

SUMMARY

Subject of the thesis: Constitutional and legal foundations of jurisdictional immunity of the Russian Federation.

Author: Kudzaev Hetag.

Academic Adviser: PhD, F.I. Valyarovsky.

Organization: School of International Relations, Chair of International Relations, World Economy and International Law, Pyatigorsk State Linguistic University.

Relevance of the research issue: A modern times have brought new types of foreign economic cooperation. In recent years, international trade relations with the state participation have acquired a completely new form. In this connection special importance got by a problem immunity of the foreign state and the strict and rigorous respect for the sovereignty and sovereign equality of States, non-interference in their domestic affairs.

Research of the problem of immunity of a foreign state are also important because in recent decades in the judicial practice a number of foreign countries formed a negative trend to solve the question of immunity of a foreign state at the level of national courts. This practice is a violation of the principle of sovereign equality of States and does not correspond to the understanding of the nature of state sovereignty, which is incorporated in the Constitution.

The purpose of the work is to study the problems of state sovereignty and immunity of a foreign state, the identification of existing contradictions in this area and suggesting ways to resolve them.

Research objectives:

- to identify and analyze the constitutional foundations of state sovereignty of the Russian Federation;

- to consider immunity, as an element of state sovereignty, show genetic inextricable connection between state sovereignty and immunity on the basis of the principle of sovereign equality of States;

- considered in the comparative and legal aspect of the concept of absolute and functional immunity, to identify their strengths, weaknesses, strengths and weaknesses;

- to explore domestic legislation and judicial practice in the sphere of jurisdictional immunities.

Scientific novelty: The authors of most publications on the issue of immunity of a foreign state, published in the Soviet period, based on the concept of absolute immunity, and contemporary works come from the doctrine of functional immunity. But none of the researchers trying to find a serious alternative to the above two concepts, despite the fact that each of them has a number of significant disadvantages, do not adequately solve the problem under study or on the national level of legal systems, nor the universal international level.

Structure: introduction, two chapters, four paragraphs, conclusion and bibliography.

Summary: State sovereignty can be described as a legal category that expresses outward internal independence of the subject- carrier. This independence is manifested in the rule, political, economic and social freedom, as well as in the real ability of this subject to decide questions of existence.

Implementing in practice its sovereignty, the state may voluntarily waive some of their rights arising from the principle of immunity. However, this does not mean that other States could unilaterally impose any restrictions on the rights of foreign states.

Seems necessary to develop an alternative concept of immunity of a foreign state that is consistent with current international conditions, devoid of the disadvantages absolute immunity and functional in equal measure would protect the interests of the States and the interests of private law.

On the basis of the foregoing, proposed an alternative concept of sovereign immunity, the essence of which is that the problem of immunity of a foreign state must be solved only through international legislative and judicial means. Accordingly, the proposed concept would be logical to name the international legal concept.

A practical embodiment of this concept should look as follows. First of all, you need to create a special international court set up to deal economic disputes between states and their private law partners. This judicial authority shall be vested jurisdictional authority under the provisions of the relevant international agreement.

Thus, this study proposed the concept of state immunity provides creation of a special international legal mechanism, the central element of which will be specifically created for this purpose the Court. In this case at the Court's jurisdiction of the state and private law subjects will act as equal parties. In addition, the court will be able to resolve commercial disputes and interstate.