

Summery

Key Words: state immunity, sovereignty, international law

Subject matter: "The problem of the immunity of a foreign state and modern solutions"

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The topicality of the research: modern international legal relations with participation of the state acquire a completely new shape. Now the state is not engaged exclusively in politics, but also master the various types of commercial activities, enter into different kinds of foreign trade transactions, concluding contracts of a private law character with legal and physical persons including foreign. But despite this, States do not cease to be the entities that have sovereignty and independent relative to each other. This is based on one of the principles of international law – the principle of foreign state immunity, under which one state may not be against his will is subordinated to the authorities of another state. But currently in the legislation and jurisprudence of a number of countries have spread the trend to the non-recognition of the immunity of a foreign state in cases when it enters into private law transactions.

The aim of this work is that on the basis of a comprehensive analysis of the relevant principles and rules of contemporary international law to comprehensively study the issue of the immunity of a foreign state, to consider the basic scientific concepts of immunity and their application, to identify existing issues and propose solutions.

Objectives:

- to investigate the overall nature and content of the principle of foreign state immunity in contemporary international law;
- give a brief description of the types of immunity;
- to study the theory of absolute and restrictive immunity and the sources of legal regulation of state immunity;

- to analyse international jurisprudence in the application of jurisdictional immunity;
- to determine the main directions for solution of problems related to the practical application of immunity.

Theoretical and practical significance of the study determined that the analysis and conclusions made in the course of the study, contributed to the development of a scientific direction connected with the concept of state immunity and can be used in the formation of the national doctrine on this matter. The materials represent an additional source of information, and can be used in higher education to study such subjects as international law, international private law.

The results obtained:

1. The immune system is a complex legal institution that combines the substantive and procedural legal signs, functioning solely on the basis of legal norms, and characteristic for both international and domestic law. International legal forms of immunity historically preceded all other of his species were the progenitors of the latter. The essence of state immunity can be expressed by the following formula: any state not subject to the jurisdiction of a foreign state.
2. The obligation to respect the independence of other participants of international relations, which inevitably follows from the principle of respect for sovereignty implies that every state must refrain from exercising its authority and power of coercion against any other state. Thus, state immunity from the jurisdiction of other States is a natural consequence of the principle of respect for, and observance of state sovereignty. Any use of power by one state against another state is, in fact, a denial of the legal equality of those States, because it expresses not equality, and the subordination of one state to the authorities of another.
3. It is impossible to agree with advocates of the concept of functional immunity, which claim that the state acts in international economic relations as if in two ways: if the state acts as the bearer of sovereign power (*dejureimperii*), it enjoys immunity in all spheres, including private law; if the state is engaged in commercial activities (*dejuregestionis*), the immunity it is not. In fact, the state in

this case is reduced to the level of ordinary legal entity, i.e. a subject who does not have sovereignty. This assumption means the recognition of the divisibility of state sovereignty, and its actual denial.

Recommendations: the problem of immunity can be resolved only on the basis of intergovernmental agreements. That is, the solution to this problem should be exclusively international law. It should be based on the agreed will of the States, which are the main actors in international law and the main creators of its norms. Thus, it would be logical to call the proposed concept of state immunity international legal concept.