

# Legal globalization and interstate integration as a leading factor of the formation of state security and sovereignty

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**Abstract** This paper deals with systematization of theoretically applied research and presents a model of the impact of legal globalization and interstate integration on the formation of international security and ensuring the state sovereignty. The paper considers the definition of categories "legal globalization", "interstate integration", "international security" in modern political legal doctrine and practice. In addition, the methodological approaches and tools for ensuring interstate integration processes for the formation of an effective mechanism for international security, including regional security in Europe, are explored. Moreover, the system of prior (leading) factors influencing the constitutional development of states, the doctrine of modern constitutionalism in the context of the globalization paradigm and the phenomenon of interstate integration are determined. The forms of use of mechanisms for ensuring the functioning and development of the process of internationalization of constitutional law and the constitutionality of international global law and order in the conditions of interstate integration processes are theoretically grounded and empirically modeled. The doctrine of sovereignty and its modern development, the mechanism of provision in the conditions of interstate integration and the formation of the global legal space as a manifestation of supranational sovereignty for the support of collective international security have been explored. Furthermore, the paper analyzes the legal forms and mechanism of ensuring the legal globalization and interstate integration as effective and prior factors of formation of international security and realization of sovereignty of a state.

## 1 Introduction

Modern globalization paradigm and processes of interstate integration determine that the emergence of a new constitutional philosophy of the modern era, a new constitutional doctrine is manifested in the development of fundamentally new methodological approaches to understanding the values of modern constitutionalism in a globalized world.

It can be noted that the transition to the third millennium has become a peculiar stage in the evolution of the society's push to qualitatively and axiologically new social and legal domains within the framework of the processes of interstate cooperation, the internationalization of national legal systems, the observance of international security and globalization. As a result, there is a dynamic development of constitutional and international law, strengthening their interaction, which objectifies the need for further interstate integration (Athtenberg et al. 1994; Mary 2003; Schimmelfennig et al. 2015; Brodzicki 2016; or Mikhaylov 2018)

Despite the fact that the need of taking into account the globalization impact on the formation of international security, the system of national law formulated in some works of leading both domestic and foreign scientists, the problem posed in this article and did not get system-conceptual design (Chvátalová 2016; Naushad et al. 2018). At the same time, the relevant theoretical aspects, in particular, the legal principles of participation of states in integration processes, the place of constitutionalism in the system of world and European constitutionalism, the impact of globalization on the formation of the national legal system and the formation of international (regional) security, the exercise of state sovereignty, the system of means of convergence of national law with the law EU, repeatedly become the subject of numerous fundamental research by domestic scientists (Buromensky 2006; or Simionescu et al. 2016).

## **2 International integration and globalization as a key factor in international security**

Considering that the issues of legal globalization and interstate integration as an effective and prior (leading) factor in the formation of international security and the maintenance of sovereignty of the states remain open, we will try to offer our own view on its solution in this article. In the era of global transformations, the state of national security of any state is determined by the level of its competitiveness in various spheres of life within the world's space. An important feature of scientific approaches to the problems of national security over the past years is the focus on internal problems, whereas previously they were predominantly only referred to as imperatives.

Regional security is a component of international security within a certain part of the world, region or continent. Under regional security, we understand the state of relations within and between socio-territorial communities of a certain region, in which for all its states and peoples, civil institutions and groups it is ensured the protection of their vital interests and the possibility of realization, reliable existence and sustainable social development. Regional security is formed and implemented at different levels: within a certain region of the country, its separate territorial and administrative units, and also in the scale of the group of countries belonging to a certain geographical region. Models of international security at the global and regional levels define the conceptual framework and implementation of the security policy of leading international organizations and military-political blocs.

The geopolitical model of global security (based on the example of the UN, EU, and NATO) forms security structures and institutes of regional and global levels of international security. These features are reflected in the involvement of joint collective military unions, united units of law enforcement bodies, interstate courts with special status, as well as the creation of supranational bodies of state power and administration, to the mechanisms and means of ensuring international security.

The regional international security model (ASEAN, AC, and CIS) lists the relevant security models of international organizations, military-political and economic unions and blocs that form the regional security system: ASEAN, the African Union and the CIS. It might be shown that the security models of the UN, EU, NATO, the AU and the CIS have all the features of a geopolitical model but provide international security at different levels (global and regional) (Strielkowski et al. 2016; or Haftel and Hofmann 2017)

The level of globalization over the last 10 years can be demonstrated by the example of the indicators of generally accepted international ratings. Modern challenges to the formation of international security are shaped through the military capability of states, military blocs, and so on. So, the country ranking for military power reflects the Global Firepower (2018) index of 2018. It combines over 55 different indicators. In addition to the army, the number of tanks, ships, airplanes and other military equipment, it also takes into account the level of financing of the military sphere, the country's transport infrastructure, access to petroleum products and other factors that may affect the combat capability of the army. The top five in the rating are: USA, Russia, China, India, France. According to data from the international company Global Firepower, which annually makes the rating of the best armies of the world, one can determine the strength of the national armies in accordance with the size of the defense budget. As for Ukraine, one can find out that the position of Ukraine has improved by only one point (Global Firepower 2018).

It is the definition of globalization proposed by Martin that emphasizes the multidimensional process that leads to an increase in the world's interdependence of structure, culture and subject and is accompanied by the erosion of traditional boundaries. In her view, globalization - this relationship, more precisely, the interconnection of various elements of the whole world (Martin 1998; or Rukavishnikov 1998).

There is also the so-called KOF Index of Globalization, which measures globalization on the economic, political and social indicators of society's life. The authors of the project identify globalization as a process that destroys national boundaries, integrates national economies, cultures, technologies and governance, and produces complex relationships and interconnections that are mediated by diverse flows that include people, capital, ideas, and more. Therefore, the Index includes variables that measure the economic, social and political dimensions of globalization. The director of KOF, Jan-Egbert Sturm, is guided by the assumption that globalization will continue until 2016 and 2017, which is not yet covered as data for these years is not sufficiently available. This, in particular, manifests itself in political events in various Western countries. By criteria, all countries studied within the framework under the Index are evaluated by 24 indicators, which are grouped into three main groups of global integration: i) economic globalization [36%]; ii) social globalization [39%]; and iii) political globalization [25%]. In 2015, the level of globalization has declined somewhat. In general, the Netherlands, Switzerland and Sweden are the most strongly globalized countries in the world. The current globalization index of KOF reflects economic, social and political globalization up to 2015 inclusive. However, KOF noted the permissible globalization indicators in 2017 of the study encompasses 193 countries (measurements were made for a larger number of states, but some were not included in the final ranking due to lack of reliable statistical data).

The globalization index is calculated as the sum of the indicated components with weight ratios of 36%, 39% and 25%, respectively. For all countries covered by this study, a ranking is made according to the Globalization Index, indicating their place among the other countries under study (Sturm 2018).

Analyzing the dynamics of rating and statistical indicators of authoritative international organizations, it is obvious that significant quantitative and qualitative changes and speeds of transformation of the world community as a whole, and in particular its organic cells - national states of their legal systems, real mechanisms of participation of data of subjects in globalization and integration processes.

The modern constitutional existence of states, in the context of deepening the processes of globalization and integration, the escalation of regional armed conflicts, is increasingly associated with such dynamic trends in the functioning of the world community as the protection of human rights and citizen, international security, the trans-nationalization of the economy, the strengthening of the role of international organizations in politics, which is conditioned by objective growth of interstate cooperation, interdependence of legal systems; the development of regional and sub-regional integration in Europe (the European Union), the Asia-Pacific region (Association of Southeast Asian Nations); Africa (Economic Community of West and East Africa, North and South America (South American Free Trade Association, South American Common Market) (Malika 2001).

The legal component of globalization and interstate integration has led to a high level of relevance of the study of the phenomenon of globalization of modern law. Of particular relevance is the study of the processes of the impact of legal globalization in general on the development of modern constitutionalism, which will provide an opportunity to identify the epistemological roots of processes (Kjaer 2018).

One of the important aspects of globalization is the formation of universal (supranational) international law that regulates the new international legal order, as well as the sustainable system of integration of international organizations in various spheres of international relations. There is also a reverse process - globalization and internationalization, which significantly affect the development of the constitutional right of states. Therefore, each state, shaping its legal system, borrows the constitutional experience of another (Baimuratov et al. 2018).

Globalization systematically influences the nature of modern international law, its content and mechanism of action, it contains norms, institutions and legal mechanisms that contain elements of supra-state legal regulation. Under the influence of globalization, modern international law acquires certain characteristics, first of all its main function is to ensure the interests of the world community as a whole.

The processes of legal globalization objectively require a constitutional assessment at the level of national state-legal systems, although it cannot be ignored that they naturally - not only because of global consequences, but also by their nature - go far beyond their own national constitutional and legal systems.

The world community has a rich experience of becoming constitutionalism, with each state having some specificity, which necessitates the creation of its own model of constitutionalism. Moreover, the process of forming a normative basis for the development of global constitutionalism becomes permanent in nature. This is reflected in the inclusion of the basic contemporary values of constitutionalism in international instruments adopted at the level and within the framework of the United Nations, the Council of Europe, the Organization for Security and Cooperation in Europe (Tomuschat 1999).

It can be noted that the formation of global constitutional law, global public law is a new and revolutionary tendency in the mechanism of both international and national legal regulation. These processes are determined and activated by the deep and systematic impact of globalization, internationalization and multilevel interstate integration on the development of legal systems, on the factor of stabilizing international security.

One of the characteristics of modern world and national constitutionalism is globalization and the universalization of its core values. The formation of global constitutional law is a new and revolutionary trend in the mechanism of both international and national legal regulation. These processes are activated due to the systemic impact of globalization, interstate and multilevel interstate integration.

An important place in the system of interstate integration is the transformation and internationalization of constitutional law under the influence of globalization. That is why the emergence of global constitutionalism can be defined as a new systemic phenomenon of international and national legal systems, which positively affects both the development of the national state and the international community as a whole.

The actualization of the problem of the interaction of the international legal system and national legal systems is conditioned by the action of two opposing external trends: on the one hand, the deepening of the processes of globalization, internationalization, interstate integration, and, on the other, the strengthening of national identification, fragmentation, and the separation of legal systems.

It can be also observed that international and national systems as part of the common global socio-legal space have their genetic and doctrinal roots and function through the modernization of social relations. It actualizes the task of forming a new world order that can significantly increase the level of international system governance in the conditions of globalization. Under such conditions, the growing volume of social relations goes beyond the legal regulation of the state. Therefore, the management of the world system is possible only by the joint efforts of the states. Consequently, the role of all constitutional means of ensuring the effective

management of international relations increases substantially. And this is possible only with full consideration of all national interests of sovereign states. The mechanism of ensuring these interests is directly related to the further development of constitutional and legal regulation. The internationalization of constitutional law depends on the level of social relations, the degree of integration of the state into the international and European community. Internationalization places serious demands on national legal systems:

- a) they must create conditions for the optimal development of interstate integration cooperation;
- b) should be open to interact with each other and with the systems of national constitutional and international law (Flogaitis 2004).

This process is carried out actively and has various forms of manifestation. As a result, the role of internationalization in the legal sphere increases, which means the formation of a new systemic unity of national legal systems and the development of each of them.

Internationalization determines the formation of a new systemic unity of interacting national legal systems and the development of each of them. Thus, the system of national law at the present stage is influenced by international public law and the right of interstate integration entities. The impact of internationalization on constitutional law and its future is determined by the interaction of internationalization itself and democratic development, which in fact serves as the basis for the progress of the legal system. The phenomenon of constitutionalization of international law and order in the conditions of interstate integration proves that under current conditions international and domestic law is not two different legal systems that exist in parallel. They are actually "superimposed" one by one, representing a unified system of world law. Increasing the role of international law objectivize the processes of internationalization of constitutional law. This is due to the fact that:

- a) international law regulates the interaction of legal systems, distinguishing mainly the scope of their actions, determining the limits of admissibility for the right of a particular state;
- b) international law plays an important role in ensuring the conformity of legal systems to the generally recognized standards;
- c) interaction with national law is a characteristic feature of the functioning of international law (Lukashuk 2000).

Together with the notions of "constitutionalism", "legal and constitutional state", "implementation of the constitution", "constitutional and legal support", the modern science of constitutional law began to operate with the notion of "constitutionalization of legal order".

It means the process of penetrating the norms of the constitution and constitutional law into the various components of the legal system. The most urgent problem of constitutionalization is manifested in the process of constitutional provision of processes of interstate integration, the development of modern international law (Tikhomirov1998).

The modern idea of constitutionalization of legal order is based on the postulates of the constitutional theory and practical experience of the development of democratic states, based on which the universality of the constitution. The universalism of the constitution transforms it into a factor of integration of the national legal system into the legal system of the interstate association.

The influence of the processes of globalization, internationalization and interstate integration on traditional phenomena of constitutional law is a complex scientific problem for the solution of which researchers use non-traditional approaches to scientific cognition.

### **3 Globalization, interstate integration, and the sovereignty of the state**

Controversial interstate integration processes, which acquire a systemic character, essentially change not only the traditional content of the category of state sovereignty, but also acquire new organizational and legal forms. It can be stated without exaggeration that the modern concept of state sovereignty is in deep crisis (Mary 2003).

In the scientific literature on the question of the impact of globalization and interstate integration on the development of states and their sovereignty as one of the main features of their power, there are many concepts and approaches, often quite opposite. Interstate integration has become a condition for social progress, although this factor itself cannot be regarded as a straightforward process.

Complex types of interstate cooperation, different from ordinary interaction within the framework of international organizations, intensify the development of the theory of sovereignty. Formation of the European constitutional and legal space as a manifestation of supranational sovereignty determines that the issue of "blurring" of state sovereignty remains relevant not only in the domestic theory of constitutional law, but also in the constitutional doctrine of European states (Kumm 2005).

Under the influence of integration processes, the transition of the national to an international state, leveling the legal traditions of constitutional development of states in the constitutional doctrine, the theoretical positions regarding the sovereignty of the nation, the forms of self-determination of national minorities and the

means of their constitutional and legal implementation, the distinction of the category "ethnic self-identification" in the modern European constitutional integration construction (Lukashuk 2000).

The system of developing law in the conditions of internationalization acquires the signs of self-regulation precisely through the processes of legal integration and includes the basic constitutional norms of supranational character. As a result of such an evolution of European structures, legal integration can be seen as a special European constitutional space. Legal space is a complex category (Bartsits 2000).

In this context, traditionally, space means a territory that is under the jurisdiction of a state. Lately, there have been scientific works in which the territorial factor is considered in aspects not only of the implementation of the internal and external functions of the state, but also of international relations and geopolitics.

The legal regime of the territories of the states that are part of interstate associations is determined by national and international law. International intergovernmental organizations, such as the United Nations, form the territory of the action of their international legal acts.

The concept of European legal space implies that modern states of Europe should be legal, that is, in those where the state apparatus (mechanism) is limited by law, functions on the basis of the principles of the rule of law, of law; where mutual responsibility of the state and citizen is ensured, the protection of the basic rights and freedoms of a person and a citizen is guaranteed.

Some scientists believe that the definition of the European legal space as a system of legal norms and standards developed within the framework of European regional organizations (EU, Council of Europe, OSCE), as well as mechanisms of their influence on all components of the national legal systems of European states (including legal awareness, legal culture, law-making and law enforcement) (Knill et al. 2016).

This approach is schematic, it reduces the understanding of integration processes, does not reflect a significant role in their implementation of the sovereignty of national states-members of the interstate association.

The formation of the European legal space is based on the recognition of both the principles and norms of international law and the development of national legal systems in order to create the necessary prerequisites for the European law and order and regional security.

The question of the very problem of the implementation of state sovereignty in the conditions of interstate integration, which indicates the creation of supranational formations and deepening of interstate integration, inevitably put the correlation of these processes in the foreground, while preserving the status of an independent state as such. At the present stage of development of constitutional and international law two opposing concepts of state sovereignty were formulated.

One of them comes from the fact that modern globalization "erases" state borders and reduces state sovereignty, according to another - further strengthening of sovereignty is an objective regularity of development of states at all stages of their historical evolution.

The crisis of classical understanding of the category of sovereignty is directly related to the process of self-preservation of sovereign states and the development of interstate relations, which demanded new forms of interaction and interstate cooperation as an additional tool for ensuring the constitutional order of states, national development and national security. However, this cooperation required legal justification through the concept of sovereignty, in order not only to maintain, but also to expand permanent interstate ties, to deepen the integration processes.

The emergence of international and regional organizations has led to a change in the structure, goals and forms of interstate cooperation. Gradually, the circle of subjects in international law, endowed with elements of sovereignty, expanded, prompting debate among constitutionalists, which do not stop now.

In particular, it is about whether these new subjects of the international system are independent, or they serve only as a means in the hands of sovereign states for the realization of their national interests.

Issues related to the constitutional provision of participation of states in international organizations, the development of a constitutional mechanism for the interaction of national and international law, on the one hand, and, on the other, the interaction of constitutional law and the right of interstate associations and the emergence of the so-called integration right were also debatable. As a result, the state mechanism for the implementation of the foreign policy course of the states was increasingly subjected to internationalization and constitutionalization.

The accession of states to any interstate associations does not mean either the loss, the restriction or narrowing of their sovereignty. In such interconnections, even when the state merges with another and forms a complex state formation, it is precisely the realization of sovereignty, when the state deliberately and independently proceeds to create new competent (supranational) structures in which its territory, population, power receive more favorable and qualitatively new conditions for further development.

When the states join the international interstate associations, they do not convey their sovereignty to the latter. It is only about the transfer of the corresponding sovereign rights, that is, the allocation of international interstate associations (their supranational bodies) with certain powers, in particular regarding the implementation of some of the rights that are classified as state sovereignty (Lukashuk 2000).



By giving the interstate association, including supranational authorities, powers (sovereign rights), the state thus further expands the objective possibilities for the realization of its sovereignty, as it is possible to participate in solving problems that are beyond the scope of its territorial sovereignty.

Thus, any transfer of constitutional powers (sovereign rights) to supranational bodies of an interstate association in accordance with the reverse principle should be compensated and realized in the activities of these bodies. In this regard, researchers note that in such a case, the sovereignty of states in general is difficult to refuse, but it can be transferred to others or on its basis lay a qualitatively new sovereignty created interstate association.

In the concept of sovereignty, it is important to highlight two aspects: formal & legal and factual. The first must be regarded as a kind of political and legal form of state sovereignty, as a phenomenon, and the second - as its material content. Using such an approach, when state sovereignty is considered in a differentiated way, avoids controversial judgments (Gray and Porter 2015).

To date, there are many international normative and legal acts that define the concept and degree of state sovereignty (the Final Act of the OSCE, the Declaration on the inadmissibility of interference in the internal affairs of states, the restriction of their independence and sovereignty of 1965, etc.). These international acts explicitly interpret the sovereignty of the member states of the international community as an indispensable property of the subjects of international law that are sovereign and equal in their rights and obligations and prohibit interference in the internal affairs of the states of other subjects of international law, actions that aimed at limiting their independence and sovereignty, as well as the inadmissibility of intervention and interference in the internal affairs of States.

The principle of cooperation of states as a principle of the modern international and constitutional law, this principle in international law is one of the main principles of its subjects. These principles fulfill two functions at the same time: they help to stabilize international relations, limiting them to certain normative frameworks; consolidate everything new that appears in the practice of subjects of international law.

The principle of cooperation of States is relatively new in international law and in international relations. It has become a universal principle of international law since the adoption of the UN Charter. However, the notion of "cooperation" in the practice of interstate relations and European integration is gaining new significance.

Over the last decade, not only the practice of implementing the principle of international cooperation, but also its moral and political aspect, has been changed, the mechanism of its implementation has been modified.

The processes of constitutionalization of international law determine that the principle, due to the implementation mechanism, becomes the principle of national constitutional law. In terms of integration, he not only must strictly adhere to, but also be enriched with new content, taking into account the objective needs of world development, international relations, regional legal integration of states.

## **4 Conclusions**

One of the trends that manifests itself in the context of globalization is the strengthening of the interconnection and interdependence of states and peoples. As a result, there is a dynamic development of constitutional and international law, strengthening their interaction, which objectifies the need for further interstate integration. Of a particular relevance is the study of the processes of the impact of legal globalization in general on the development of modern constitutionalism, which will provide an opportunity to identify the epistemological roots of these processes. The world community has a rich experience in shaping the system of constitutionalism, while each state has some specificity and peculiarities of constitutionalism. The constitutional existence of the states is increasingly connected with such dynamic tendencies of functioning of the world community as protection of human rights and citizen, international security, globalization of the economy, strengthening of the role of international organizations in politics due to the objective growth of interstate cooperation, interdependence of legal systems; the development of regional and sub-regional integration.

An important place in the system of interstate integration is the transformation and internationalization of national constitutional law, which takes place under the influence of globalization. The phenomenon of constitutionalization of international law and order in the conditions of interstate integration proves that under current conditions international and domestic law is not two different legal systems that exist in parallel. They are actually "superimposed" one by one, representing a unified system of world law.

The influence of the processes of globalization, internationalization and interstate integration on traditional phenomena of constitutional law is a complex scientific problem for the solution of which researchers use non-traditional approaches to scientific cognition.

Controversial interstate integration processes, which acquire a systemic character, essentially change not only the traditional content of the category of state sovereignty, but also acquire new organizational and legal forms. It is possible to state without exaggeration that the modern concept of state sovereignty is in deep crisis.

The question arises of the problem of the implementation of state sovereignty in the context of interstate integration, which indicates the creation of supranational formations and deepening of interstate integration. At the present stage of development of constitutional and international law, two opposing concepts of state sovereignty were formulated. One of them comes from the fact that modern globalization "erases" state borders and reduces state sovereignty, according to another - further strengthening of sovereignty is an objective regularity of development of states at all stages of their historical evolution. The accession of states to any associations does not mean either the loss, the restriction or the restriction of their sovereignty.

In this case, the states adhere to the principle of cooperation of the states as the principle of the cohabitation of modern international and constitutional law, this principle in international law is one of the main principles of its subjects. These principles fulfill two functions at the same time: they help to stabilize international relations, limiting them to certain normative frameworks; consolidate everything new that appears in the practice of subjects of international law. This principle, thanks to the implementation mechanism, becomes the principle of national constitutional law. In terms of integration, it not only must strictly adhere to, but also be enriched with the new content taking into account the objective needs of world development, international relations, and regional legal integration of states.

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