

UDC 340.1

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Kachur, Vira, Kozin, Sergey (2022). Methodological function of the state and law theory. *Entrepreneurship, Economy and Law*, 1, 68–73, doi: <https://doi.org/10.32849/2663-5313/2022.1.11>

METHODOLOGICAL FUNCTION OF THE STATE AND LAW THEORY

Abstract. Purpose. The purpose of the article is to consider the content of the methodological function of the theory of State and law in the system of vectors of impact of law. **Results.** The authors study the content of the methodological function of the State and law theory in the system of fits vectors. The approaches available in modern legal literature to the definition of the functions of the State and law theory, as well as their features are analysed. It is established that the functions of the State and law theory are the main vectors of its scientific and educational impact on the State and legal reality, defining and characterising the essence, content, social purpose, objectives and the aim of the State and law theory in the system of legal sciences. The functions of the State and law theory are classified on the basis of different doctrinal positions. Traditionally, the literature review reveals that the functions of the State and law theory are political, ideological, methodological, interpretive, heuristic, prognostic, ontological, systemically important, practically organisational, information, and communication. It is established that a particular place in the system of functions of the State and law theory is occupied by a methodological function, reflected in making of a conceptual and categorical apparatus of the system of legal sciences, a universal legal language, which ensures uniformity in the classification and assessment of phenomena by experts from different branches of law. Moreover, the specificities of the methodological function are that the theories of State and law provide general scientific methods with the legal content, make a system of special methods, use sectoral methods, facilitates the exchange of information between the legal sciences on methodological knowledge. **Conclusions.** It is concluded that the State and law theory as a science studies objective regularities of the advent, functioning and development of the State and law, dialectics of the theory of knowledge of State and legal existence, the logic of discovering new regularities and legal practice, etc. The subject matter of the State and law theory is closely related and correspondingly determined by the functions performed by this legal science. All functions of the State and law theory are interrelated and can produce a positive result only if they are carried out in a single, integrated manner. The State and law theory performs a variety of functions in respect of its subject matter, using both its elaboration and the work of other social and legal sciences.

Key words: State and law theory, subject matter of State and law theory, functions of State and law theory, methodological function of State and law theory, conceptual and categorical apparatus of State and law theory.

1. Introduction

The progressive development of domestic legal science and higher legal education is directly linked to the detailed elaboration of methodological problems of the State and law. At present, the State and law theory, which has a general theoretical status in the system of legal sciences, is faced with the important

tasks of updating its content and reorienting itself towards the study of State legal reality, taking into account universally recognised models of democracy, of functioning of social and legal statehood and of mechanisms for ensuring and protecting human and civil rights and freedoms. To that end, State and law scholars should critically rethink the achievements

of the previous period and propose new, scientifically based approaches to solving current problems of State and legal development and ways of solving them (Tsvik, 2011, p. 11).

First, changes in the world, especially in the post-Soviet area, over the past two decades have had a significant impact on State and legal phenomena that are the subject of the study by general theoretical jurisprudence. This requires a higher level of knowledge, the search for new paradigms, methods and approaches, the involvement of other sciences, and the study of new linkages and properties of these phenomena. Second, for decades, the views of many legal theorists on legal science and its general theoretical part have been bound by orthodox Marxist-Leninist ideology. It gave rise to an *Étatist* (State) and sometimes overtly authoritarian and even totalitarian interpretation of law, which, despite the efforts of many scholars to get rid of it, has survived to this day. Legal theorists express diverse, sometimes controversial, views not only on the science of the general State and law theory and the relevant academic discipline, but even on its name. Third, the need to rethink the subject matter and structure of general theoretical jurisprudence and the relevant academic discipline is due to not only internal but also external factors, decisive among these is the rapid development of global inter-State integration processes, which, together with the economic, political and legal sectors, cover science and education as well.

Predominantly, the subject matter of the general State and law theory is considered as a science of the general patterns of the advent, development and functioning of the State and law. It is obvious that reducing the subject matter of State and law theory to the patterns of the advent, development and functioning of State and legal phenomena narrows the scope of the study and extracts from it the most important processes of knowledge and reform of various phenomena of political and legal reality. This also applies to the set of methods of the State and law theory. In modern legal literature, the methodology of the State and law theory is interpreted purely from the epistemological perspective, ignoring the systemic approach. Such perspective is one-sided, simplifies and narrows the understanding of the essence and functions of the State and law theory, since it performs, in addition to solving cognitive problems, ontological, methodological and other functions (Kotsiubynska, 2012, p. 1).

The State and law theory as a science has a considerable number of traditions that differ from each other in their content, functions and way of existence. Political and legal knowl-

edge terminates outdated traditions, but retain everything positive and viable, without which further development of theoretical system is impossible, because borrowing of positive is the very "continuity in the interrupted". The development of the State and law theory is possible because of the invisible mechanisms of continuity of tradition and innovation (Zharovska, 2016, p. 253). The definition of the functions of the State and law theory as a science provides a methodological basis for a comprehensive and complete interpretation of its subject matter. In this context, it is particularly important to understand the methodological function of the State and law theory in the system of vectors of impact of the latter, which is the purpose of this scientific article. It is proposed to put it in effect through successful implementation of tasks such as: first, to analyse the current legal literature's approaches to defining the functions of the State and law theory and to identify their characteristics; second, to classify the functions of the State and law theory on the basis of different doctrinal perspectives; third, to explain the methodological function of the State and law theory, its place and role in the system of legal knowledge and practice.

The scientific and theoretical basis of this article consists of the scientific works of domestic legal theorists, such as Y.V. Bilozorov, S.D. Husariev, I.M. Zharovska, A.M. Zavalnyi, M.I. Koziubra, A.M. Kolodii, Y.V. Kryvytskyi, S.L. Lysenkov, O.V. Petryshyn, P.M. Rabinovych, O.F. Skakun, O.D. Tykhomirov, M.V. Tsvik, etc.

2. Defining the functions of state and law

The transformation of the basic sectors of social life allows increasing the substantially of the role of scientific research in the field of the State and law. This is particularly true for fundamental general theoretical studies, which are of basic importance for objective knowledge of State and legal phenomena and ways of improving them. The advent, essence, functioning and significance of the State and law in the life of society, as well as their reflection in the minds of people, are among the complex and key issues in the legal science. Theoretical understanding of State and legal reality and trends in the development of political and legal processes is an objective necessity and a vital condition for scientific knowledge. Under the integrative and globalised changes in the modern existence of mankind, the world economic crisis, political conflicts, ecological cataclysms and other transformational phenomena, the State and law theory is undergoing a stage of renewal and development. The causes for the development of the State and law theory can be divided into external and internal ones.

External causes include: the needs of other legal sciences, forms of legal consciousness, legal practice that set defined objectives for the State and law theory as a basic legal science with, stimulate and guide scientific research, as well as new facts that cannot be explained by the existing theory. Internal causes are contradictions in the very theory of the State and law, or problems arising from the internal logic of the development of the theoretical system of the field of knowledge, caused by the performance of its functions (Zharovska, 2016, p. 17).

The functions of any science reveal its tasks to solve, its social purpose. The advent of science is related to the social need to know the world and systematise knowledge of it. This knowledge is essential for sustaining life in a changing human environment. Therefore, every science has certain, intrinsic functions. The essence and content of the State and law theory, its specificities, place and role in the system of social and legal sciences are most fully and concretely revealed through the concepts and types of functions of this legal science which it performs, affecting the State and legal reality. These functions enable to trace the development of the system of general theoretical knowledge, its influence on the totality of social relations, the scientific and practical significance of the results of scientific research, the tasks for State theory and the law (Hida, 2011, p. 35). The term "function" (from Latin *functio* "performance, execution") means the area of activity, the way of action of an object aimed at achieving a certain result. Each of the legal sciences, including the State and law theory, has specific functions, defined by the subject matter of this legal science, and, on the other hand, relies on public life and practice, interacting with other legal sciences (Tymchenko, 2008, p. 32).

The literature review reveals various doctrinal approaches to the definition of the functions of the State and law theory, such as:

- The main vectors of its theoretical and practical use in society for the purpose of progressive transformation (O.F. Scacun);
- The main vectors of its impact on the State and law reality of and the development of other legal sciences (M.V. Tsvik, D.O. Volk);
- The tasks to perform when researching its subject matter (S.L. Lysenkov, A.M. Kolodyi, O.D. Tykhomyrov, V.S. Kovalskyi);
- The main vectors of its impact on the development of legal science, legal practice and legal education (Y.M. Oborotov, N.M. Krestovska, A.F. Kryzhaniivskyi, L.H. Matvieieva);
- The main vectors of its scientific and educational impact on the State and legal reality, defining and characterising the essence, content, social purpose, objectives and the aim of the State

and law theory in the system of legal sciences (S.D. Husariiev, A.Y. Oliinyk, O.L. Sliusarenko, Y.V. Krivitskyi).

The functions of the State and law theory are determined by the specificities of the subject matter of this science and its place and role in the system of legal sciences. However, the specificity of the State and law theory is that it has both functions inherent in the legal science in general and functions inherent only in the State and law theory. According S.D. Husariiev, A.Y. Oleinik and O.L. Sliusarenko, the features of the functions of the State and law theory are as follows: first, they are the vectors of scientific, cognitive and educational purpose; second, they express the essence and content of the State and law theory; and third, they define the social purpose of the State and law theory in the system of legal sciences; fourth, they characterise objectives and the aim of the State and law theory as a legal science (Husariiev, Oliinyk, & Sliusarenko, 2008, p. 24). According to Y.V. Kryvytskyi, the features of the functions of the State and law theory are as follows: 1) these are the main vectors of scientific and educational action in the field of the study of the subject matter of the State and law theory, aimed at obtaining, systematising knowledge of the State and law, as well as other State and legal phenomena; 2) they are vectors of basic scientific activity, the content of which is the development of professional knowledge, skills and abilities of a future lawyer; 3) these are the vectors of impact that define and characterise the essence, content, purpose, objectives and goals of the theory of the State and of law as a legal science. It should be agreed that the functions of the State and law theory as a fundamental science in the legal study system ensure its full and comprehensive transformation into a sound theoretical and methodological basis for the solution of current political and legal problems in the field of science and practice. The functions of the State and law theory characterise social purpose, define the nature of this science and its features as an independent type of scientific activity (Hida, 2011, p. 36).

There are different classifications of the functions of the State and law theory. For example, according to the Encyclopaedic juridical literature, the State and law theory have main functions, such as: ontological – knowledge and explanation of the phenomena and processes of the State and legal life of society; heuristic – deep knowledge of the basic regularities of State and legal existence and the discovery of new regularities ("build-up" of knowledge); prognostic – anticipating the further development of the State and law on the basis of an adequate reflection of its objective regularities and fortu-

itous phenomena. Other functions of the State and law theory are: methodological – formation of the conceptual apparatus of the system of legal sciences; ideological – development of fundamental ideas on ways of progressive development of the State and law; political – impact on shaping the State's political course and ensuring its scientific integrity; applied – formulation of recommendations for practical solutions to the problems of State and legal construction (Skakun, 2004, p. 38). According to P.M. Rabinovych, the general State and law theory performs the following functions: 1) declaratory – identification and recording of existing legal State phenomena; 2) interpretive – explanation of the nature of legal State phenomena and the reasons for their occurrence and change, their structure, functions, etc.; 3) heuristic – discovery, detection of previously unknown legal State regularities; 4) prognostic – formulation of hypotheses and predictions of the development of legal State phenomena; 5) methodological – the use of legal science's achievements as research tools to form, “build up” new knowledge both in jurisprudence and in other sciences (the provisions of the general State and law theory are of particular importance in this area); 6) applied-practical – recommendations and proposals for the improvement of legal and State institutions and entities; 7) ideological and educational – impact on the formation and development of legal, as well as moral and political, consciousness, universal worldview and general culture of actors, and on the strengthening of prestige and authority of law and the State. The use of interpretive, heuristic and prognostic functions by the general State and law theory is linked to the study of the mechanism of legal State regularities, while the exercise of its applied-practical function is linked to the determination of the mechanism of their use (Rabinovych, 2017, p. 137).

3. Features of the methodological function of the theory of state and law

The list of basic functions of the State and law theory varies from five (epistemological (cognitive), systemically important, methodological, prognostic, practical-indicative) (Krestovska, & Matvieieva, 2015, p. 21) to 11 or more vectors of action (political, ideological, methodological, interpretive, heuristic, prognostic, ontological, systemically important, practically-organising, informational, communicative) (Husariev, Oliinyk, & Sliusarenko, 2008, p. 24). A specific function is the unity of the content, forms and methods, and it is characterised by a certain autonomy, homogeneity and repetition. With regard to the available views on this matter, Y.V. Kryvytskyi concludes that the functions of the State and law theory

as a fundamental legal science are: ontological, gnoseological, heuristic, prognostic, axiological, methodological, ideological, educational, communicative, applied (practical, applied-scientific, applied-practical, practical-indicative), integrative (systemically important). In addition to these main vectors of impact of the State and law theory, the literature review reveals political, (political and managerial), interpretive, educational and information functions (Hida, 2011, p. 40).

The functions of the State and law theory, which reflect the specificities of its scientific status and the specificity of the subject matter, should include, first of all, methodological one. The latter takes the form of a conceptual apparatus and a methodological tool for the system of legal sciences, construction of a universal legal language, which ensures uniformity in the classification and assessment of State and legal phenomena by experts from different branches of law.

In the context of the issues raised, the scientific heritage of prominent legal scholars of previous historical generations should be mentioned, in particular, O.V. Surilov, who focuses on the study of the functions of the State and law theory. The functions of science generally refer to the main vectors of impact of science on society in general and on its individual sectors. The scientist argues that functions of the State and law theory express both the essence, content, social, scientific-cognitive and educational purpose. The functions of the State and law theory are determined by the characteristics of the subject matter. Among the functions of the State and law theory, O.V. Surilov underlines the methodological function. He considers that the State and law theory in the system of legal science has a methodological function. O.M. Vasyliiev wrote about the methodological nature of the State and law theory in the late 1970s. On the contrary, D.A. Kerimov argued that there could not be a separate methodological science in the legal system. The dialogue on the topic whether the general theory of the State and of law is a methodological science or a science of methodological significance seems to be unimportant, according to O.V. Surilov, because the State and law theory is considered the methodological science due to its methodological significance in the system of legal research at different levels. Furthermore, he considered attempts to contrast the methodological aspect of the State and law theory with its theoretical aspect as unsubstantiated, because the theory implies methodology, which is inconceivable beyond the theory. It is impossible to imagine methodological knowledge outside the theoretical form of its pres-

entation. O.V. Surilov argues that an opposing view, according to which general theory in general acts as a methodological science, as a creative method of scientific knowledge of reality in all its manifestations, is inadmissible. The scientist states two objections: first, the theory as a system of knowledge is not limited to methodology; it is broader; second, although it has a rich methodological content in the legal science system, it cannot fully assume the function of methodological support (maintenance). Any field of legal knowledge has a methodological component without which special scientific research would be meaningless (Arnautova, 2012, p. 218).

According to M.V. Tsvik and D.O. Volk, the general theory of the State and law performs a methodological function. The provisions on development patterns of State and legal phenomena, considered by this science, its theoretical schemes and scientific forecasts form the methodological basis for all other legal sciences to study their subjects. The system of legal concepts developed by the State and law theory is of extraordinary importance for the entire science. Without the scientific categories of the form of the law, the system of law and its components, legal relations, their actors and objects, legal fact, offence, etc., sectoral legal sciences will not be able to perform their scientific tasks fruitfully. Moreover, a unified conceptual apparatus is a prerequisite and an integral part of successful law-making, law-enforcement, interpretation and other legal activities (Tsvik, 2011, p. 23). According to S.L. Lysenkov, the methodological function is manifested primarily in the fact that the general State and law theory formulates a system of concepts related to State and legal phenomena and develops methods of studying these phenomena, used by all other legal sciences. The success cognitive law research depends mainly on the mastery of using the appropriate methodology for the study of State and legal phenomena, on

the correct understanding and proper application of the conceptual apparatus. Theoretical knowledge is a prerequisite for the correct solution of any practical law-making, law-enforcement or law-enforcement problem. Indeed, it is the methodology developed by the general theory that enables to interpret properly facts, to group them according to certain links and relations, and contributes to the unmistakable finding of the applicable legal provision (Lysenkov, 2006, p. 17).

4. Conclusions.

Therefore, the above-mentioned allows the author to assert that the State and law theory as a science studies objective regularities of the advent, functioning and development of the State and law, dialectics of the theory of knowledge of State and legal existence, the logic of discovering new regularities and legal practice, etc. The subject matter of the State and law theory is closely related and correspondingly determined by the functions performed by this legal science. All functions of the State and law theory are interrelated and can produce a positive result only if they are carried out in a single, integrated manner. The State and law theory performs a variety of functions towards its subject matter, drawing on both its heritage and the work of other social and legal sciences. A particular place in the system of functions of the State and law theory is taken by a methodological function, reflected in making of a conceptual and categorical apparatus of the system of legal sciences, a universal legal language, which ensures uniformity in the classification and assessment of phenomena by experts from different branches of law. The specificities of the methodological function are that the theories of State and law provide general scientific methods with the legal content, make a system of special methods, use sectoral methods, facilitates the exchange of information between the legal sciences on methodological knowledge.

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МЕТОДОЛОГІЧНА ФУНКЦІЯ ТЕОРІЇ ДЕРЖАВИ І ПРАВА

Анотація. Мета. Метою статті є осмислення змісту методологічної функції теорії держави і права в системі напрямів дії права. **Результати.** У статті автор досліджує зміст методологічної функції теорії держави і права в системі напрямів її дії. Проаналізовано наявні в сучасній юридичній літературі підходи до визначення поняття функцій теорії держави і права, а також виокремлено їх ознаки. Встановлено, що функції теорії держави і права – це основні напрями її наукової та навчальної дії на державно-правову дійсність, що визначають і характеризують сутність, зміст, соціальне призначення, завдання і мету теорії держави та права в системі юридичних наук. Здійснено класифікацію функцій теорії держави і права на підставі різних доктринальних позицій. Традиційно у фаховій літературі виокремлюють такі функції теорії держави і права: політичну, ідеологічну, методологічну, інтерпретаційну, евристичну, прогностичну, онтологічну, системоутворюючу, практично-організаторську, інформаційну, комунікативну. З'ясовано, що особливе місце в системі функцій теорії держави і права займає методологічна, яка виражається у формуванні поняттєво-категоріального апарату системи юридичних наук, створенні універсальної юридичної мови, що реально забезпечує одноманітність у класифікації та оцінці явищ фахівцями різних галузей права. Особливості методологічної функції полягають також у тому, що теорія держави та права надає юридичного змісту загальнонауковим методам, створює систему спеціальних методів, використовує галузеві методи, сприяє обміну інформацією між юридичними науками стосовно методологічних знань. **Висновки.** Зроблено висновок, що теорія держави і права як наука вивчає об'єктивні закономірності виникнення, функціонування і розвитку держави і права, діалектику теорії пізнання державно-правового буття, логіку відкриття нових закономірностей і юридичну практику тощо. Предмет теорії держави і права тісно пов'язаний і відповідним чином обумовлений функціями, які виконує ця юридична наука. Усі функції теорії держави і права взаємопов'язані між собою і можуть забезпечити позитивний результат лише за умови, що будуть здійснені в єдності, комплексі. Теорія держави і права виконує різноманітні функції щодо свого предмета, використовуючи як власний доробок, так і напрацювання інших суспільних та юридичних наук.

Ключові слова: теорія держави і права, предмет теорії держави і права, функції теорії держави і права, методологічна функція теорії держави і права, поняттєво-категоріальний апарат теорії держави і права.

The article was submitted 15.02.2022

The article was revised 09.03.2022

The article was accepted 30.03.2022