

## Social State: Constitutional Image of the European Countries

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**Abstract:** The constitutional approaches of the East and Western European countries to a formulation of social characteristics of the state are presented in study. On the basis of the analysis of texts of constitutions of the European countries the conclusion is drawn that the vast majority of them can be referred to category as “such ideas sympathizing the ideas of the social state” and constitutionally reacted to the importance in development of society and the state. The constitutional differences of the states in degree and their volume of “a social inclusiveness” are shown that reflects the right of each country independently to define contents of own constitution.

**Key words:** Social state, constitution, social function, social rights, social protection, social assistance, sociality

### INTRODUCTION

Versatile processes of doctrinal development of the idea of the social state, the continuing scientific discussions concerning it a ratio with other characteristics legal (Scalia, 1989; Bingham, 2007; Rayanov, 2014), constitutional (Kutafin, 2008; McIlwain, 2005), strong (Fukuyama, 2004), creating, others the states, led to some common denominators in understanding of sense and the real importance of the social state (Markheim *et al.*, 2015). The last reflects one of the directions of the state activity. Realization of certain social tasks which range and volume depends on economic opportunities of the state and a social maturity of society is adequate to it. The social state is legal expression of a duty and responsibility of the state to society and the personality in implementation of the social program put in the economic, social and cultural rights. It is not about single charity events or auctions of “unprecedented generosity” and about systematic realization of all-social function of the state. Through its systemacity and systematicity the state becomes a factor of social wellbeing. Construction of this function on the constitutional level promotes providing and the social interfaced human rights, both social stability of society and stability of the constitutional system.

### MATERIALS AND METHODS

In research various general scientific methods and ways of logical knowledge are used: analysis and synthesis, abstraction, system and formal and logical approaches. Achievement of a stated purpose

was promoted by application of the content analysis, legallistic, comparative and legal methods.

### RESULTS AND DISCUSSION

Owing to various historical, geopolitical, other influences the European countries in different “degree of determination” but are included in implementation of the concept of the social state. It is most concentrated reflected in the constitution of the country. The analysis of texts of basic laws of the European countries will allow to present the constitutional image of the social state and to reveal the present features and regularities. The focal group included 37 European countries in their regional group on East (15 countries) and West (22 countries) European (it is systematized in the table). Initial criterion of the analysis of texts of their constitutions existence of the phrase “social state”. It turned out that constitutionally do not position themselves the social states only four-Latvia, Iceland, Monaco, Norway from focal set of the countries. The others reflect commitment to the idea of the social state in various constitutional variations. For example, in preambles of constitutions of Albania and Bulgaria the social state is defined as a reference point determination to create” the social state is proclaimed” (it is specified after democratic and legal); in Article 1 of the Constitution of Macedonia it is specified that this republic “the sovereign, independent, democratic and social state”; in the Paragraph 3 of Article 1 of the Constitution of Romania it is specified that it “the constitutional, democratic and social state” in Article 2 of the Constitution of Slovenia it is enshrined that it “is the constitutional and social state” in Article 1

of the Constitution Croatia it is defined that this republic “the uniform and indivisible democratic and social state” in Paragraph 1 of Article 1 of the Constitution of Andorra it is told that this Principality “is the constitutional, independent, democratic and social state” in h (1) Article 20 of the Constitution of Germany it is established that the Republic “is the democratic and social federal state”; in paragraph 1 Article 1 of the Constitution “Spain is constituted to the constitutional, social and democratic state...”; in Article 1 of the Constitution of France it is established that it “is the indivisible, secular, social, democratic Republic”. The provided constitutional formulations give the grounds for a conclusion that to them the mention of the “social” state together with other its definitions-legal, democratic, uniform and indivisible, independent, federal, secular is characteristic. At the same time there are two approaches: the first differs in a mention of the “social” state in the conclusion of the

constitutional lines elected by the concrete state; the second the shift of such characteristic is closer to the beginning of the analyzed lexical designs. It is probable that the second approach indicates the raised constitutional status of a sociality of the state (Table 1).

The variation of the first approach is found in the Constitution of Estonia where the social state is mentioned along with the democratic constitutional state and acts as the center of the principles mediating others except constitutional, the rights, freedom and a duty (Article 10).

As we noted earlier, in the theory existence of the function of the same name is adequate to the social state. The analysis of texts of constitutions of the east and Western European countries showed that this function is mentioned but not in connection with the state that would be quite logical and with property (Article 67 of the Constitution of Slovenia, Article 42 of the Constitution of

Table 1: Constitutional provisions of a social orientation

Country name	Some constitutional provisions of a social orientation						
	1	2	3	4	5	6	7
<b>States of Eastern Europe</b>							
Albania	Preamb.	-	Article 3	-	Ch. IV	Paragraph 1 Article 52	P.2 Article 49
Bulgaria	Preamb.	-	-	-	-	(2) Article 51	(2) Article 47
Bosnia and Herzegovina	-	-	-	-	Preamb.	-	-
Hungary	-	-	-	-	-	(1) Article XVII	-
Cyprus	-	-	-	-	-	Article 9	-
Latvia	-	-	-	-	-	-	-
Lithuania	-	-	-	-	Article 50	Article 48	Article 52
Macedonia	Article 1	-	Preamb.	-	Article 36	-	Article 35
Poland	-	-	-	-	Article 15	-	-
Romania	(3) Article 1	-	-	-	-	(3) Article 33	Article 38
Slovakia	-	h) Article 86	-	-	Ch. 5	-	-
Slovenia	Article 2	-	-	-	Article 14	-	Article 50
Croatia	Article 1	-	Article 3	-	Ch. 3	Article 56	Article 128
Czech Republic	-	-	-	-	Ch. 4	-	-
Estonia	Article 10	-	-	-	-	-	-
Austria	-	-	-	-	-	1) Paragraph 1 Article 12	-
Andorra	Article 1	-	Article 4	Article 4	Ch. V	-	-
Belgium	-	-	-	-	Article 23	-	P.2 Article 23
Germany	(1) Article 20	-	-	-	-	(7) Article 74	-
Greece	-	-	Article 106	Part 2	-	-	-
Denmark	-	-	-	-	-	-	(4) Article 29
Ireland	-	Article 45	2.1 Article 44	Preamb.	-	-	-
Iceland	-	-	-	-	-	-	-
Spain	Article 1	-	-	P. 1 Article 10	Article 42	20) Article 148	Paragraph 1 Article 39
Italy	-	-	-	Article 3	-	-	-
Liechtenstein	-	Article 78	-	-	-	-	-
Luxembourg	-	-	-	-	-	(5) Article 11	(1) Article 23
Malta	-	-	-	-	Article 14	-	(1) Article 17
Monaco	-	-	-	-	-	-	-
Netherlands	-	-	-	-	-	P.2 Article 20	-
Norway	-	-	-	-	-	-	-
Portugal	-	Article 90	P. 4 Article 104	-	d) Article 9	Article 63	-
San Marino	-	-	-	-	-	-	Article 12
Finland	-	-	-	-	-	§ 19	§19
France	Article 1	Article 11	-	-	-	Article 34	-
Switzerland	-	Article 3	-	-	-	3) Article 196	Article 114
Sweden	-	-	-	-	-	§ 2	-

Table 1: Continue

Country name	Some constitutional provisions of a social orientation					
	8	9	10	11	12	13
<b>States of Eastern Europe</b>						
Albania	-	-	-	-	-	-
Bulgaria	(1) Article 51	-	Article 50	(4) Article 19	-	-
Bosnia and Herzegovina	-	-	-	-	-	b) Article 7
Hungary	-	(3) Article XVIII	-	-	(4) Article XVIII	(2) Article XIV
Cyprus	Article 9	-	-	-	-	i. 3 Article 28
Latvia	-	-	-	-	-	-
Lithuania	-	-	-	-	-	-
Macedonia	Article 34	Article 19	-	Article 41	Article 8	Article 9
Poland	-	-	-	-	-	Article 233
Romania	Article 62	-	Article 9	-	Article 46	(2) Article 4
Slovakia	-	-	Paragraph 1 Article 37	-	-	P. 2 Article 12
Slovenia	Article 50	-	Article 96	Article 71	-	Article 14
Croatia	Article 56	Article 41	Article 59	-	-	Article 14
Czech Republic	-	-	Article 27	-	-	(1) Article 3
Estonia	-	-	-	-	-	Article 12
Austria	11) Article 10	-	-	-	-	-
Andorra	Article 30	-	Article 19	-	-	P. 1 Article 6
Belgium	P.2 Article 23	-	-	P. 5 Article 23	-	-
Germany	(12) Article 74	(1) Article 95	-	-	-	-
Greece	P.4 Article 22	-	P. 2 Article 16	P. 2 Article 25	-	-
Denmark	-	-	-	-	-	-
Ireland	-	v) P. 1 Article 18	-	-	-	-
Iceland	-	-	-	-	-	-
Spain	-	Article 50	Article 8	P. 1 Article 40	-	-
Italy	-	-	-	-	Article 2	Article 3
Liechtenstein	-	-	-	-	-	-
Luxembourg	(2) Article 94	-	-	-	-	-
Malta	-	-	-	(3) Article 1	-	-
Monaco	-	-	-	-	-	-
Netherlands	-	-	-	P. 3 Article 22	-	-
Norway	-	-	-	-	-	-
Portugal	b) P.2 Article 55	f) Article 54	d) Article 81	P. 6 Article 7	-	-
San Marino	Article 9	-	-	Preamb.	-	Article 4
Finland	-	-	-	-	-	-
France	-	-	-	-	-	-
Switzerland	P. 2 Article 40	-	-	-	-	P.2 Article 8
Sweden	-	-	-	-	-	-

1 = Social state; 2 = State hospitals/aims/goals; 3 = Social justice; 4 = Social peace/order; 5 = Social rights; 6 = Social guarantees; 7 = Social aid/help/education; 8 = Social insurance; 9 = Social services/institutionce/courts; 10 = Social interest/mission; 11 = Progress/development; 12 = Social solidarity/partnership; 13 =Social origin/place in society

Italy, Article 33 of the Constitution of Spain), cooperations/ cooperatives (Article 45 of the Constitution of Italy, Article 20 of Malta), the human being (Paragraph 1 Article 40 of the Constitution of Ireland), the woods (paragraph 1 Article 77 of Switzerland).

One of criteria for evaluation of the constitutional disposition of the social state we allowed structural isolation. The analysis of the constitutional texts of the specified groups of the countries showed that a number of composite parts contain definition in the name “social” which concerns not only the states but also the rights and freedoms. As examples of the first option constitutions of Albania and Switzerland (Chapter 5 and 3 “the social purposes”, respectively), Slovenia act (III. Economic and social relations), Ireland (Article 45. Basic principles of social policy), Italy (Section 2 Ethic and social relations);

examples of the second Croatia and the Czech Republic (Chapters 3 and 4, respectively “The economic, social and cultural rights”), Greece (Part second. Personal and social rights), Portugal (Chapter 2 social rights and duties).

The further analysis of texts of constitutions of the European states showed that definition “social” is applied to various forms and activities of society and state. So, in constitutions a number of social forms of activity of the state is formulated: social policy (Slovakia, Ireland, Portugal, France); a social assistance on age/disability (Cyprus, Hungary, Romania; Austria, Germany Luxembourg, Netherlands, Portugal, Finland, France, Switzerland, Sweden); social protection (Romania, Lithuania, Macedonia, San Marino); social service (Finland); social support (Lithuania); public assistance (Albania, Bulgaria, Croatia, Belgium, Luxembourg, Malta, Switzerland); social relief aid (Denmark); social care

(Switzerland); social guarantees (Estonia); social services/service (Albania, Hungary, Finland). In addition, social reference points of improvement of society and state are defined: social development (Macedonia, Slovenia, Greece, Netherlands, Portugal); social and economic plans (Portugal), social prosperity (Poland); social progress (Albania, Bulgaria, Greece, Malta, Portugal, San Marino), social welfare (Croatia, Portugal), social mission (Greece), social purposes (Italy, Switzerland); social reference points of market economy (Poland, Slovenia). We believe that through such formulations recognition of a sociality not only “good form” of functioning of society and state but also their significant prospect reveals.

Judging by formulations of the constitutional norms, the “social” principles (France), values (Portugal) are distinguished; conditions (Croatia, Greece, Portugal), questions (Hungary, Italy), tasks (Liechtenstein), order (Ireland, Spain, Italy), responsibility (Albania, Hungary, Switzerland), needs (Greece, Portugal), level (Andorra, Italy), freedom (Macedonia) and independence (Portugal), safety (Macedonia).

As confirmation of interrelation of the state and society, the constitutional acts of the east and Western European countries include also social characteristics of the last. The analysis showed that to society it is presented in system of a number of social coordinates. For example, its activity is expressed through social life (Poland, Greece, Ireland, Portugal, France), social existence (Macedonia), social communications (Albania, Poland), social communications (Poland), the social relations (Slovenia, Belgium, Italy, Switzerland); a state through the social world (Andorra, Greece); unification forms through social solidarity (Hungary, Macedonia, Italy, Portugal), social integration (Switzerland), social partnership (Portugal); Wednesday through a welfare environment (Andorra) and the social sphere (Portugal). In addition, the constitutional characteristics of a sociality of society quite often contact social interests (Bulgaria, Lithuania, Romania, Slovakia, Slovenia, Croatia, the Czech Republic andorra) and social justice (Macedonia, Croatia, Ireland, Portugal).

In the explored group of the European countries through definition “social” organizational structures and institutes of society and the state are represented. In particular, the social group (Hungary, Romania, Austria, Italy), the social organization of the country (Italy, Portugal), social education (in sense of group) (Italy), the social professional organizations (Poland), social institutions (Hungary, Macedonia, Croatia) and services (Albania, Ireland), a social post (Albania, Hungary), social justice and social court (Germany), social bodies, structures and infrastructure (Portugal) are

constitutionally defined. We consider such constitutional approach quite successful as in it institutional, functional and substantial characteristics of a sociality of society and state are integrated.

It is represented advantageous that through the characteristic “social” in the constitutional format are fixed education, knowledge and morals (Ireland); integration of disabled people (Albania, Romania); security (France, Switzerland). As the inadmissible phenomena are constitutionally fixed social hatred (Albania, Lithuania), social isolation (Portugal) as a task overcoming social inequality (Portugal). In the Constitution of Croatia such category as “socially started child” is marked out.

Widespread constitutional characteristics of a sociality of the state in the explored focal group of the countries are fixing of the corresponding rights of the personality (Albania, Bosnia and Herzegovina, Lithuania, Macedonia andorra, Belgium, Greece, Portugal). The constitutional provisions that a social origin (Albania, Hungary, Bosnia and Herzegovina, Macedonia, Poland, Romania, Slovakia, Croatia, the Czech Republic), a social position (Albania, Lithuania, Croatia, Estonia, Slovenia andorra, Italy, Portugal, San Marino, Switzerland) and social accessory (Macedonia) cannot be the discrimination basis and social difference the privilege are important (Cyprus).

As appears from the constitutional dispositions of the explored group of the countries, in the social purposes they establish social benefits (Andorra), social privileges, payments (Portugal), provide social housing (Portugal).

The analysis of texts of constitutions of the European states gave the grounds for a conclusion that a universal way of ensuring social security of citizens is social insurance. It concerns the most wide range of residents of the country and is enshrined in constitutions of Albania, Bulgaria, Cyprus, Macedonia, Romania, Slovenia, Croatia, Austria andorra, Belgium, Germany, Greece, Luxembourg, Portugal, San Marino and Switzerland.

## **CONCLUSION**

The carried-out analysis and systematization of the constitutional approaches characterizing a sociality of the state gives the grounds to claim that the vast majority of the European countries can be referred to category not only accepting the ideas of the social state but also constitutionally fixed them in various lexical options. Social characteristics of society and state are attached to their various manifestations that allows to present the constitutional image of the social state in the integrated form.

The analysis of texts of constitutions of the east and Western European countries showed that the mention of the “social” state together with other its definitions legal, democratic, uniform and indivisible, independent, federal, secular is inherent in the constitutional formulations. At the same time there are two typical approaches: the first differs in a mention of the “social” state in the conclusion of the constitutional lines elected by the concrete state; the second the shift of such characteristic is closer to the beginning of the analyzed lexical designs that, we believe, points to the raised constitutional status of a sociality of the state.

The analysis of the constitutional texts of the declared set of the countries showed that definition “social” contains in the name of structural parts of constitutions; it is applied to various forms and activities of the state; concerns institutional, functional and substantial characteristics of society and state; affects education, knowledge and morals; treats grants, privileges and payments, etc., it is applied to insurance as to a universal way of social support as concerns the vast majority of residents of the concrete country.

Similar capacity of the constitutional approaches allows to create an image and criteria of a sociality of the state. We believe that the wide range of social characteristics in texts of constitutions confirms recognition of a sociality not only with “good form” of functioning of society and state but also their significant prospect.

At the same time, the constitutional differences in degree and volume of “a social inclusiveness” of the state can be interpreted differently, including through the right of each society and state to independently define contents of the constitution.

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