

# ECONOMIC SYSTEM IN THE CONSTITUTIONAL DIMENSION

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**Annotation.** The article explores the theoretical and practical aspects of the relationship between the constitutional system and the economic order in the context of modern state formation. The essence and features of the constitutional and legal regulation of economic relations are revealed, the mechanisms of interaction between constitutional norms and the economic system are analyzed. Special attention is paid to the specifics of the transformation of the economic system of Ukraine in the context of overcoming the totalitarian past and building national statehood. The need to form a balanced model of constitutional and legal regulation of economic relations is substantiated, which would ensure the optimal ratio between market freedom and social justice.

**Key words:** constitutional system, economic order, constitutional and legal regulation, economic system, transformation of the economy.

## 1. Introduction.

In the structure of the modern state and its socio-economic development, two basic elements play a key role - the constitutional system and the economic order. Their interaction creates a complex system where constitutional provisions outline the framework of economic activity, and economic realities influence the implementation of constitutional principles and observance of civil rights.

Modern processes of globalization and economic integration bring to the forefront the issue of the mutual influence of the constitutional system and the economic system. This interaction is implemented through the constitutional and legal regulation of economic relations, consolidation of the foundations of entrepreneurial activity and definition of the boundaries of state regulation of the economy.

Today, the key challenge for the state is to achieve a balance between guaranteeing economic freedoms and ensuring the necessary level of state control over economic processes. This ratio should be reflected in constitutional norms, which should ensure both the effective functioning of the market economy and the protection of public interests.

**2. The purpose of the study** is to study the theoretical and practical dimensions of the interaction of the constitutional order and the economic order, to identify the mechanisms of their mutual influence and to formulate proposals for improving the constitutional and legal mechanisms for regulating economic relations.

**3. The source base of the study** is formed by scientific developments of leading Ukrainian and foreign researchers in the fields of constitutional law and economic theory. The basic aspects of the constitutional order are covered in the studies of D.M. Byelov, M.V. Savchyn, O.V. Skrypnyuk, V.L. Fedorenko. The conceptual principles of the economic order were developed by V. Eucken, F. Bem, L. Erhard.

The relationship between constitutional law and economics has been thoroughly studied in the works of J. Buchanan, R. Pozner, G. Brennan, who developed the theory of constitutional economics.

In Ukrainian science, these issues are studied by P.F. Gural, A.A. Kovalchuk, V.M. Shapoval, focusing on the features of constitutional and legal regulation of the economy in conditions of transformation.

#### 4. Review and discussion.

The evolution of modern constitutionalism and active processes of state formation in Ukraine require an in-depth analysis of fundamental constitutional concepts. Special attention is required to study the category of «constitutional order», its essential characteristics and content as a fundamental element of modern constitutionalism.

First of all, we note that the modern constitutional and legal doctrine draws a clear distinction between the concept of “constitutional order” and the categories of “social order” and “state order”, which were characteristic of Soviet legal science and legislation [1, p. 35-36]. Thus, in his scientific works V.F. Pogorilko reveals the constitutional order as a systematized set of social relations that are enshrined and protected by the norms of the constitution and legislative acts based on it [2, p. 100]. According to Yu.S. Shemshuchenko, the essential characteristic of the constitutional system is a special type of constitutional-legal relations, reflecting the achieved level of development of state and public institutions [3, p. 11]. Most likely, this is why modern legal science notes the evolutionary nature of the formation of the concept of constitutional system, which occurred through the development and transformation of the categories of social and state system [4, p. 8-11], in that, in the broadest sense, the constitutional system represents a holistic system of legal relations that arise on the basis of the constitution and receive their normative consolidation in it [5, p. 50].

Constitutional and state system, despite a certain terminological similarity, are different in nature and scope of concepts. If state system is a narrower concept that characterizes the organization of state power, then constitutional system assumes the presence of a constitution as a fundamental legal act that establishes the foundations of social and state system. The defining features of constitutional system are the consolidation and implementation of such fundamental principles as:

- the supremacy of the people;
- the democratic nature of the formation of government bodies;
- the division of state power into separate branches;
- guaranteeing and protecting fundamental human rights and freedoms.

At the same time, state system can exist without observing the specified democratic principles, since it reflects the actual organization of state power, which is not necessarily based on constitutional principles. This principled distinction is important for understanding the nature and features of the functioning of various forms of state system [6, p. 102].

The social order includes the constitutional order as its integral part, covering those social relations that are subject to constitutional regulation, implementation and protection. It can be argued that the constitutional order is that part of the social order that has been enshrined in constitutional norms. The study of the evolution of constitutional law shows that it does not cover all elements of the social order, but regulates only its individual components. This encourages researchers to identify special constitutional and legal characteristics of the social order. It is important to note that the function of constitutional legislation is not limited only to the formal consolidation of power relations. The government acts as a regulator of all components of the social order, reflecting its key features, and at the same time is part of its structure.

A study of the practice of the Constitutional Court of Ukraine reveals different approaches to interpreting the content and place of the foundations of the constitutional order in the structure of the Constitution of Ukraine. In its decisions, the Court demonstrates different positions on this issue. In some cases, the constitutional body limits the principles of the constitutional order to the norms of Section I “General Principles”, and in others, it expands their scope, including also the provisions of Sections III “Elections. Referendum” and XIII “Amendments to the Constitution of Ukraine” [7, p. 25].

By its essence and from the standpoint of its genesis, the constitutional order is primarily a system of institutions based on law and regulated by law, which determine the fundamental foundations of the interaction of the state, society and citizen [8]. At the same time, O.V. Prieshkina emphasizes that the very fact of constitutional registration of state-social relations is not sufficient for the formation of a constitutional order; the key prerequisite for its formation is the unconditional recognition by the state of the legal limitations of its power and national sovereignty [9, p. 94].

According to K.O. Plavshuk, the foundation of the constitutional system is formed by legal norms that establish and regulate the legal status and activities of subjects of constitutional law. These norms constitute the basic principles of the constitutional system. In essence, the principles of the constitutional system can be characterized as fundamental constitutional and legal principles that consolidate and determine the main aspects of the legal status of participants in constitutional and legal relations [8].

A characteristic feature of the constitutional system is that it goes beyond the simple documentary registration of relations between the state and society. The defining condition for its existence is the recognition by the state authorities of two key principles: the limitation of its powers by legal norms and the supremacy of popular sovereignty in the exercise of power. This creates the necessary basis for the formation of a legal state, the development of democracy and the formation of civil society.

The economic system, as an integral element of the constitutional order, establishes the fundamental principles of organizing economic relations in society. It covers the constitutional regulation of various forms of ownership, guarantees of economic freedom and entrepreneurial activity, instruments of state regulation of the economy and mechanisms for protecting the socio-economic rights of citizens.

In the context of the constitutional order, the economic system must ensure the optimal balance between the freedom of market relations and the principles of social justice, achieving harmony between individual economic interests and general social needs.

The peculiarity of Ukraine's transformation is that it simultaneously solves two fundamental tasks: overcoming the legacy of totalitarianism and the revival of its own statehood. In the process of transition from a command-administrative economy, the country is faced with the need not only to introduce market elements, but also to form a comprehensive economic system that will take into account national specifics.

The experience of different countries demonstrates that the effectiveness of economic models largely depends on local conditions and the specifics of their implementation. Therefore, it is fundamentally important for Ukraine to develop an economic model that would harmoniously combine with Ukrainian national characteristics and create a solid foundation for the development of the national economy. Particular attention should be paid to solving problems inherited from the Soviet era. In particular, overcoming the ecological crisis, which was significantly exacerbated as a result of the Chernobyl disaster, remains an urgent issue [10, p. 6].

According to K.A. Babenko, the economic system is interpreted as a set of basic forms of ownership and economic (business) activity. Thus, approaching the issues of determining the role and influence of the Constitution of Ukraine on the development of the social order of Ukraine, we must turn to the issues of the constitutional foundations of the development of the economic system. Moreover, the importance and seriousness of this topic is due not only to the objective problems of legal support for the development of economic relations that we observe in modern Ukraine, but also to the fact that, according to many experts, it is the economic system that should be considered "the main system-forming element of the social order". Moreover, the scientist claims, today in the system of constitutional law science, some researchers even distinguish such a specific branch as "constitutional economics", the subject of research of which is the study of the principles of constitutional organization of economic relations, as well as the influence of constitutional law on the development of the economic system. At the same time, the connection between the norms of the constitution and the development of economic relations exists not only at the theoretical but also at the practical level, since constitutions can both promote economic development and, conversely, restrain it, preserve regressive forms of economic relations [11].

Successful transformation and functioning of the economic system requires the creation of effective legal mechanisms that ensure compliance by all participants in social relations with the norms and rules established by the state. During the transformation period, it is the state that acts as a key entity that ensures the transition of society to a new quality of economic relations. At the same time, state-legal regulation of the economic system involves simultaneously strengthening the role of the state and increasing the level of legal regulation of social relations. In these conditions, constitutional law, primarily its main source - the Constitution, acquires special importance. It establishes the fundamental principles of the country's economic system and the principles of the functioning of the economic mechanism, while reflecting the interests of various social groups and determining their legal status, rights and obligations in the system of social production [12, p. 33]. V. Tatsii rightly emphasizes that for true democratic transformations in Ukrainian society, its economic and legal spheres, a fundamentally new state legal policy is necessary. At its center should be a person and a citizen as a key participant in civil society, a driver of economic development and the main subject of private law relations [13, p. 17].

According to the observations of I.S. Pustovalova, the economic policy of the state has acquired a significant constitutional consolidation starting with the third generation constitutions that appeared after the end of World War II. Since then, the presence of special sections and chapters devoted to economic issues has become an established practice of constitutional law. Modern constitutions, regardless of the state system and the level of economic development of the country, establish:

- strategic goals and main tasks of state economic policy;
- hierarchy of priorities of general economic policy and its individual directions;
- strategic sectors of the economy that require state support;
- limits of state intervention in economic processes;
- the obligation to form and implement state economic policy;
- key instruments for implementing economic policy;
- organizational and legal mechanism for developing and implementing state economic policy [14, p. 74].

According to the correct observations of K.A. Babenko, the consolidation of the principles of the economic system in the constitutions is a common practice of modern states, although in different countries the corresponding sections may have different names. The researcher notes that at the constitutional level there has been a transformation of the state role in the economic sphere - the state has acquired greater activity and new regulatory powers. In particular, this concerns the protection of competition, counteraction to monopolization, support for domestic producers, stimulation of economic growth, regulation of income distribution and implementation of socially oriented budget policy. Thus, the inclusion of provisions on the regulation of economic relations in new constitutions has become a natural consequence of general social changes in many countries of the world [11].

According to M.V. Savchyn, the economic system as a component of the constitutional order is closely related to the implementation of the principles of economic freedom and the features of legal regulation in Ukraine. Researchers E. de Soto, R. Putnam, M. Rosenfeld and A. Chaillot note that the process of democratic formation of rules that outline the boundaries of economic freedom is significantly influenced by social mentality, social structures and current procedures. The model of the economic system is formed in accordance with the historical type of society and its structures, provided with appropriate legal instruments. At the same time, the Constitution, being an open and flexible system, establishes only the general framework of such regulation [15, p. 8].

In the mechanism of legal regulation of economic relations, constitutional law plays a decisive role, reflecting the general influence of law on the development of the economic foundation of society. It is constitutional and legal norms that establish the fundamental institutions and principles of the economic system. Among them are various forms and types of ownership, basic principles of constitutional and legal regulation of economic relations, legal regimes of key objects of property, as well as the principles of formation, delimitation and disposal of material resources [16, p. 19].

Economic relations and the organization of economic life constitute the fundamental level of the functioning of society. Social, political and ideological relations largely depend on their nature, although there is also a reverse effect in this complex dialectical interaction. Constitutional and legal regulation of economic activity is a key element of the constitutional order, although many scholars point to the difficulty of precisely defining its content. The economic system occupies a central place among the subjects of constitutional regulation, since the economy as the basis of society determines the directions of development of its political and other institutions [17, p. 166].

## 5. Conclusions.

Thus, we believe that the constitutional system and the economic order are closely interconnected, forming the fundamental principles of the functioning of the modern state. At the same time, constitutional and legal regulation of economic relations acts as a key mechanism for ensuring the balance between market freedom and social justice, between private economic interests and the public good. The role of constitutional law becomes particularly important in the transformation period, when a new economic system is being formed and legal mechanisms are being adapted to modern challenges.

In the conditions of Ukraine, the process of constitutional and legal regulation of economic relations has its own specifics, caused by the simultaneous solution of the tasks of overcoming the totalitarian past and building national statehood. This requires the development of a model of the economic system that would take into account national characteristics and create a reliable basis for the sustainable development of the country. At the same time, the key task remains to ensure an effective constitutional and legal mechanism for protecting the economic rights and freedoms of citizens, stimulating entrepreneurial activity and creating favorable conditions for economic growth.

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