracy – freedom. It is also worth noting that Plato believed tyranny the worst kind of state structure, dominated by lawlessness, arbitrariness and violence, without highlighting of aims [6, p.52–55].

The logical continuation of the ideas of Ancient Greece found its followers in Ancient Rome. The main achievements of Roman philosophers and lawyers were the division into public and private law and the creation of the concept of written law [7, p.46]. It is necessary to highlight the famous speaker, philosopher and political figure – Marcus Tullius Cicero and his famous treatise "De Re Publica", which was written in the philosophical form of the dialogue with direct references to "The Republic" by Plato.

Marcus Tullius Cicero proceeds from the common ideas to supporters of aristocracy about the natural origin of the state. Civil communities arise not by establishment, because by nature for humans are endowed by the gods with a desire for communion. The first reason for uniting people into a state was "not so much their weakness as their innate need to live together". But the state (respublica) Cicero defines not only as a natural

organism, but also as an artificial formation, as a cause, the property of the people (*res populi*), "the people – not an institution". By the people is understood "the union of many people, bound together by agreement in matters of law and community of interests." Accordingly, law is the basis of the state, and the state itself is not only a moral, but also a legal community. Thus, Marcus Tullius Cicero stands at the origins of the legal concept of the state, which later had many followers, up to the modern supporters of the idea of the rule of law. Cicero paid great attention to the analysis of various forms of government, the search for the "best" form. The aim of the state is to protect the property interests of citizens. Protection of property is one of the reasons for its formation. Cicero characterized violation of inviolability of private and state property as desecration and violation of justice and law [8, p.47–48]. It is important to note that this formulation of the aim of the state indicates the emergence of those liberal ideas and concepts that are reflected in the future.

The next step in the development of ideas about the state, its aims, tasks and functions was made in the Middle Ages. Its first half is characterized by the emergence of feudalism, the strong ideological influence of Christianity and the Catholic Church on any doctrine, including legal. As for the second half of the Middle Ages, here for example the 14th century is characterized by the gradual loss of the Catholic Church of its leading role in the life of many countries of Western Europe. Inevitably a contradiction is brewing between the emerging nation states and the church. The most striking and specific theoretical expression of protest against the claims of the Catholic Church to secular power, was reflected in the teachings of democratic freedom by Marsilius of Padua, denying the presence in the Church of "coercive power". Significant popularity Marsilius of Padua received thanks to the treatise "Defensor pacis", that was written in 1324 in the spirit of medieval scholasticism. It deals with the heavenly and earthly aims of humans, laws and state. The state by Marsilius of Padua is modern, self-sufficient community, based on reason and faith people, it's not empire, but it's nation that organized as talked in the time in seigniorship. He notes that the state arises at a certain stage of human history in the process of complicating people's lives, as a result of the development of various forms of their life. The beginning of the establishment of this institution laid the family.

Following these appear cities and finally arises a state that is formed as a result of an agreement concluded between people living in the same territory. The aim and purpose of this institution is protecting the interests of the population, meet their needs and expectations. With the advent of the state Marsilius of Padua indicates actually there is a political power that was not before. The state for it is a secular institution or speaking in modern language – the political organization of society, created by humanity at a certain stage of history. "The state's final aim is to care for the benefit of the population" [9, p.44–45].

It is worth to note that a significant contribution to the theory of the state was made by many other scientists and philosophers of their time, such as Augustine of Hippo, Niccolo Machiavelli, Jean Bodin, Thomas Hobbes, Hugo Grotius and other. But all the doctrines about the aims of the state before a certain historical period had a philosophical and abstract character, were only certain ideas and concepts and did not find practical implementation.

We have to note that the aim of the state remained such an ephemeral category, and received a political character only in the future. Here a special place is occupied by the doctrine about objectivity aims of the state by Georg Jellinek, which usually distinguish one, from a variety of historically altered functions of the respective state and declare its essential aim only this state, and it is declared by its special place. Such specific aims recognized for example: Ancient Rome – foreign conquests, for England – political freedom, for Spain of Habsburgs period – the restoration of the unity of faith, for Germany – the kingdom of freedom (by Johann Gottlieb Fichte), for Russia – the colonization and acculturation of Northern Asia. In broad circles of society this theory has a significant role, especially when it comes to international relations [10, p.239]. More relevant for our time and research example we can see for example in the Constitution of the Soviet Union (1977). In the preamble of the Constitution, a separate paragraph is devoted to the aim of the Soviet state, it is pointed that "The supreme aim of this Soviet state is the building of a classless communist society in which there will be public, communist self-government" [11, p.5].

#### **The development of doctrines about aims and functions of the state in the period of Modern Time**

The Modern Period is a revolutionary era in legal science. There was a departure from the philosophical, abstract concept about aims, tasks and

functions of the state, and ideas were developed, which in the future were reflected in practice and became the basis of progressive legal states. These ideas are primarily associated with the French and English legal schools of Modern Period. This is a period of great transformations in jurisprudence and the theory of state in particular. We can highlight the famous practicing legal scholars who have created new legal categories and ideas that are relevant today.

The creator of the ideological and political doctrine of liberalism, the English materialist philosopher John Locke, represented the state as "the general will which is the expression of the predominant force" that is the majority of citizens who "enter the state". He considered the state in the form of a set of people who were united into one whole under the beginning of the general law established by them [12, p.127]. By John Locke the state was created to guarantee natural rights (liberty, equality, property) and laws (peace and security). The state should not infringe on these rights. Natural rights have reliable guarantees. The main danger for natural rights and laws follows from privileges, especially from the privileges of the holders of power [13, p.81]. These ideas, were really revolutionary for its time, because the basis of society's life were laid the foundations of a legal state, which influenced the formation and development of states in the world. John Locke made an incredible step forward in the development of theory of state, creating the doctrine of the legal state, with the list of rights that are guaranteed by the state, and in this case it is possible to talk about systematic departure from philosophical abstract ideas, and about the origin of new categories such as state tasks and state functions.

A huge influence on legal science and the development of liberal and democratic ideas influenced the doctrines of Charles de Montesquieu which is largely a follower of John Locke. The doctrine of the state, in particular about the aims and functions, is based on the theory of separation of powers. Charles de Montesquieu is not so much the author and founder of this theory, but he improved, developed and formulated it in such a way that it has not lost relevance for today, being the basis of the state system of most world democracies. The concept of separation of state powers according to Charles de Montesquieu is as follows: 1) the power is divided into three branches – legislative, executive, judicial each of which has its own functions; 2) each branch of government is limited to the performance of its

functions and should not interfere with the functions of other branches of government; 3) the persons who make up the bodies of these branches of government should be separated from other branches of government and cannot simultaneously perform their functions [14, p.5]. We can say that were created the foundations of the current system of checks and balances.

The doctrines of Charles de Montesquieu about the separation of powers was new in the political and legal concept: 1. Charles de Montesquieu connected the liberal understanding of freedom with the idea of constitutional consolidation of the mechanism of separation of powers. Freedom is established only by laws. 2. Charles de Montesquieu included in the powers to be distinguished the judiciary. He deduced the principle of independence of judges. The triad (legislative, executive, judicial) of powers become a classic formula of the theory of constitutionalism. Political and legal doctrine of Charles de Montesquieu about the separation of powers was directed against royal absolutism. It also served to justify the compromise of the bourgeoisie and the nobility. The doctrine of freedom, civil rights, separation of powers was enshrined in the constitutional acts of France, laid the basis for the USA Constitution, constitutions of other states and the Declaration of the Rights of Man and Citizen (1789). The political and legal doctrine of Charles de Montesquieu is considered a classical school of constitutionalism. Among moral reasons the most important are the principles of the state system. By Charles de Montesquieu the problem of rational organization of society is primarily a political and legal problem, not a social one. Freedom in the ideology of early liberalism meant a reasonable organization of the state and the rule of law. Freedom by Charles de Montesquieu is "the right to do whatever that laws permit". He associated the ideal of freedom with the consideration of existing forms of the state [13, p.100–101]. According to Charles de Montesquieu the main aim of the state is the freedom of society, which will be ensured by the rule of law.

The research of this issue is impossible without analysis state doctrine by Georg Jellinek. We have already mentioned his ideas about the objective aims of the state, which are relevant to a particular state, in a certain historical period. He combined the formal dogmatic understanding of state and law with sociology. Georg Jellinek distinguished between the social doctrine of the state and the doctrine of state law and separated the written constitution from the actual one. He argued that law is a

compromise between different conflicting interests. Power and law in the social aspect must be interpreted psychologically. The law in the social aspect and the positivity of the law are based on the average, typical belief of the people that this law is valid. On this basis the whole law and order are built [13, p.174]. Thus, Georg Jellinek became one of the founders of the concept of the social purpose of the state. As for the subjective aims of the state, they are based on the social purpose of the state and mean those aims by which the state will be a single, integral structure.

The most significant achievement of Georg Jellinek in this matter is the introduction in the scientific space of such a category as "functions of the state", which is reflected in the famous work "General Theory of the State". Examining the theory of state functions, we can conclude that the correct solution was the result of an abstract study of the state and that the progressive development of scientific thought has led to the establishment of essential state functions. The history of state law presents an extremely large number of attempts to classify these functions. But only the distinction between the three main functions of state power-legislative, Executive (administration) and the administration of justice - has acquired lasting significance, despite the diversity in the modern literature of views on the essence of the functions and the nature of their relationship. Other ephemeral classifications have lost their meaning due to the same progressive penetration into the true essence of the state, which led to the formation of a single correct view [10, p.567].

After analyzing these statements, it can be concluded that the idea of state functions is based on the concept of separation of powers. It can also be seen that the "state functions" are equated to the functions of state power, or to the functions of a particular branch of government. This is not surprising, because Georg Jellinek was a supporter of the ideas of Charles de Montesquieu and was a bright follower of him. It is worth to note that in the future, the scientific legal community will note that "the functions of the state" and "the functions of public authority" are different categories, and they cannot be identified.

The project of building a state with the help of the law has spread around the world with different and ambiguous results. The legal pluralism that existed in the Middle Ages in Western Europe was consolidated into a single system, although cultural and religious diversity was preserved outside the legal system, usually without legal status.

Outside Europe, especially in colonial and post-colonial territories, a unifying legal system was adopted that absorbed and openly recognized the multiplicity of norms and institutions [15].

### **Establishment of the category "state functions" in the works of lawyers of the late 19th – early 20th centuries**

The establishment of the category "state functions" in the domestic legal science occurred under the significant influence of Western legal thought, has come a long way and is firmly entrenched as a scientific category. As for the national scientific space, in our opinion, it should begin with the doctrines of B.M. Chicherin. He conducted a large, relevant for the second half of the 19th century doctrine, from which several important conclusions can be identified. The state is a union of people, forming a single, permanent and independent whole. In him the idea of human society reaches its highest development. The opposite elements of common life, law and morality, which in the previous unions, in civil society and the church are expressed in a one-sided form and are reduced to the highest unity, mutually defining each other: in legal formations, common aims are realized, dominating over private ones which gives them moral significance [16, p.192]. The direct aim of the state is the harmonious arrangement of social life. This common aim is divided into as many separate aims as there are separate elements in the state, because each element, developing, has its own inherent purpose. In B.M. Chicherin, the main aims of the state are the establishment of security, the definition and protection of freedom and human rights, and the exercise of moral order. Also, the aim of the state is a combination of order and freedom. As the state is the union which reigns over all, this combination is the supreme realization of truth. This is his idea, which is the inner aim of development. This is the common good and therefore the state is the highest realization of the idea of good. At the same time, it is also the highest realization of freedom. But in public life moral demands are combined with material interests so far as they concern the whole union. The totality of those and others is the public good, which is the highest and ultimate aim of the state, containing all the others [17, p.10–15]. Despite the fact that there was even a classification of the aims of the state with a logical distribution, which are based on liberal values, it is the definition of aims and their classification that are predominantly philosophical in nature.

M.M. Korkunov, who is considered one of the founders of the domestic state law, in his famous work "Russian State Law" operates with such concepts as the aims and tasks of the state. He notes that the tasks of the state as well as the boundaries of the state, are determined by the coercive nature of the state system. So usually the question of the tasks of the state is raised, but it is solved differently by different political theories [18, p.52]. Having analyzed the works of well-known legal scholars of different times M.M. Korkunov comes to the conclusion that the question of "aims or tasks" of the state is interpreted in modern (late 19th century) theory of state in general briefly and formally, which was explained by the formal nature of the theory of state. At the same time, he notes that the broad tasks of state activity are not the subject of wishes alone, but all these tasks are actually carried out by states, and the dispute is not about whether the state can perform all this, but only whether such a desired amount of state activity. And argues that the state is a powerful cultural force capable of serving the implementation of many diverse tasks [18, p.74].

From the point of view of our research two important observations can be made. Firstly, in the second half of the 19th century (the first edition of "Russian State Law" was published in 1892, this work had eight editions, including four after the death of M.M. Korkunov) such concepts as the aims and tasks of the state had the same meaning, and the category of "state functions" was not introduced into science. Secondly, it is the evolution of the state (despite the formal nature of science - according to the author) and as a consequence of the birth of fundamental legal science. Over the years, legal science has played an important role in state-building and constitutional processes in particular.

S.A. Kotlyarevsky in his famous work "Legal State and Foreign Policy", having deep historical analysis of legal and political thought, came to the conclusion that theory of state generally much "cooling" to the issue of state aims and her rather withdrawn place the treatises on politics, and that these aims "captures the spirit of the historical era and therefore extreme mediation" [19, p.14]. At the time of the publication of this scientific work in 1909, such a category as aims of state was already a relative quantity, relevant in a particular state (type of state), in a certain historical era. In the evolution of legal and political thought has been transformed target ideas of the state from a scientific point of view, and introducing such sci-

entific categories as "state tasks" and "state functions". S.A. Kotlyarevsky was one of the first who introduced such a category as "state functions" into the domestic legal science. He noted that "ensuring external security is among the indisputable state functions, which were recognized in the most diverse and opposite assessments of the natural purpose of state activity" [19, p.236]. This statement was the beginning of Chapter 2 of this work entitled "Foreign Policy Problems of the Modern State". Thus, the author identifies the concept of functions and tasks of the state. At the same time, he notes that it is unlikely that the attempt to create a general classification of functions that would correspond to different aims, political, social and cultural, set by the state [19, p.14]. An important asset of S.A. Kotlyarevsky is that at the beginning of the 20th century it was clearly defined that the aims of the state, it is rather a political category, and the main activities of the state are already implemented through categories such as "state tasks" and "state functions".

The research of this issue is impossible (in our opinion) without the analysis of the works of the outstanding lawyer F.F. Kokoshkin, who operates with such concepts as the aims of the state, the tasks of the state and the functions of state power. F.F. Kokoshkin is a follower of the ideas of subjective and objective aims of the state. Research of the aims begins with statement of two questions – for what exist a state, and what aims put the state by "people who make it". In the first case, the question concerns the objective aim of the state, in the second – the subjective. In the rationalist (contractual) theory, which considers the state as the achievement of free and conscious human activity, the concepts of objective and subjective aims coincide: if the state is created by a free act of the reasonable will of people, it exists precisely for the purpose pursued by its creators, concluding the contract. But if we recognize that the state is not intentionally created, we must separate the question of the objective and subjective aim of the state [20, p.81].

The ideas of F.F. Kokoshkin are based on the public interest, while he notes that the public interest is "a certain riddle that has only approximately the right solution" [20, p.85], which accordingly reflected in the research of the aims and tasks of the state. The public interest is only the general concept under which the specific tasks of state activity are summed up, but this concept cannot in itself give a sufficiently clear idea of the specific tasks of state activity, since the state seeks to implement the coinciding, individual and

group aims in all spheres of human life. In many cases it attaches this task to the free activity of individuals and the free unions they form. Therefore, in determining the aims of the state, it is impossible to stop on the general concept of public interest, but it is necessary to find out which of the tasks that fit this concept are pursued by the state. Watching as for famous states, the aims of state activity, cannot be reduced to personal and class interests are recognized and in this sense, the state can reduce them to three groups or up to three primary aims – political, legal and cultural [20, p.85–56]. Thus, the system when the tasks of the state are derived from the general aim of the state, finds its confirmation in this research.

Another significant achievement of F.F. Koshkin was the introduction into the scientific space of such a category as the functions of state power, defining state power as a subjective right belonging to the state to obey subjects or citizens. This subjective right is exercised by the state in various forms, for example, in the form of issuing laws, addressing citizens with specific orders within the limits and on the basis of laws, the execution of court sentences. These separate forms of state power are called in legal science its functions. The functions of state power in this sense should not be confused with its tasks. As we saw above when considering the question of the aims of the state, from the general aim of the state there are separate tasks of state activity: protection of external security, protection of the right, care of economic welfare of the population, etc. But this classification of state activity with its internal content is absolutely independent of the considered classification of external legal forms of manifestation of state power [20, p.184–185].

During analyzing these statements, it can be concluded that the two categories "aims of the state" and "tasks of the state" have a logical and inextricable relationship, because the tasks of the state correspond to the aims and are based on the public interest. Aims also remain largely an abstract category, but are reflected in public life through the implementation of tasks. With regard to functions, the author deduces such a category as "functions of state power", which are based on the theory of separation of powers, but are not identified and are not reduced to three functions (legislative, executive, judicial), but much broader categories. In turn, in forms of realization of functions of the state power, it is possible to see a basis of future theories about state functions, with division into internal and external.

### **The establishment of the category "state functions" in the domestic legal science**

In the Soviet Union era, the legal doctrine was based on the Marxist-Leninist principle, influenced the theory of the state and directly on the doctrine of the aims, tasks and functions of the state. Because of this the problem of the state and its influence on public relations became acute political in nature and was often used to characterize the socio-political structure of society. V.I. Lenin's thesis that "the state is by no means inert, it always acts, and acts very vigorously, always actively and never passively", in fact determined the formation of the theory of functions of the state in domestic science. The category "state functions" was first used in the research of active, managerial properties of the state, in the analysis of its social role. However, the integral, relatively independent theory and methodology of the classics were not [21, p.8]. In the works of K. Marx, F. Engels, V. Lenin, the concept of "function" in relation to the state is usually used in a broad sense to identify its general social purpose. In other words, in these works, it does not mean any particular kind of implementation of state power, and state activity as a whole, characterizing the state as an organization of class domination [22, p.141].

The modern concept and classification of the functions of the state were formed and firmly established in the domestic theory of state and law in the 60-70s years of the 20th century. Despite some not very significant differences in approaches to the definition of the concept of state functions, their content, in general, the views of almost all authors coincided [23, p.41]. It was during this period, in our opinion, that the category of "state functions" was formed in legal science, which logically follows from the "chain" of aims–tasks–functions, where functions are a means of realizing aims and tasks. It is also worth noting that this system remains relevant today in the Ukrainian scientific space.

Having passed a long historical way, aims of state remained an abstract category and only transformed into a political category, as a result of which the concept of "politically-legal aim" was even introduced as an ideally assumed model reflecting the state of social life to which the state aspires by reforming the relations, phenomena and processes that exist in the present. It forms the basis of long-term policy and determines the basic directions of improvement of legislation [24, p.31].

On the basis of the aims or one general aim, the tasks of the state are formed, which more

specifically express its essence and purpose. We have already mentioned, for example, the Constitution of the USSR (1977), in the preamble of which the supreme aim of this Soviet Union state is "the building of a classless communist society in which there will be public, communist self-government". And further the list of tasks is given directly: creation of material and technical base of communism, improvement of socialist general relations and their transformation into communist, education of the person of communist society, increase of material and cultural standard of living of workers, ensuring safety of the country, assistance to strengthening of the world and development of international cooperation [11, p.5]. Despite the ideological nature, this is a very qualitative example, relevant for our research. After all, scientific achievements have been implemented in practice and enshrined not only at the legislative but also at the constitutional level. Here we can see how one general aim of the state generates a number of tasks that should ensure its achievement.

As a consequence, the research of the correlation of tasks and functions comes to the fore, in comparison, for example, with the beginning of the 20th century. In the scientific community was established almost the only idea of the relationship between the tasks and functions of the state. The essence and social purpose of any state is manifested in its tasks and main functions. The tasks of the state are those questions to which the ruling class aspires. Functions of the state are the main directions of activity of the state on implementation of the tasks set before it [25, p.65].

The definition of the functions of the state, provided by A.I. Denisov and V.E. Guliyev, is worthy of attention, according to which the function of the state is its activity, which differs in the subject-political composition [26, p.80]. Thus, it is seen that there is a close relationship between the functions and aims of the state, despite the political nature. The tasks and functions of the state are correlated and closely interrelated, but do not coincide categories. They cannot be contrasted or identified. It is not necessary to mix the state functions with the principles of its formation and activity [27, p.63]. In particular, a clear correlation between the tasks and functions of the state was provided to the government. E.I. Temnov among which the tasks determine the very existence (implementation) of functions; arise before their implementation; are objective in relation to the function; determine the content of functions; affect the forms and methods of implementation of functions.

No such task can be solved without the functions of the state: same function can solve a number of tasks of the state, and vice versa; function is a more specific concept, because certain ways of state influence depend on economic and political needs of society, stage of development of the state, external and internal situation, correlation of political forces, national, ethical, religious and other features, etc. [28, p.173].

With the help of functions, it is possible to determine the nature of the state's activities, the correctness of its choice of priorities, the level of its organization and efficiency. It should be emphasized that in the modern legal literature, the definition of the functions of the state is proposed not only as directions of its activity, but also as a mechanism of state influence on social processes. And this is natural, because performing certain functions in certain spheres of public life, the state, together with the necessary reforms, legal regulation of public relations affects the state of social processes. The implementation of specific functions can both stabilize the conditions of development of society and strengthen its crisis state [29, p.62–63].

### Conclusions

In our opinion, the main results of the research are:

1. "State functions" is the basic scientific category of the theory of state and law, its formation in legal science through the evolution of legal, political and philosophical thought. Study the main activities of the state (state functions) is only possible in combination with other categories such as aims and tasks of the state, conceptualize which caused the formation of the scientific category of "state functions".

2. The establishment and transformation of scientific views coincides with historical epochs, which corresponded to the realities characteristic of a certain historical period. The aims of the state, responding to the real social situation, remained a philosophical category, since they did not find their practical implementation, which was explained by the low development of legal science, and law was not the main regulator of public relations.

3. The revolutionary period in the development of the doctrine of the functions of the state was the Modern Period, characterized by the formation of constitutionalism and was associated with European legal schools. In addition to the emergence of new categories, such as the tasks and functions of the state, scientists of the Modern



Period have been improved philosophical, abstract doctrine of the aims of the state and laid the scientific foundations of a democratic, liberal, legal state.

4. In the research of the state functions, the works of domestic legal scholars of the late 19th and early 20th centuries were of great importance, in which entire states were finally formed as a political category, which is reflected in the tasks, and must be implemented through functions.

5. As of today, the aims and tasks have become correlated and express the social purpose

of the state, which has found its consolidation at the constitutional level. The functions of the state, having a correlation with the tasks, ensure the fulfillment of its social purpose.

#### Competing interests

The author of the article reports about the absence of any conflict of interest.

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#### REFERENCES

- Gerring, J. (2001). *Social Science Methodology: A Criterial Framework*. Cambridge: Cambridge University Press. DOI: 10.1017/CBO9780511815492.
- Chirkin, V. Ye. (1999). *Gosudarstvovedeniye: uchebnik* [State Studies: textbook]. Moskva: Yurist (in Russ.).
- Kolodiy, A. M., Kopeychikov, V. V., & Lysenkov, S. L. et al; Lysenkov, S. L., & Kopeychikov, V. V. (Red.). (2003). *Teoriya derzhavy i prava: navch. posib.* [Theory of state and law: teach. manual]. Kyiv; Yurinkom Inter (in Ukr.).
- Golovistikova, A. N., & Dmitriyev, YU. A. (2005). *Problemy teorii gosudarstva i prava: uchebnik* [Problems of the theory of state and law: the textbook]. Moskva: EKSMO (in Russ.).
- Kelly, J. M. (1992). *A Short History of Western Legal Theory*. Clarendon Press, Oxford. 488 p.
- Nersesyants, V. S. (Red.). (2000). *Istoriya politicheskikh i pravovykh ucheniy: uchebnik dlya vuzov* [History of political and legal studies: a textbook for universities]. Moskva: NORMA (Izdatel'skaya gruppa NORMA-INFRA-M (in Russ.).
- McIlwain Charles Howard. (2005). *Constitutionalism: Ancient and Modern*. The Lawbook Exchange, Ltd. 162 p.
- Khoroshilov, A. N. (2002). *Istoriya politiko-pravovykh ucheniy* [History of political and legal doctrines]. Moskva: Izdatel'skoye ob'yedineniye "YUNITI", Izdatel'stvo "Norma" (in Russ.).
- Samygin, P. S. et al. (2004). *Istoriya politicheskikh i pravovykh ucheniy. 100 ekzamenatsionnykh otvetov* [History of political and legal doctrines. 100 exam answers]. Moskva, Rostov-na-Donu (in Russ.).
- Yellinek, G. (2004). *Obshcheye ucheniye o gosudarstve* [General doctrine of the stat]. SPb.: Izd-vo "Yuridicheskiy tsentr Press" (in Russ.).
- Konstitutsiya (Osnovnoy Zakon) Soyuza Sovetskikh Sotsialisticheskikh Respublik. Prinyata na vneocherednoy sed'moy sessii Verkhovnogo Soveta SSSR devyatogo sozyva 7 okt. 1977 g.* [The Constitution (Fundamental Law) of the Union of Soviet Socialist Republics. Adopted at the extraordinary seventh session of the ninth Supreme Soviet of the USSR on 7 October. 1977]. Moskva: Politizdat, 1978 (in Russ.).
- Marchenko, M. N. (2011). *Problemy teorii gosudarstva i prava: uchebnik* [Problems of the theory of state and law: the textbook]. Moskva: Prospekt (in Russ.).
- Kormych, A. I. (2009). *Istoriya vchen' pro derzhavu i pravo: navch. posibnyk* [History of the doctrines of the state and law: teach. manual]. Kyiv: Pravova yednist' (in Ukr.).
- Vile, M. J. C. (1998). *Constitutionalism and the Separation of Powers*. Second edition. Indianapolis. In: Liberty Fund, P. 1–41.
- Tamcinaha, Brain Z. (2008). *Understanding Legal Pluralism: Past to Present, Local to Global*. SydLawRw 20; (2008) 30(3) Sydney Law Review 375.
- Chicherin, B. N. (1997). *Izbrannyye trudy* [Selected Works]. SPb.: Izd-vo S.-Peterburgskogo un-ta (in Russ.).
- Chicherin, B. N.; Tomsinov, V. A. (Red.). (2006). *Obshcheye gosudarstvennoye pravo* [General state law]. Moskva: Zertsalo (in Russ.).
- Korkunov, N. M.; Gorenberg, M. B. (Red.). (1909). *Russkoye gosudarstvennoye pravo. Tom I. Vvedeniye i obshchaya chast'* [Russian state law. Volume I. Introduction and General Part]. SPb.: Tipografiya M. M. Stasyulevicha (in Russ.).
- Kotlyarevskiy, S. A. (1909). *Pravovoye gosudarstvo i vneshnyaya politika* [The rule of law and foreign policy]. Moskva: Tip. G. Lissnera i D. Sovko (in Russ.).
- Kokoshkin, F. F.; Tomsinov V. A. (Red. (2015). *Lektsii po obshchemu gosudarstvennomu pravu* [Lectures on General State Law]. Moskva: Izd-vo "Zertsalo". (Seriya "Russkoye yuridicheskoye naslediyey") (in Russ.).

21. Pozharskiy, D. V. (2011). *Stanovleniye teorii funktsiy gosudarstva v otechestvennoy yuridicheskoy nauke: istoriograficheskiy ocherk* [Formation of the theory of state functions in the domestic legal science: historiographical essay]. *Trudy Akademii upravleniya MVD Rossii*, 4(20). 7–11 (in Russ.).
22. Manov, G. N. (1974). *Gosudarstvo i politicheskaya organizatsiya obshchestva* [State and political organization of society]. Moskva: Nauka (in Russ.).
23. Grachev, N. I. (2016). *Funktsii gosudarstva: opyt kontseptual'noy rekonstruktsii* [State Functions: Conceptual Reconstruction Experience]. *Rossiyskiy zhurnal pravovyykh issledovaniy*, 4(9). 41–49 (in Russ.).
24. Kulapov, V. L. (2014). Sootnosheniye tseley, zadach i funktsiy gosudarstva [The ratio of the goals, objectives and functions of the state]. *Vestnik Saratovskoy gosudarstvennoy yuridicheskoy akademii*, 2(97). 30–35 (in Russ.).
25. Vasil'yev, A. M. (Red.). (1977). *Teoriya gosudarstva i prava* [Theory of State and Law]. Moskva: Yuridicheskaya literatura (in Russ.).
26. Denisov, A. I. (Red.). (1972). *Teoriya gosudarstva i prava* [Theory of State and Law]. Moskva: MGU (in Russ.).
27. Matuzov, N. I., & Mal'ko, A. V. (Reds.). (1997). *Teoriya gosudarstva i prava: kurs lektsiy* [Theory of State and Law: a course of lectures]. Moskva: Yurist (in Russ.).
28. Temnov, Ye. I. (2002). *Teoriya gosudarstva i prava: uchebnoye posobiye* [Theory of State and Law: textbook]. Moskva: Pravo i zakon (in Russ.).
29. Biloz'orov, YE. V., Vlasenko, V. P., Horova, O. B., Zaval'nyy, A. M., & Zayats' N. V. et al. ; Husaryev, S. D., & Tykhomyrov, O. D. (Reds.). (2017). *Teoriya derzhavy ta prava: navch. posib.* [Theory of state and law: teach. manual]. Kyiv: NAVS, Osvita Ukrayiny (in Ukr.).

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