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THE WAYS OF ORGANIZING THE MOST IMPORTANT TYPES OF STATE AUTHORITY

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Abstract: *The state, in general, is an organization that governs certain territory and human resources in that area. It is usually characterized by authority, the right to make laws and a monopoly on the use of force within its borders. The state has its own legislative, executive and judicial bodies, which mutually function to maintain order and peace in the state territory and provide services to its citizens.*

The basic functions of the state include governing the territory, regulating social relations, creating laws, ensuring public safety, regulating economic activity, education, health care, managing foreign relations and protecting human rights.

A state performs these functions through the exercise of the most important types of state power, namely legislative, executive and judicial power. The legislative power means the authorities that pass laws and other legal acts, which relate to the functioning of the state and the life of citizens, while the basic function of the executive power is to manage the state apparatus, fulfill the laws and decisions made by the legislative power and manage various aspects of state administration. The judiciary exists as a kind of guarantee of respect for laws and their application in an equal way to all citizens, regardless of their position in society.

The traditional understanding of the organization of state power is based on two opposing systems, namely the system of division of power and the system of unity of power. The system of division of power originates from the idea that different powers should be exercised by different bodies independent of each other. There are three models that include a presidential system, a parliamentary system and a mixed system of government organization. These systems imply the existence of the three most important state authorities, which cooperate to a greater or lesser extent and limit each other in order to prevent abuse of power by some of them.

Contrary to the system of division of power, it is possible to organize the most important state authorities on the system of unity of power, which is characterized by the existence of

one, central body that has significantly greater powers compared to other authorities. This system is largely abandoned today.

Key words: *state, power, system, power, law.*

1. STATE AND ITS FUNCTIONS

The concept of a state has been understood differently over the centuries, which is a consequence of its development and improvement throughout history. The first to give a clear and precise definition of this term was Thomas Hobbes. Hobbes was a 17th-century English philosopher whose work shaped many aspects of modern philosophy and political theory. According to his opinion, state is the basic instrument for maintaining social peace and preventing conflicts between people.

He was the first to notice that the people have an obligation of obedience exclusively to the state, and not to a specific ruler. Thus, the state is understood as an independent entity vis-a-vis its citizens and defined as a legal entity that is the bearer of sovereignty. In this way, Hobbes made a turning point and prevented the process of identifying the state with its ruler, which is why he is referred to as a fundamental theorist who made a revolution when it comes to the concept of a state. (Skinner, 2018, 361-379.)

According to Hobbes, it is natural for people to be in constant conflict with each other, because each individual has a natural drive to fight for his own interests and to rule over others. However, in order to ensure peace and the protection of rights, people had to cede some of their freedoms and authority to the state, which would then be responsible for maintaining order and preventing chaos. In this sense, Hobbes was one of the first theorists to advocate the idea of modern state sovereignty.

There are numerous definitions of the term state. Thus, according to the Oxford Dictionary of Sociology, “the state is a special set of institutions that have the authority to make rules that govern society.” In accordance with this definition, state power lies in institutions such as the government, administration (civil service), judiciary and parliamentary assembly. On the other hand, Max Weber defined a state as “a social institution that holds a monopoly over the use of force”, it has a “monopoly” of legitimate force “within a certain territory”.(Pufendorf, 1994, 216) In this sense, a state includes both the armed forces and the police, as well as the civil service, the judiciary and local and national councils of elected representatives, such as parliament.

It is possible to notice how “the state, understood in a broader sense, is a social organization that has a monopoly on physical coercion in order to preserve the existing state-legal order and its values, as well as to preserve its position in society.” (Кулић, 2015, 41).

From all of the above, we notice that the concept of a state is largely determined by its functions. The functions of a state include the various roles it plays in society and in the territory it governs. The functions can be divided into three basic categories:

1. Regulatory functions: these functions involve the regulation of various aspects of life, including the economy, the labor market, food safety, public health and the environment, thus ensuring the public interest and consumer protection. The state regulates the economy and ensures the stability of the economic system. Apart from this, the state creates laws that define norms of behavior in society and punish those who violate them, and also provides and enforces laws to ensure that the rights and freedoms of citizens are respected;
2. Social functions: a state has a role in providing various services and support for its citizens, including health care, education, social assistance, retirement and protection of workers' rights. This ensures social protection for the most vulnerable groups in society. These functions include all services that are of interest to the community;
3. Security functions: a state has the responsibility to ensure public order and peace and protect its citizens from external and internal threats, including crime, terrorism, war and other forms of violence. This includes police and military forces, as well as the justice system that deals with the prosecution of criminals. (Лаловић, 42(2)/2005, 38).

In addition to these basic functions, a state also has other functions as well, such as managing foreign affairs, protecting human rights and democracy, developing infrastructure and economy, protecting cultural heritage, and the like. Therefore, a state is responsible for governing its external relations, including diplomatic relations, trade and cooperation with other states. In addition, a state has the responsibility to protect the interests of its citizens in international relations.

Furthermore, a state has the responsibility to protect the human rights of its citizens, such as the right to life, freedom of expression, religious freedom, the right to a fair trial and other fundamental freedoms. A state is also obliged to fight against discrimination and other forms of human rights violations.

It is important that a state performs these functions in accordance with the law and in the interest of its citizens, in order to ensure a stable society.

2. TYPES OF STATE AUTHORITY

A state performs the aforementioned functions through legislative, executive and judicial power as the basic types of state power. The way a specific state functions depends on the way it is organized.

2.1. Legislative Authority

The legislative power or the legislature is responsible for passing laws that regulate social, economic and political activities within the state. It represents the authorities that pass laws and other legal acts, which relate to the functioning of the state and the life of citizens.

The legislature is usually organized in the form of a unicameral parliament or a bicameral parliament. In a unicameral parliament, all representatives sit in the same assembly and make laws, while in a bicameral parliament, there is a lower house (e.g. the House of Representatives) and an upper house (e.g. the Senate), and both houses must agree on the law before it is sent for signature to the president or other executive authority. Depending on the country's constitution and the accepted system of organizing the government, the legislature may have limited power in relation to other branches of government.

The main function of the legislature is to pass laws and decisions that regulate various areas of life in the state. In particular, the legislative authority performs the following tasks:

- Passing laws: the legislature has the responsibility to pass laws that regulate various areas of life, such as laws on finance, education, health, defense, culture, justice, etc.;
- Control of the executive power: the legislature has the responsibility to control the executive power and to ensure that it fulfills the laws and decisions passed by the legislature;
- Budget and financial control: the legislature has the responsibility to pass the budget and to control the financial activities of the state, including the control of money flows, corruption and the influence of interest groups;
- Representation of citizens: the legislature is responsible for representing the interests of citizens in state institutions. It facilitates dialogue between authorities and citizens, through regular consultations and public debates on laws and other issues of importance to society. (Марковић, 1995, 216-218).

2.2. Executive Authority

The executive power is one of the three basic branches of government in democratic states and is responsible for the execution of laws and decisions made by the legislative power and for managing the day-to-day affairs of a state. The main organs of the executive power are the president and the government. Depending on the way the government is organized, this includes ministers, the prime minister, the chancellor or some other similar bodies.

Therefore, the basic function of the executive branch of power is to govern the state apparatus, fulfill the laws and decisions made by the legislative branch and manage various aspects of the state administration. Specifically, the executive branch of power has the following tasks:

- Governance: the executive branch of power governs the state apparatus, including various ministries, state institutions and services. The government has the responsibility to make decisions and set policies in various areas, including the economy, education, health, security and defense;
- Fulfilling the law: the executive branch is responsible for fulfilling the laws and decisions made by the legislative branch. It ensures that laws and decisions are implemented and applied in practice;

- Implementation of policies: the executive branch is responsible for the implementation of various policies and programs, which may include creating new jobs, improving health care, improving education, etc.;
- Diplomacy: the executive branch of power has responsibility for the foreign policy relations of the state, including diplomacy, the implementation of foreign policy and the management of international relations. (Лукић, 1991, 127-129).

As we will see below, the way of organizing the executive power depends on the political system implemented in the specific country. In a presidential system, the president, as the holder of executive power, has broad executive power and is not accountable to the legislative branch of government, while in a parliamentary government, the prime minister and the ministers who make up the government are accountable to the representative body (parliament).

2.3. Judicial Authority

The judiciary is also one of the three basic branches of government in democratic states and represents an independent system of courts that have the function of achieving justice and resolving legal disputes in accordance with the law. It is responsible for making court decisions and criminal judgments in cases where the law has been violated.

Thus, the judicial authority is responsible for the application of laws and the resolution of legal disputes. The court system usually includes courts of various instances, including lower courts and the Supreme Court. The judicial system ensures that laws are applied equally to all citizens, regardless of their position in society.

The judiciary includes courts, prosecutor's offices and other judicial institutions that have the following responsibilities:

- Passing judicial decisions: the judiciary has the responsibility to make judicial decisions in cases where there has been a violation of the law. These decisions cover various fields, including civil, criminal, administrative and international law;
- Achieving justice: the judiciary aims to achieve justice and protect the rights of citizens, including persons who are exposed to discrimination and other forms of injustice;
- Respect for the law: judicial authority appears as a kind of guarantee of respect for the law and serves to protect the legal rights of all participants in the legal process;
- Protection against abuse of power: the judiciary is responsible for protection against abuse of power by the other two branches of government, the executive and legislative, as well as by any other group or person who misuses their power. (Димитријевић, Симић, 2001, 106-109).

As already mentioned above, the judicial power is organized in a system of courts, which can be lower and higher level courts. In many countries, there are also special courts for special cases, such as the constitutional court. Courts are usually independent and impartial and operate on the basis of the constitution and laws of the country.

Finally, it is important to note that these three branches of state power are connected and mutually dependent on each other, which is aimed at ensuring the stability and functioning of the state.

3. STATE AUTHORITY ORGANIZATION SYSTEMS

The way of organization of state power depends on the constitutional arrangement of the state and its political tradition and “denotes the way in which legislative, executive (i.e. executive and administrative) and judicial powers are exercised, as well as the way in which relations between them are established”. (Кулић, Кулић, 2015, 88).

In accordance with the traditional understanding of the types of state authority, there are two systems of government organization. The first is based on the “principle of division of power”, and the second is based on the “principle of unity of power”. (Кулић, Кулић, 2015, 89).

3.1. The System of Division of Power

The system of division of power is a political concept that states that power in the state is divided into three independent branches: executive, legislative and judicial branch. This concept was formulated to prevent the concentration of power in one state body and to limit the possibility of its abuse.

This system is most consistently applied in the United States Constitution as a reaction to the concentration of power in the British Parliament in the eighteenth century. Since then, the system of division of power has become a means of preventing tyranny in many democracies.

The system of division of power ensures that no branch of government is too strong and that each branch of government fulfills its legal and constitutional obligations. The executive branch is responsible for implementing laws, the legislative branch for passing laws, and the judicial branch for resolving disputes and ruling in cases of violations of the law.

The system of division of power is extremely important for the protection of democracy and the rule of law, and as we will see below, it appears in several forms.

3.1.1. *Presidential system*

The presidential system of government organization is a political system in which the executive power is in the hands of the president of the state, who is elected by voters in general elections. In this system, the president is responsible for implementing laws and government policies and has broad executive powers.

Therefore, this way of organizing the government focuses on the president of the state, that is, the head of state, who is the main executive body and who therefore has

a significant role in decision-making and management of the state and government. In addition to executive powers, the president also has significant power and influence over legislation and the governing of the country.

Some of the characteristics of the presidential system of government organization are the following (Владисављевић, 21. фебруар 2023):

- Strong role of the president: the president of the state is the main executive authority and has a significant role in decision-making and management of the state and government, and also the president has the power to veto laws, appoint governments and judges and command the army;
- Directly elected president: the president of the country is usually directly elected by the voters, which adds to the legitimacy of the president and allows citizens to choose their leader. In a presidential system, the president is often elected for a long term, for example for a period of four years, but is limited by a fixed number of terms. Since the president is directly elected by the citizens, he answers to them to the greatest extent and is a direct representative of the nation;
- Separation of executive and legislative power: the president is separate from the legislative power, which is usually represented by parliament. This is in contrast to a parliamentary system, in which the government is accountable to parliament. This principle is designed to prevent the president from overstepping his authority and to prevent any other group from dominating the governance of the country;
- System of checks and balances: A presidential system usually has a system of checks and balances that limits the power of the president and protects the rights and liberties of citizens. This primarily includes the independent judiciary and the parliamentary opposition, and there may be other bodies as well. For example, in America, Congress is authorized to establish special investigative committees that will review the work of the executive authorities, including the president himself; (Кулић, Кулић, 2015, 91).
- A more complex and a more expensive system: due to the stronger role of the president and the separation of executive and legislative power, the presidential system is usually more complex and expensive than the parliamentary system;
- Flexibility: the presidential system is designed to be more flexible than the parliamentary system as a result of the president's ability to react to critical events and to take action more quickly when necessary.

While the parliamentary system, as we will see below, clearly separates the executive power from the legislative power, the presidential system groups both powers in one person - the president. In this system, apart from executive powers, the president also has a significant role in the legislative process. This primarily refers to the right to veto laws passed by the legislative body (parliament), and that veto, although it formally has a suspensive character, is in most cases absolute. Namely, the veto can be canceled due to the overvote of the parliament. However, in practice, a qualified majority is usually required for the re-voting of the law, which is almost impossible to achieve, which is why

the veto placed by the president actually acquires an absolute character. Because of the overlapping of government functions in different bodies, the advocates of the division of power point out that the presidential system does not actually depict the separation of power in the full sense. (Димитријевић, Симић, 2001, 139).

The presidential system, although primarily originated in England, is most consistently applied today in the United States of America. This system is proof that there is no model of organizing power that fully respects the system of division of power. This is clearly reflected in the right of veto that the President of the United States has over Parliament, the powers of Parliament to control the work of the President and executive bodies, the right of the President to nominate Supreme Court judges and the right of Congress to decide on that matter, as well as the right of the Supreme Court to review the constitutionality of laws.

3.1.2. Parliamentary system

A parliamentary system of government organization is a political system in which the legislative power is dominant and where the executive power is derived from the legislative power. In this system, the parliament is the key authority, where people's representatives (parliamentarians) pass laws and approve the budget. Parliamentarians are elected in general elections and usually represent political parties fighting for control of parliament.

In a parliamentary system, the executive power is mainly in the hands of the prime minister and the cabinet, who are elected from the ranks of the parliament. The prime minister usually has the role of head of government and represents the leading political party in parliament. The role of the executive power is to enforce the laws passed by the parliament and to govern the country.

The parliamentary system of government organization is a type of democratic government in which the legislature has a greater role in governing the country. This takes place through the existence of the parliament, which represents the people and participates directly in the legislative process.

In this system, the judicial system is usually independent and has the role of checking and ensuring compliance with the law. The role of the judiciary is to interpret laws and ensure their implementation.

Some of the characteristics of the parliamentary system of government organization are the following: . (Дерен-Антољак, 29(3)/1992, 18-19).

- The legislative power has the biggest role: in the parliamentary system of government organization, the legislative power has the biggest role in the governance of the country. Members of parliament are elected in general elections and they represent the people and represent their interests. It is responsible for drafting and adopting laws. Parliament is the most important: In the parliamentary system of government organization, the parliament has the most important role. It is responsible for passing laws and overseeing the government.

- Executive power is divided between the head of state and the government: the president is usually a representative representative and is considered the stable part of the executive, while the government is considered its unstable part. In a parliamentary system of government organization, the president usually does not have much power in legislation. It usually exists to fulfill protocol and representative functions.
- Division of power and control system: as in the presidential system, there is also a principle of separation of powers in the parliamentary system of government organization. This means that the legislative, executive and judicial powers exist independently. However, the legislative authority has certain powers in relation to the holders of the executive authority and vice versa, which seeks to create limitations in order to prevent possible abuses;
- Coalition governments: in this system, parties often form coalition governments. This happens because no party usually has enough votes to govern on its own. Coalition governments can be unstable, as different parties have different positions on many issues.

The parliamentary system of organizing power is characteristic of England, where it primarily arose as a result of the struggle between the king, who initially had absolute power, and the parliamentarian, which tried to limit that power. Today, this system is certainly adapted to the prevailing circumstances, so even though the parliament has significant power, as the holder of legislative power, it is limited by the government, whose members can propose to the head of state to dissolve the parliament, in which case new elections are called. In addition, in most cases the legislative initiative comes from the government. On the other hand, it is the parliament that elects the government and the prime minister.

From the above, we can conclude that this system of government organization is characterized by certain equality between the executive and legislative powers, which cooperate but also exert certain influences on each other. (Марковић, 1995, 231.) Judicial bodies are autonomous and independent.

3.1.3. Mixed system

The mixed system, that is, the presidential-parliamentary system, represents a combination of the presidential and parliamentary system of organizing power, where there are two separate branches of government - the executive and the legislative, which act independently of each other. In this system, the president of the state has an important role in the executive power, while the parliament has the main role in the legislative power. The president of the state is elected in general elections and has the role of head of state and supreme commander of the armed forces. The president also has the power to appoint the prime minister and members of the government, as well as to propose laws and sign them after they have been passed by parliament.

Thus, a mixed system of government organization is a type of democratic government that combines elements of a presidential and parliamentary system, and some of the characteristics of a mixed system of government organization are the following:

- There is an executive branch consisting of the president and the government: in a mixed system of government organization, there is an executive branch headed by the president. The president has significant executive powers, similar to the presidential system, since as a rule he is elected in general elections, and only exceptionally is he elected by the parliament. That is why the president is independent from both the government and the parliament. On the other hand, as in the parliamentary system, a certain part of the executive powers belong to the government and its ministers who are responsible to both the parliament and the president;
- There is a parliament: as in the parliamentary system, the parliament is the holder of legislative power and is elected by the people.
- There is a principle of separation of powers and a system of control, as in both previous systems of government organization.
- Compromise: a mixed system of government organization is a compromise between a presidential and a parliamentary system and can be used in countries where neither of these two systems has shown adequate success. (Кулић, Кулић, 2015, 94-95.)

Based on the principles of the English parliamentary system of government organization, France developed a new mixed system that was first established in 1958. At the end of the 20th century, this system was adopted by certain countries that were abandoning socialism, opting for a multi-party system of government organization. Among them was the Republic of Serbia, as well as Russia, Croatia and many others. (Лукић, Коштућић, 2004, 248).

3.2. The System of Unity of Authority

The system of unity of power is a political system in which there is only one central government that has a monopoly on state management and decision-making. In this system, all power comes from one source and is centralized, meaning there are no regional or local governments that can make independent decisions.

The system of unity of power was created on the basis of the theory of the social contract formulated by Jean-Jacques Rousseau, as well as on his teaching on popular sovereignty, in accordance with which the assembly appears as the highest authority since its representatives are voted by the people in elections; the assembly thus conveys people's will. In this system the starting point is that the executive power cannot implement a policy that would differ from the one advocated by the assembly, while the courts appear as independent bodies. The system of unity of power exists today in Switzerland, while it is largely abandoned in other countries. It should be mentioned herewith that the

government in the former SFRY, as well as in the Soviet Union, was organized according to this system. (Кулић, Кулић, 2015, 96.)

3.2.1. Assembly system

Switzerland is a typical example of an assembly system of government organization. In Switzerland, there are several levels of government, and the most important bodies are the Federal Assembly, as the holder of legislative power, and the Federal Council, as the holder of executive power.

The Federal Assembly consists of two houses: the National Council and the Council of States. The National Council has 200 members who are elected in general and direct elections, while the Council of States has 46 members, two from each Swiss canton; they are elected by the canton's competent authorities. The Federal Assembly is responsible for passing laws and budgets and has the authority to elect the members of the Federal Council and its president.

The Government of Switzerland, embodied in the Federal Council, represents the executive power consisting of seven members, the so-called federal advisers, who are elected by the Federal Assembly for a period of four years. The Federal Council is a collective body, which means that decisions are made at a collective level and not that each Federal Councilor has separate responsibilities. The Federal Council is responsible for governing the country and making decisions in areas such as foreign policy, security and the economy and is considered the "collective head of state". (Лукић, Кошуткић, 2004, 250).

Switzerland also has the system of direct democratic participation, which means that citizens have the right to initiate referendums and initiatives that directly affect policy and legislation. This means that the legislative power is not entirely in the hands of the Federal Assembly, but that the citizens have a significant influence on the political processes in the country.

The assembly system of government organization is considered one of the oldest and simplest forms of government organization.

3.2.2. The assembly system in the former SFRY

The former Socialist Federal Republic of Yugoslavia had the assembly system of government organization. The SFRY Assembly was the highest legislative body in the country, composed of delegates from all republics and provinces. The delegates were elected for a period of four years, and had the authority to make laws and decisions concerning politics, economy, foreign affairs, defense and other areas. The President of the Assembly was the highest official in the legislative power, and was elected from among the delegates. (Кулић, Кулић, 2015, 98.)

The executive body of the former SFRY consisted of the Presidency of the SFRY and the Federal Executive Council. The Presidency had the role of the collective head of state,

while the function of the classic executive body was the Federal Executive Council, which was responsible for the implementation of laws and policies adopted by the Assembly. Apart from this, its responsibility included economic management, infrastructure development, social policy, education and other areas. (Кулић, Кулић, 2015, 98.)

The system of government organization in the former SFRY, although assembly system in nature, was specific in that it gave republics and provinces great autonomy in making decisions in various areas, including areas such as education, culture, health and justice. However, the political situation in the country and the differences between the republics and provinces, especially in terms of national identities and economic development, led to growing tensions that culminated in the collapse of the SFRY in the 1990s.

CONCLUSION

A state performs its main functions through legislative, executive and judicial power as the basic types of state power. The way a specific state functions depends on the way it is organized. The legislature is responsible for passing laws that regulate social, economic and political activities within the state. The executive branch is responsible for the execution of laws and decisions made by the legislative branch and for managing the day-to-day affairs of the state, while the judicial branch is responsible for resolving legal disputes. The judicial system usually includes courts of various instances, including lower courts and the Supreme Court. The judicial system ensures that laws are applied equally to all citizens, regardless of their position in society.

The way of organization of state power depends on the constitutional arrangement of the state and its political tradition. In accordance with the traditional understanding of the types of state government, there are two systems of government organization. In this regard, the system of division of power is a political concept that provides that power in the state is divided into three independent branches: executive, legislative and judicial. This concept was formulated to prevent the concentration of power in one state body and to limit the possibility of its abuse. It appears in the form of a presidential system (USA), a parliamentary system (England) and a mixed system (France). On the other hand, the system of unity of power is a political system in which there is only one central government that has a monopoly on the management of the country and on decision-making. In this system, all power comes from one source and is centralized, meaning there are no regional or local governments that can make independent decisions. The assembly system of government organization is considered one of the oldest and simplest forms of government organization and is currently applied in Switzerland.

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