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## **Functions of Contemporary States**

**Keywords:** state functions, objectives and tasks of contemporary states, sovereignty, globalization, regional integration

**Słowa kluczowe:** funkcje państw, cele i zadania państw współczesnych, suwerenność, globalizacja, integracja regionalna

### **Abstract**

States, being the fundamental forms of political organization of contemporary societies, are presently undergoing dynamic transformations connected with the processes of globalization and integration, among others in the field of the functions exercised by them, as well as the way of their performing. This has considerable significance, especially in the context of state security, for its assuring to citizens, both in the internal and external dimensions, is still one of the most important objectives of emerging and lasting of such a community. Key is also here the problem of the new comprehension of sovereignty. Among the most essential factors influencing this substance are undoubtedly globalization and regional integration processes. Thus, the 21<sup>st</sup> century states in the whole world are facing totally different, unknown hitherto challenges, requiring from them to adapt their tasks and, in consequence, also their legal orders to the constantly changing political and legal reality.

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**Streszczenie****Funkcje państwa współczesnego**

Państwa, będące podstawowymi formami politycznej organizacji współczesnych społeczeństw, obecnie ulegają dynamicznym przemianom związanym z procesami globalizacji i integracji, m.in. w zakresie realizowanych przez siebie funkcji, jak również sposobu ich wykonywania. Ma to niebagatelne znaczenie, szczególnie w kontekście bezpieczeństwa państwa, gdyż jego zapewnianie obywatelom, zarówno w wymiarze wewnętrznym, jak i zewnętrznym, wciąż stanowi jeden z najważniejszych celów powstawania i trwania takiej wspólnoty. Kluczowym pozostaje tutaj również problem nowego pojmowania suwerenności. Wśród najistotniejszych czynników oddziałujących na tę materię znajdują się procesy globalizacji i integracji regionalnej. Przed państwami XXI w. na całym świecie stawiane są zatem zupełnie nowe, dotychczas nieznanne wyzwania, wymagające dostosowywania ich zadań, a w konsekwencji również ich porządków prawnych, do wciąż zmieniającej się rzeczywistości politycznej i prawnej.

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**I. Introductory remarks**

In the contemporary world states still remain a basic form of political organization of societies. However, they are undoubtedly undergoing dynamic transformations, which are connected with the steadily changing political reality and result in constitutional and systematic transitions. The processes of larger or lesser transformations, even in the most stable state organisms, with the distinctly formed traditions, are imposed on them to a certain extent. Among the most significant factors, having an impact on states' functioning, their government and politics, the shape and scope of the functions performed by them, their sovereignty and the content of their constitutions, being the fundamental legal acts regulating the abovementioned substance, are the processes of globalization and regional integration (for instance, the European one)<sup>2</sup>. A connection between these phenomena is obvious and pres-

<sup>2</sup> From the viewpoint of the constitutional law and the theory of state the analysis of such issues is difficult to be overestimated. Functions of contemporary states are often established

ently does not rise any doubts. However, the scope of the transformations, being the result of these processes, is permanently verified, for it depends on a degree in which particular states involve themselves into them, which is unequal and irregular<sup>3</sup>. The functions exercised by them, as well as the way of their performance seem to be mostly apparent in this context.

Presently, one can observe some new phenomena, which scale and dynamics has hitherto been unknown, especially in the history of the Old Continent. On the one hand, a trend of regional integration of an economic, political and cultural characters is distinctly seen, while on the other hand we are dealing with the processes of the national states' disintegration<sup>4</sup>. These processes have a significant impact on the comprehension of sovereignty and, moreover, also on the scope and manner contemporary states perform their

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in their basic laws. And even if they are not determined there explicitly and directly, it goes without saying that they are can be derived from their axiology, values and constitutional principles. Not less important here is also a problem of the contemporary concept and scope of sovereignty. According to me, these substances are evidently and closely connected with each other, or may even be considered the aspects of the same substance, when analyzed from the perspective of the constitutional law and the science on a state. Thus, their coherent analysis is necessary in order to attempt to draw any credible conclusions referring to the functioning of modern states under the influence of the regional integrational processes and, wider, also globalization. More detailed about the influence of the globalization and European integrational processes on contemporary states see: V. Serzhanova, S. Sagan, *Nauka o państwie współczesnym*, 3<sup>rd</sup> edition, Warsaw 2013, p. 230 & seq.; idem, *Wpływ procesów integracji europejskiej na konstytucje narodowe*, "Gdańskie Studia Prawnicze", vol. XXVII, *W kręgu historii doktryn politycznych i prawnych oraz konstytucjonalizmu*, ed. D. Szpoper, Gdańsk 2012, pp. 307–319; idem, *The Influence of the European Integration and Globalization Processes on a Contemporary State*, "Annales Universitatis Apulensis, Series Jurisprudentia" 2010, No. 14, Alba Iulia 2011, pp. 219–229; idem, *Changes in the Constitutions of the European States in Connection with the Integration Processes*, in: *Perspectives for the Development of Constitutional Law in the Conditions of Integrating. Section of Constitutional Law. English Part*, Collection of Papers from the International Scholastic Conference "Law as a Unifying Factor of Europe – Jurisprudence and Practice (21–23 October 2010)", Bratislava 2011, pp. 259–264, V. Serzhanova, *Modern State in the Era of Globalization and European Integration*, [In:] *Zborník príspevkov z 2. ročníka Jarnej Školy Doktorandov UPJŠ*, Košice 2015, pp. 13–19; idem, *Europeizacja konstytucji na przykładzie ustaw zasadniczych Polski i Słowacji w kontekście ich członkostwa w Unii Europejskiej*, [In:] *Implementacja prawa unijnego do systemów prawa krajowego w Polsce i na Słowacji po dziesięciu latach członkostwa w Unii Europejskiej*, eds. G. Dobrovičova, S. Sagan, Rzeszów 2015, p. 149 & seq.

<sup>3</sup> See: V. Serzhanova, S. Sagan, *Wpływ procesów...*, p. 307 & seq.

<sup>4</sup> Ibidem.

functions, which in consequence influences their shape, effectiveness and the way of functioning.

The hereby paper has been dedicated to the abovementioned problematics, which has been analysed from the perspective of the states' security in the internal and external spaces, being perceived as one of the most important tasks, objectives and, therefore, functions of contemporary states. In particular, the subject of the paper focuses on the analysis of their scope and way of exercising, which nowadays are at mostly influenced by the phenomena of globalization and regional integration. Of great importance is also here the comprehension of the concept of sovereignty.

## II. The Concept and Scope of the Functions of Contemporary States

States' functions are inseparably connected with the objectives which states, being omnipotent political structures, put in front of them. States' functions ought to be comprehended as the directions of the states' fundamental activities, which are determined by the aims they wish to achieve, while states' objectives are grasped as something which the centre of political decisions of a state's organization strives to attain<sup>5</sup>. The state objectives, as well as their functions in consequence, have been transformed along with their evolution. They differed in every historical era as far as their scope and way of exercising were concerned<sup>6</sup>.

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<sup>5</sup> In the Polish literature the research over the state functions were started by Mieczysław Manelli, first in his article *Pojęcie funkcji państwa* published in "Państwo i Prawo" 1957, No. 1, and later in a separate monograph *O funkcjach państwa (On the Functions of a State)*, issued in Warsaw in 1963. Though written strongly from the perspective of the Marxist-Leninist ideology, it paradoxically remains current in many of its fragments. The definition of states' objectives is presented by me following: S. Ehrlich, *Wstęp do nauki o państwie i prawie*, Warsaw 1977, p. 66. On the concepts of objectives and functions of contemporary states, as well as their classification see more extendedly: V. Serzhanova, S. Sagan, *Nauka o państwie...*, p. 65 & seq.

<sup>6</sup> As far as in the 19th century the state functions could be restricted to the protection of the legal order (i.e. to a so-called internal and external functions), in the 1920-s their catalogue was increased by the economic, social and educational ones. This growth of the state's interference into the life of an individual and the society is justified by the theories of a welfare state (*social Staat, social state, service state*): L. Dubel, A. Korybski, Z. Markwart, *Wprowadzenie do nauki o państwie i polityce*, Cracow 2002, p. 42.

Nowadays, the state functions are formed under the influence of the processes connected with the phenomena of globalization and regional integration. These phenomena are presently setting such tasks to the states, which have not been known to them in earlier epochs. And they are being determined by the fact of eluding of many areas of particularly states' functioning from their control (e.g. national economy, military targets, etc.). Contemporary states' objectives are established by the organized structures or forms of the societies' political organization, mostly by political parties, but also by trade unions, pressure groups, churches and many others. An important part is also played here by international organizations, both those of a universal kind, such as UN, the regional ones, like the EU, and the defence ones, too, the NATO for instance. Modern states' objectives are seldom determined by their leaders. Among their main aims there are: realization of a common good, guaranteeing individual freedoms, as well as the security of both individuals and the whole community, participation in the distribution of the goods produced by the societies, assuring the protection of the state's territory and its integrity, as well as the cooperation in the frames of alliances at the international arena, fighting terrorism, etc. The last one is put by the Euro-Atlantic world, being endangered by the activities of the Islamic extremists to the largest degree.

Using the classification, being the most commonly accepted and frequently applied in the topic literature, based on the criterion of a subject, i.e. the kind of the state's activity, the states' functions can be divided, following the activities undertaken by them in particular spheres of public life, into such groups, as: external, internal, economic and organizational, cultural and educational, as well as social<sup>7</sup>. The aspects connected with the problem of the

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<sup>7</sup> In the Polish topic literature two approaches towards classifying the state' functions are generally applied. The first one assumes a kind of their 'classical', or subject-perspective comprehension, connected with the fact, that contemporary states create their structures basing on the separation of powers' principle, which establishes the scopes of activeness of particular groups of authorities. For instance, such a division can be found in the works of Andrzej Mycielski or Antoni Peretiatkiewicz. One can even have an impression that that these authors identify the principle of the separation of powers with the states' functions in them. See: A. Mycielski, *Zarys nauki prawa państwowego, część I. ogólna*, Wrocław 1959, p. 85 & seq.; also A. Peretiatkiewicz, *Państwo współczesne. Wiadomości ogólne. Ustrój polityczny Anglii – Stanów Zjednoczonych – Związku Radzieckiego – Polski*, VIII ed., Poznań 1946, p. 56 & seq. The other

state's security in the external and internal planes compose the elements of – correspondingly – external and internal functions.

The external function, as traditionally perceived, consists in the state's participation in the international community. Besides leading of foreign policy by it and maintaining diplomatic relations with other states and international organizations<sup>8</sup>, undertaking actions for the benefit of the state's external security, by some authors identified with their participation in military alliances, makes a separate and exceptionally considerable component of this area of every state's activities<sup>9</sup>. The state's position on the international arena depends on many factors: national determinants, geographical position, territory size and number of inhabitants, economic potential, military force, cultural identity and political system. However, it still remains obvious that the decisive majority of contemporary states is not able to fulfil their tasks alone, without any support of other

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approach is derived from the American school of systems analysis and therefore it can be called a systematic one. It distinguishes: 1) the function of creating the patterns of human political behaviour, which on the one hand aims at keeping the whole system's existence and regulating the tensions arising in it, while on the other hand its objective is to realize those norms and values which are derived from the general targets of a political system; 2) an adaptation function; 3) an instrumental and purpose function; 4) an integrating function. In contemporary Polish works the states' functions are considered by applying both of these classifications. It can be seen in: E. Kustra, *Wstęp do nauk o państwie i prawie*, Toruń 1997, p. 58. While Piotr Winczorek bases his research exclusively on the systems analysis school, reaching at the same time to the thoughts of an outstanding Polish sociologist and ethnographer Bronisław Malinowski (1884–1942). See: P. Winczorek, *Wstęp do nauki o państwie*, 2 ed., Warsaw 1997, p. 29. The approach presented by the supporters of the systems analysis rejects the viewpoint of constitutionalists, who see the states' functions through the prism of the activeness of public power in the determined spheres of its division, and which is reflected in the principle of the separation of powers and its constitutional regulations. However, the conception of the systems analysis is criticized because of a far reaching abstractness and vagueness. See: T. Langer, *Amerykańska wersja analizy systemowej w nauce o polityce*, Warsaw 1977, p. 77. Both approaches towards the classification of the states' functions (subject and systematic) ought to be treated complementary, because they supplement and do not exclude each other. See more: V. Serzhanova, S. Sagan, *Nauka o państwie...*, pp. 65–74. A slightly different approach towards the states' functions classification is presented by A. Korybski, *Funkcje państwa*, [In:] *Wprowadzenie do nauki o państwie i polityce*, eds. B. Szmulik, M. Żmigrodzki, Lublin 2007, pp. 101–110.

<sup>8</sup> M. Dobroczyński, J. Stefanowicz, *Polityka zagraniczna*, Warsaw 1984, p. 124 & seq.

<sup>9</sup> J. Kukulka, *Międzynarodowe stosunki polityczne*, Warsaw 1982, p. 240 & seq.

states and international organizations, including military alliances, first and foremost.

The internal function, consisting in its essence in assuring order and safety in the state, is performed by public administration authorities, police and policing-type formations, secret services, justice authorities, prosecution offices and prison services. More and more frequently it also comprises computer order and personal data protection. The problematics of order and security are of considerable all-social and over-party importance, therefore not only governments, but also societies are vividly interested in them<sup>10</sup>. Hence, wishing to effectively prevent the disturbances of security and public order, states attempt to acquire various social organizations and local communities (i.e. community policing) for the benefit of cooperation for the purpose of preserving security and correct functioning of the whole social system<sup>11</sup>. Within this function protection of citizens' lives, health and properties is of great significance. States create necessary regulations serving this purposes, as well as establish and properly equip different policing formations, including self-government police.

Performing the internal function, contemporary states use electronic invigilation of its citizens to a wider extent. It can be seen every day in one of its most common forms, i.e. cameras installed in public spaces, working places, hotels, at settlements, etc.<sup>12</sup> By an excuse to the preserving of personal security and property, private individuals become the objects of interest of the states' and non-state institutions, which aim at protecting people and property. This phenomenon is unfavourable for the sphere of freedoms and rights, as well as their protection. It remains in a distinct collision with the respect for dignity and privacy<sup>13</sup>. This tendency is strengthened by a very capacious

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<sup>10</sup> W.J. Wołpiuk, *Sily zbrojne w regulacjach konstytucyjnych RP*, Warsaw 1998, p. 46 & seq.

<sup>11</sup> Interesting deliberations concerning security authorities and their role in societies can be found in the work of J. Czapska, J. Wójcikiewicz, *Policja w społeczeństwie obywatelskim*, Cracow 1999, *passim*; particularly about community policing – p. 129 & seq.

<sup>12</sup> S. Fundowicz, *Utrwalanie obrazów w przestrzeni publicznej*, [In:] *Bezpieczeństwo wewnętrzne we współczesnym państwie*, eds. E. Ura, K. Rajchel, M. Pomykała, S. Pieprzny, Rzeszów 2008, p. 78 & seq.; also V. Serzhanova, S. Sagan, *Nauka o państwie...*, p. 69.

<sup>13</sup> An interesting study on the right to privacy has been elaborated by J. Braciak, *Prawo do prywatności*, Warsaw 2004, *passim*; also Z. Janku, *Prawo jednostki do bezpieczeństwa (teoria,*

phrase of 'fighting terrorism'<sup>14</sup>. However, the necessity of assuring personal individual and collective security should not be identified with the simultaneous agreeing to an excessive, in the context of a democratic legal state's standards, degree of restricting freedoms and rights, including people's dignity and privacy<sup>15</sup>.

The economic and organizational function, fulfilled by contemporary states, consists in creating conditions and stimulating business activities. The range and intensiveness of the states' interference into the economic sphere depends on the established in them doctrines and political factors. In the states with the liberal doctrines domination, a state restricts itself to conducting fiscal (low taxes support investments) and monetary policies (assuring currency rates and maintaining a strong position of the national currency). While in case of a strong intervention into the economic sphere this function is much more extended. The state administrates here the key fields of infrastructure, railway and road transport, energetic system, etc. in a way which does not allow privatization. It conducts a policy of financial support of a private economic sector (interventional purchase of agricultural products, donating entrepreneurship, etc.), it sometimes also tampers into the price policy of private business entities.

Generally, this function consists in providing business trade and creating conditions for the development of economic activity. States fulfil this function first and foremost by creating adequate legal norms and establishing the institutions watching the certainty and safety of business trade. It appoints, among others, business courts, arbitration, supervises notaries, conducts business entities' registries, etc. Moreover, it influences the market by establishing bodies and institutions of consumers' protection and fighting unfair competition. It also has an impact on the economy by determining customs policies, import and export restrictions, as well as proper transporting policies.

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*prawo, praktyka*), [In:] *Bezpieczeństwo wewnętrzne...*, p. 13 & seq.; B. Jastrzębski, *O problemie prawa obywateli do bezpieczeństwa publicznego*, [In:] *Bezpieczeństwo wewnętrzne...*, p. 16 & seq.

<sup>14</sup> T. Białek, *Terroryzm, manipulacja strachem*, Warsaw 2005, p. 223 & seq.; *Terroryzm polityczny*, ed. J. Muszyński, Warsaw 1981, *passim*.

<sup>15</sup> See more extendedly: V. Serzhanova, S. Sagan, *Nauka o państwie...*, p. 69l compare to: A. Korybski, *Funkcje państwa...*, p. 107.



However, contemporary states are distinctly losing possibilities to influence their national economies, which are submitted to the globalization and regionalization trends. Steering the economy in a global scale is being overtaken by foreign institutions, such as: the World Bank, the International Trade Organization and large corporations. On the Old Continent such a role is played to a constantly larger degree by the European Union, which has managed to implement a unitary currency to a wide extent and which in consequence resulted in the loss of influence of the national states on its rate.

The cultural and educational function is presently come down to the states' care of preserving the cultural heritage, as well as creating and maintaining educational systems. Sometimes, within this function, particularly totalitarian states, indoctrinate their societies by the adopted political doctrines.

States strive for protecting the cultural heritage of their nations by way of creating legal and financial frames aiming at preserving their material and spiritual goods. Therefore, they support the restorations of the buildings having historical significance, take care of retaining of their substances by the supervision of the adequate state authorities, gather collections and finance museums' activities. In this field they collaborate with the international organizations (e.g. UNESCO).

States support literature activities which have great importance for the national cultures. They also participate in creation of film art, as well as support theatres and theatrical output. They involve themselves financially in the maintaining of public media: radio, television and other modern technics of making the cultural goods available.

Contemporary states maintain public educational systems on the primary and secondary levels, which apart from delivering substantial knowledge, also develop the citizens' attitudes.

Financing higher education still remains an open question, for in some European states it is free of charge, while in others it is payable.

The social function covers national insurance, health care, social assistance, as well as creating conditions for full employment and the legal norms regulating performing work (conditions of employment establishing and termination, safety and hygiene of work, leave and health entitlements, etc.).

Assuring minimum social benefits for the unemployed remains an important problem of contemporary states. A significant part in performing this task is played by the states' cooperation with non-governmental organizations, trade unions and churches conducting charity activity, family assistance, health and palliative care, homeless aid. Performing of this functions to a large extent depends on the level of a particular state's wealth.

### III. The Factors Influencing Contemporary States' Functions

The problem of the new comprehension of the sovereignty concept<sup>16</sup> remains a key issue in the context of the functions performed by contemporary states in the era of globalization and regional integration. For it is one of the fundamental principles of the majority of modern national constitutions, especially of the European states<sup>17</sup>. The sovereignty evolution, both in the plane of its definition and practice, has a significant impact on the objectives and functions of contemporary states. One can observe a process of its considerable restriction, both in the external and internal planes<sup>18</sup>. The processes of

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<sup>16</sup> About the states' sovereignty in the context of globalization and European integration more extendedly see: V. Serzhanova, S. Sagan, *Nauka o państwie...*, p. 244 & seq.; V. Serzhanova, S. Sagan, *Wpływ procesów...*, p. 311 i seq.; K. Działocha, *Poszukiwanie formuły suwerenności państwa-członka UE w polskiej nauce prawa*, [In:] *Institucje prawa konstytucyjnego w dobie integracji europejskiej. Księga jubileuszowa dedykowana prof. Marii Kruk-Jarosz*, J. Wawrzyniak, M. Laskowska, Warsaw 2009, pp. 46–62; *Suwerenność i ponadnarodowość a integracja europejska*, ed. J. Kranz, Warsaw 2006, *passim*; K. Wojtyczek, *Przekazywanie kompetencji państwa organizacjom międzynarodowym. Wybrane zagadnienia prawnokonstytucyjne*, Cracow 2007, p. 284 & seq.; *idem*, *Przekazywanie kompetencji organów władzy sądowniczej podmiotom międzynarodowym*, [In:] *Institucje prawa konstytucyjnego...*, pp. 426–440; M. Ziółkowski, *Europeizacja konstytucji – rekonstrukcja znaczenia*, [In:] *Europeizacja konstytucji państw Unii Europejskiej*, eds. K. Kubuj, J. Wawrzyniak, Warsaw 2011, p. 24. Among the newest publications dedicated to the problematics of sovereignty in the context of the EU membership it is undoubtedly worth pointing out to a collective work *Suwerenność państwa członkowskiego Unii Europejskiej*, eds. P. Stawarz, T. Wallas, K. Wojtaszczyk, Warsaw 2017, *passim*.

<sup>17</sup> See: K. Działocha, *Poszukiwanie formuły suwerenności...*, pp. 45–62; *Suwerenność i ponadnarodowość...*, *passim*; M. Ziółkowski, *Europeizacja konstytucji...*, p. 24.

<sup>18</sup> See: V. Serzhanova, S. Sagan, *Wpływ procesów...*, p. 318; about the origin and evolution of the sovereignty concept see: V. Serzhanova, S. Sagan, *Nauka o państwie...*, p. 44 & seq. Competently about this problematics is written by: J. Jaskiernia, *Istota i charakter prawny*

globalization and widely comprehended regional integration, especially in Europe, including mostly the membership in the EU, essentially influence the way of apprehension of the modern national states' sovereignty. In consequence, this phenomenon also affects the degree of the states' external and internal security.

International terrorism proved to be a new phenomenon which appeared in the end of 20<sup>th</sup> century and had a great influence on this area of the states' functioning. Fighting terrorism by particular states turned to be ineffective. It requires organizing political and military alliances, as well as joint efforts in the universal and regional scale<sup>19</sup>. In the contemporary world global and regional cooperation of the states, attempting to jointly solve problems connected with their external security, is becoming more and more significant. A special role is played here by NATO and the European Union<sup>20</sup>.

Another factor restricting sovereignty and affecting the external and internal security of the national states is their loss of their military and defence functions for the benefit of political and martial structures. Contemporary states have also lost their monopoly of armament possessing and disposing and, in its consequence, also organizing their military forces predestined to protect national borders. Therefore, the lack of an effective control over a part, or sometimes even most of their territories, has become a great problem of many contemporary states. Such a state of affairs occurs in several dozens of states all over the world<sup>21</sup>. The most explicit examples are: Somalia, Afghanistan and Georgia, as well as Moldavia, a part of the territory of which

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*związania suwerennego państwa polskiego międzynarodowymi standardami demokratycznymi*, [In:] *Dwadzieścia lat obowiązywania Konstytucji RP. Polska myśl konstytucyjna a międzynarodowe standardy demokratyczne*, eds. J. Jaskiernia, K. Spryszak, Toruń 2017, p. 398 & seq.

<sup>19</sup> B. Balcerowicz, *Sily zbrojne w państwie i stosunkach międzynarodowych*, Warsaw 2006, p. 82 & seq.

<sup>20</sup> See: V. Serzhanova, S. Sagan, *Nauka o państwie...*, p. 67; compare to: A. Korybski, *Funkcje państwa...*, pp. 107–108.

<sup>21</sup> International practice admits the existence of a state without a territory, though it stresses that this state of affairs is temporary. Presently, the examples of such states are: Palestine, West Sahara, South Ossetia, Abkhazia and many others. The lack of an effective control of a state over its territory concerns mostly such ones, where secessions took place, as a result of which there arose quasi-state organisms of a not precisely determined status, not recognized by the majority of the international community.

remains under the control of the unrecognized authorities of the Pridnestrovian Moldavian Republic<sup>22</sup>.

Movements of a regional character sometimes become very dangerous, for in many cases they can lead to the destruction of national states. This state of affairs seems to be observed on the example of Taliban in Afghanistan, Pakistan or armed groups remaining out of any state control in Somalia, which has been totally destructed and became a jaunt base for pirates. Moreover, because of a new kind of conflicts, requiring joint alliance actions, disposing the national military forces by the states eludes from their control. Decisions on military involvement are taken outside the states, e.g. in the NATO structures, which is the largest defence organization of the Euro-Atlantic world, while national armies are more and more frequently engaged into the conflicts outside the borders of their own states: in Syria, Iraq, Afghanistan, Chad, Sudan, Congo, etc.

Nowadays, there exist numerous non-state organizations, sometimes acting globally, which dispose armed formations able to endanger national states. This is the case of Al-Kaida or the Islamic State. Since the intervention in former Yugoslavia NATO has officially promoted a new strategy, permitting to restrict sovereignty for the benefit of human rights and democracy. However, these values are treated selectively and not always consequently. And it can be also seen how imperfect the structures and defence policy of the EU are. Facing the events in Northern Africa and Asia after 2011, and especially in the lights of the intensified activeness of the Islamic State and the reviv-

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<sup>22</sup> Over thirty cases of unrecognized states, established after 1945, are known in the newest history. Among the contemporary known unrecognized states there are at least over a dozen (their number is difficult to precisely determine). They include those which have not been recognized by any member of the UN, like e.g. Nagorno-Karabakh, Somaliland or ISIS, as well as those which have been partly recognized by one or several states, like e.g. Northern Cyprus (recognized only by Turkey) or Abkhazia and South Ossetia (recognized by four states: Russia, Nicaragua, Venezuela and Nauru), or even several dozen states, like e.g. the case of Kosovo and the Republic of China (Taiwan). It is impossible to name all of them, not only because of their number, but also because of the ambiguity of their status. This does not make the aim of this short study either. It is only worth to mention, that all of them differ from each other by the advanced degree of their internal organization and remain on distinct levels of development and effectiveness of functioning, and first and foremost, each of them to the diverse extent meets or does not the requirements following from the definition of a state.

al of AL-Kaida recently, the necessity of creating the European defence force is more and more distinctly seen<sup>23</sup>.

Therefore, the area of the EU military integration, which is still running with far-reaching resistance of the member-states, is a very significant matter. Presently, organizing the European military forces is realized within the structure of the Common Security and Defence Policy (CSDP), acting in the frames of the Common Foreign and Security Policy (CFSP). They replaced the Western European Union (WEU), dissolved on 31 March 2010 by the decision of the member-states because of the enforcement of the Lisbon Treaty<sup>24</sup>. Lack of the effectiveness in the activities intending to organize efficient EU security structures is the result of asymmetric actions for the sake of the European integration process.

It is worth to notice a certain aspect significant from the constitutional law viewpoint here, namely the stimulation of such actions may need the introduction of amendments of the basic laws' provisions referring not only to transferring of a part of the states' sovereignty, but also of those dealing with the motherland's defence, permitting for the military service or giving a part of national military forces under the out-of-state's command, as well as using them abroad within the EU common defence policy (such provisions are presently in force in such constitutions as the Austrian, Dutch, Swedish, Slovakian, etc.). The amendments of such a character may become especially necessary in case of the states, which basic laws not only maintain the principle of neutrality, but also explicitly prohibit to participate in any military alliances (e.g. the constitution of Malta)<sup>25</sup>.

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<sup>23</sup> This seems to be justified mostly because the military targets determined by the NATO, being the only effective alternative for the activities of the national military forces in the field of their own states' defence, are more and more distant from the objectives actuating the European states. This thesis is proved by the strengthening tendencies of involving of the member-states' armies, including mostly the European ones, of course, into the conflicts lasting far distantly outside the European Continent. Hence, creating the European military forces with coherently established military targets, protecting the defence interests of the European states, seems to be a reasonable step. More extendedly see: V. Serzhanova, *Europeizacja konstytucji...*, p. 164 & seq.; also V. Serzhanova, S. Sagan, *Wpływ procesów...*, p. 318.

<sup>24</sup> The organization's activity had been completely extinguished before 30 June 2011.

<sup>25</sup> About the integration in the military place in a more detail see: V. Serzhanova, *Europeizacja konstytucji...*, p. 156. About the constitutional norms referring to the state defence, using

One of the most important problems of the contemporary states in both the global and regional scales is the people's migration (legal and illegal) on an unprecedented hitherto level. Movement of people, being a result of different reasons (employment migration, free flow of persons in the EU, but also a very significant problem of refugees emigrating from the territories covered by numerous armed conflicts all over the world), makes the receiving states face and cope with the problems of multiculturalism and tolerance towards foreigners on the one hand, and the protection of their own territories before illegal immigration on the other. It is also worth underlining, that the scale of the phenomenon of the refugees arriving at the Old Continent and the problems connected with it, thought very large, is incomparably lesser than the one the Asian and African states have face (Turkey for instance), despite the fact they are not treated as the destination states of residence of these people.

In this situation Europe has faced the necessity to establish the European Border and Coast Guard Agency (FRONTEX), being an organization coordinating the activities of the national border protecting services<sup>26</sup>. Another very dangerous phenomenon is an organized criminal activity. It implicates a close cooperation of the security authorities in a regional (Europol) and global (Interpol) scale<sup>27</sup>.

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the military forces outside the state borders, the principle of neutrality and the prohibition of participating in military alliances provided by some constitutions and eventual amendments in them more extendedly see in: V. Serzhanova, S. Sagan, *Wpływ procesów...*, p. 313 & seq.

<sup>26</sup> The name FRONTEX originates from the French *Frontières extérieures*, meaning 'external borders'. FRONTEX was created on the basis of a Council Regulation (EC) No. 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Official Journal of the European Union, L 349, 25.11.2004, the date of validity expired on 5 October 2016). On 14 April 2005 it was decided to establish FRONTEX's seat in Warsaw. Formally the Agency started its activity on 1 May 2005, while factually – on 3 October 2005. Presently, it functions as a European Border and Coast Guard Agency, established by the Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No. 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No. 2007/2004 and Council Decision 2005/267/EC (Official Journal of the European Union, L 251, 16 September 2016), repealing the previous regulation).

<sup>27</sup> H. Kurta, *Interpol*, Warsaw 1976, *passim*; P. Wawrzak, *Współpraca policyjna a system informacyjny Schengen II*, Warsaw 2008, p. 21.

The abovementioned phenomena consequently efface the explicitness of the concept and scope of the external and internal state functions, for the displays of a mutual diffusion between these two spheres of the states' activities is distinctly seen. Therefore, not only internal entities participate in performing the internal function, but also non-governmental organizations, which contributes to the representation of different interests and extending the base of forming a stable social order in states<sup>28</sup>.

The integrational and globalization tendencies are distinctly modifying the scope of a modern state's functions, which is deprived of it influence on the national economy, taxes and defence. Facing the restrictions of many of the state functions, the role of a contemporary state comes down to assuring the safety of trade and investments on the area being under its jurisdiction. Moreover, states narrow their fields of activities to guaranteeing peace and internal order over a certain territory. Globalization and integration, causing huge people's migration, also influence to a large extent the atrophy of the citizens' identification with their national states<sup>29</sup>. In these circumstances the role of the institutions of civil society, which are overtaking many of the state competences and determining the shape of political decisions, is explicitly increasing.

#### **IV. Conclusions**

Contemporary national states are undergoing dynamic transformations connected with the integrational processes, which can also be wider perceived as a display of globalization. The processes of restricting the states' sovereignty and their voluntarily transferring of its part to international and supranational organizations, including military alliances, do not also remain without the influence on the functions of contemporary states, their scope and the way of their performing. A considerable impact on the latter is made by the processes of integration and globalization, indeed, especially distinctly noticed in the European space, which are explicitly chang-

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<sup>28</sup> See: E. Zieliński, *Nauka o państwie i polityce*, Warsaw 1999, p. 141.

<sup>29</sup> An interesting study over an individual in the processes of globalization can be found in: J. Staniszkis, *Antropologia władzy. Między Traktatem lizbońskim a kryzysem*, Warsaw 2009, p. 149 & seq.

ing the scope and manner of fulfilling the tasks by modern states. Not only the restriction of the states' influence on their performance is occurring, but also the efface of their distinct hitherto limits, which is seen on the example of the external and internal functions. In this context, a particularly essential area of the states' activeness is assuring their citizens external and internal security, peace and public order, safety of their constitutional systems, territorial integrity, as well as the protection of the individuals' functioning within their states (i.e. their lives, health, properties, etc.) and exercising their fundamental rights and freedoms.

Globalization and integration processes contribute to the intensified people's migrations and getting ever larger challenges connected with them. This influences considerably mostly the internal functions of national states, for it determines the necessity to implement certain legal solutions in this matter. But migrations also have an impact on other functions (external, economic and organizational, cultural and educational, social), because they need the break of civilizational barriers, as well as assuring economic, cultural and educational integration.

In consequence, the national constitutions, especially those of the newly arisen and small states, are making a hard effort to protect their cultural identity, also on a legislative plane. On the one hand a contemporary national state in the era of globalization and integration is characterized by its weakening, also including the restriction of its sovereignty, influence on its economy and disposing the military forces, while on the other hand by transferring the central government's competences onto the local, autonomic or self-government authorities, by this way strengthening the regionalization trend, not seldom by the revival of historical regions and even the disintegration of national states. Such a phenomenon has also been observed in many European states.

Therefore, we can observe two contrary in their essence phenomena nowadays. On the one hand, it is the erosion of the national states, being the result of mainly globalization processes, moved by the forces of a supranational character, which in consequence cause an intensified integration for the sake of uniting in local (regional) supranational structures. On the other hand, there occurs a phenomenon of regionalization, consisting in strengthening of the influence of the units of territorial division, includ-



ing autonomous regions, at the cost of the power exercised centrally in the scope of the territorial jurisdiction of the national states. The latter seem to still remain necessary however, as a factor of keeping the international balance between the political blocks.

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