

## **POLITICAL SCIENCE**

---

**Grishin O.E., Levashova O.V., Goricheva V.L., Tolochko A. V.**

### **INSTITUTE OF THE PRESIDENCY IN THE THEORY OF SEPARATION OF POWERS: HISTORICAL AND POLITICAL DISCOURSE**

**Grishin Oleg Evgenievich, Candidate of Political Science,  
Associate Professor, Department of Political Analysis and Management,  
Peoples' Friendship University of Russia (RUDN University), Russia,  
Moscow**

**Levashova Olga Viktorovna, Candidate of Legal Sciences,  
Associate Professor of the Department of Criminal Law and Criminology,  
Head of the Department of Criminal Law and Criminology, Eletsy State  
University named after I.A. Bunin (Bunin Yelets State University), Russia**

**Goricheva Vlasta Leonidovna, Candidate of Legal Sciences,  
Associate Professor of the Department of Criminal Law and Criminology,  
Yeletsy State University named after I.A. Bunin (Bunin Yelets State  
University), Russia**

**Tolochko Alexander Vladimirovich, Ph.D. in Political Science,  
Associate Professor of the Department of Philosophy, Social Sciences and  
Journalism, Yelets State University. I.A. Bunin (Bunin Yelets State  
University), Russia**

#### **Abstract**

The article discusses the theory of separation of powers in the interaction with the concept of the institution of the presidency in the history of political doctrines. In the theoretical constructions of ancient thinkers there are elements of the separation of powers, in which there is some optimal form, it is able to find its personification in the figure of the President on the development of the historical and political process. Theorists of the early middle Ages spoke about the emergence of the state in the course of natural evolution, with the position that these processes are due to the divine will. Since the end of XVIII

century, the principle of separation of powers becomes a constitutional consolidation in the U.S. and France. In the countries of a parliamentary monarchy or the republic it is possible to see J. Locke's ideas of division of the authorities at supremacy of legislature. The second model is guided by Che. Montesquieu's concept about independence of the authorities. It is typical for countries with a presidential form of government. During modern times Russian theoretical discourse concerning the theory of separation of powers and place in it the President, first of all, connected with the names of public figures and statesmen: M.M. Speransky, P.I. Pestel, N.M. Muraviev. At the turn of XIX-XX centuries was marked by flowering of the study of the theory of separation of powers in the works of N. N. Alekseev, V. M. Hesse, N. M. Korkunov, S. A. Kotlyarevsky, N. And. Adler, B. N. Chicherin. And as practice shows, the presence of a balanced system of separation of powers in a political system testifies to its democratic character, because it does not allow you to usurp the power of the political elite and use it in their personal interests. The institution of the presidency in the system of separation of powers helps to ensure the realization of the basic democratic principles of a legal state.

**Keywords:** theory of Separation of powers, institute of presidency, power, democracy, constitutional state, political culture.

### **Introduction**

Separation of powers - is one of the major institutions of the modern state of law. And if the institute of separation of powers, as the Institute of Law, began to emerge from the earliest times, modernizing and improving with time, the institution of the presidency, in comparison with him (Institute of separation of powers) is the political heritage of the XVIII century.

### **Methodology**

The article uses the following categories of political science: political institutions, the state, the reputational capital of the state, the political system, politics. The scientific concepts used do not contradict the system of principles, methods and methods of theoretical cognition, emphasize the principles of practical comprehension of the object of political science, reflect the important laws of the development of modern research approaches (system, institutional, neoinstitutional and comparative approaches) and their features, show the device of practical influence and the ratio of theoretical and applied aspects of political activity. Applied categories strengthen the proposed author's argument. The methods used during the study are adequate. Among them we can name: comparative analysis, structural and functional analysis, sociological analysis. The methods and approaches used helped to achieve the set goal and solve a set of stated tasks.

### **Results and discussion**

Interest in the problem of separation of powers is even in antiquity. Political and philosophical thought already at that time was trying to discuss the ability of the authorities to be responsible to society and suppressed by various mechanisms.

In the political doctrine Platon (427 – 347 BC) creates model of the ideal state in which certain proformas of division of the authorities are looked through. In dialogue "State" Platon considers such forms of the state as a timokratiya, oligarchy and democracy. He calls democracy the main trouble of policy. For Platon the democracy is the power of the people which will lead to tyranny of the majority. In democracy, in his opinion, there is an impudence, willfulness, shamelessness [16, p.301]. He considers that the democracy a temporary phenomenon because over time the crowd will give the power to the tyrant and liquidates public authority [16, p.302]. Further Platon considers the ideal state which opposes timokratiya, oligarchies and democracies. The power in the ideal state has to belong completely to philosophers and to be unlimited. Platon divides people into estates among which the highest class are philosophers. The second - guards and soldiers, the third handicraftsmen and peasants.

Platon models the ideal state to which neither the democracy, nor oligarchy and timokratiya didn't belong. This model assumes that the specific subject has Supreme power. In this case, the subject of supreme power is the philosopher's rulers. It is difficult to harmonize semantic contents of the doctrine of Platon somehow with modern schemes of the constitutional state. However, the forms conceptualized by Platon might contain the elements of institute of division of the authorities. The fact of that the power could be presented in certain forms and a dynamic state, could testify to the existing restrictions imposed on its integrity of a form surely.

The problem of conceptualization of division of the authorities continues to develop in Aristotle's works (384-322) there are three forms of government state system: "correct" forms of government (a monarchy, the aristocracy, a polity) and "wrong" (tyranny, oligarchy and democracy). Aristotle considers a polity of the best of all three "correct" forms. The monarchy, in his opinion, has no chances of success now. Aristotle connects each form of a state system with their "principles": the principle of the aristocracy is virtue, oligarchies - wealth, democracies – freedom". "The polity has to unite three of these elements therefore has to be considered as the original aristocracy - board of the best, uniting interests prosperous and poor" [2, p.87]. Considering all forms of government, he came to a conclusion that it is necessary to watch governors in order that in the state the despotism wasn't established.

As in a theoretical design of Platon, and Aristotle, we observe elements of division of the authorities at which there is a certain optimum form quite capable to find the personification in the president's figure in process of development of historical and political process.

Platon and Aristotle's doctrines considerably influenced political views of Mark Tuliya Cicero (106 - 43 BC). Mark Tuly Cicero stood at the origins of understanding of idea of "constitutional state", allocating three forms of government: the imperial power, the aristocracy and democracy thus, it was emphasized that "the goodwill we are attracted to themselves by tsars, with wisdom - optimata, freedom – the people" [20, p.56].

M. Cicero doesn't give preference of any of the forms of government known to it. Each of them has the advantages. For example, the monarchy attracts to itself with goodwill, the aristocratic power - wisdom, and democracy freedom [20, p.58]. M. Cicero creates model of the constitutional state in which only positive lines have to be combined, but any of the existing forms of government wasn't ideal and had negative sides. Therefore he supports the mixed model of the state in which only advantages will be combined.

Philosopher's point of view can't testify about initially complex challenge of conceptualization of division of the authorities, but at the same time and about the necessity of continuation of searching of their optimum combination.

The earliest concept explaining an origin and essence of the government is the theocratic concept which endured a culmination phase of the blossoming during the Middle Ages era. The essence of this concept is that a source of any power is the will of God. In this case the power has sacral character and is guided by the divine law. The monarch is only a Divine embodiment. Therefore, in the period of the Middle Ages political doctrines were based on the religious concept. The most visible representatives of that time were Aurelius Augustine (354-430) and Foma Akvinsky (1226-1274).

Augustine shared some ideas of ancient theorists of state occurs in the course of natural evolution, with the position that these processes are due to the divine will.

Following Aristotle, St. Augustine divides form of government on the "right" and "wrong". "Wrong," he thought tyranny, democracy, aristocracy. "Correct" form, in his opinion, was the monarchy, oligarchy, polity [6, p.82]. It should be noted that St. Augustine did not give preference to any one of the "correct" form of government.

Certainly, it is difficult to call these theories perfect. However they became a basis for emergence of the theory of division of the authorities which will demand also "guarantor" in the person of the president subsequently.

The theory of division of the authorities gains more or less finishing character during Modern times. During this period of time the power tried to be challenged and share that caused the necessity in a critical reflection of the theory.

During Modern times in the concept of the theory of division of the authorities the significant contribution was made by G. Grotius, B. Spinoza, T. Hobbes, J. Locke, Che. Montesquieu, D. Diderot, P. Golbakh, and others.

During Modern times the accent of political philosophers was directed on a problem of an origin of the state. It was considered as the unique independent organization which main function was a protection and safety of people. Representatives of Modern times are N. Machiavelli and Zh. Boden. In the works they supported the republican form of government.

N. Machiavelli has no direct solution of the problem of interaction of the forms of government. Autocracy, in his opinion, "is necessary at creation and reforming of the states, and the republican board is the best for maintenance of the government" [12, p.223]. The Roman republic which he called the "mixed" form of the state was republican model for it. In it democratic, aristocratic and monarchic elements of the power were combined. For the sake of strengthening of the state of N. Machiavelli considered that all means are good [12, p.227]. In the work "Sovereign" N. Machiavelli wrote what has to be the sovereign. First of all "the reasonable sovereign should avoid those defects which can deprive of him the state, to abstain from the others in process of forces, but no more[13, p.46]. N. Machiavelli considered that the sovereign has to be fair and strict, i.e. it believes to be afraid. However views of the thinker were shared by not everyone.

In N. Machiavelli's doctrine it is possible to find schemes of future concepts of division of the authorities. In the theory he focuses attention on strong executive power at the head of which there is a strong-willed powerful actor. Drawing parallels with modern political processes in this actor it is possible to see just the president possessing completeness of the government, and guaranteeing legitimacy of political system.

It should be noted that for the purpose of principle N.Machiavelli holding power that involves the activation of a variety of means for this. Holding on a high power position may involve some improvisation of the ruling elite, to build a power structure. The power flows, it is inherent in the dual nature, power - elusive. Thus, Machiavelli emphasizes the nature of the total power of its inclusivity.

English political philosopher Thomas Hobbes was an opponent of the theory of separation of powers. According to Hobbes, the state is a "compound all in one person." This "person" can be either the monarch or the representative body of aristocratic or democratic republic [4, p.38], designed to ensure the welfare of the people. The purpose of the state - "security", reigned for the "war of all against all" [4, p.45] until the state in society.

In our opinion, exactly at absolute monarchy there can come prerequisites for dictatorship establishment. Full lawlessness of the people reigns in such state, there are no representative bodies.

This message is easily rechecked and on the example of modern political systems. Probably, parallels with the strong presidential power in a number of the African states (Zimbabwe, Mozambique, etc.) and the Asian

states will be not casual (North Korea, Uzbekistan, Turkmenistan, etc.) at a poor development of institutes of civil society.

A significant deepening and broadening of the concept of separation of powers takes place in the theoretical design J. Locke. In his work "Two Treatises of Government", he first expressed the idea of the separation of powers between the legislature and the executive. The highest authority in the state is the legislature. The legislature creates laws for others, so it should be above them [11, p.143].

The legislature according to J. Locke belongs to parliament, and the chief executive is the monarch. The federal power had to be engaged in the international affairs. As for judicial authority, it wasn't allocated as independent, and was a part of executive power. J. Locke considers that "the legislative and executive authorities shouldn't concentrate in one hands, it can lead to acceptance of the power only of laws, favorable to itself" [11, p.145].

J. Locke was the first who suggested to divide the power into independent branches, and made it most systemically. Of course, the offered concept wasn't perfect that further causes quite critical reflection in its relation.

The most popular and cited in political science discourse is the concept of separation of powers has made SH.-L. Montesquieu. The principle of separation of powers by SH.-L. Montesquieu is, the three branches of power belonged to different state bodies. Legislative power is in the hands of parliament, the executive belongs to the king, the court - to a jury. By the first part, the sovereign or the institution makes the laws, temporary or permanent, and correct or cancel the existing laws. By the second, he declares war or makes peace, sends and receives ambassadors, provides security to prevent the invasion. Due to the third power, it punishes crimes and authorizes the collision of individuals. The latter can be called the power of the judiciary, and the second - just the executive power of the state [15, p.292]. Each branch is able to generate within themselves the elite, originally prepared to oppose each other. Elites develop internal codes, mechanisms of incorporation and excorporation. This is evident in the case of a special group of managers, "managers" or professional legislators. The relevance of this is manifested in the existence of a particular incumbents, and that is the formation of elites, and the incumbents themselves and exist within the branches of government. Power becomes ancestral. The president dominating over this situation – or is the guarantor of legitimacy of this political design, or, on the contrary, provides the competition between branches of the power within a concrete political cycle.

There is some difference in the interpretation of a possible assessment of the separation of powers between John. Locke and Montesquieu. The first noticeable difference is in the different interpretations of the image of the legislature. John. Locke thinks the supreme legislative authority, as Montesquieu does not emit any of the branches of the supreme authorities, and underlines their independence.

The second difference of opinion is that John. Locke did not single out the judiciary as an independent, and gave it a parallel nature of existence. Montesquieu focuses on the relationship between the branches of government. The principle of separation of powers, according to Montesquieu, located initially in equal conditions, involves the provision of each of the three branches of government special powers to ensure that they are limited and restrained one another. To do this, Montesquieu forms of checks and balances. This system is necessary to prevent the usurpation of power, and not to violate the independence of the branches of government.

This theory eventually became the classic formula, and was directed against the absolute monarchy. Montesquieu developed the theory of John. Locke and brought it to perfection. It is in this form of the principle of separation of powers in the constitution came almost every country in the world. In each state over time, the theory of separation of powers was rebuilt under their form of government. The classical model of the separation of powers proclaimed democracy as one of the best forms of government in a legal state.

The theory of the separation of powers Montesquieu is widespread among the thinkers of the XVIII - XIX centuries. In particular, B. Constant (1767-1830), has developed the doctrine of the four branches of government, to review and develop the idea of the separation of powers in a constitutional monarchy. He offered to share power between the legislative, executive, judicial and equalizing. The fourth branch of government, according to B. Constant, you need to give to the king in order to prevent conflicts between the other branches of government [7, p.102]. The relevance of this concept evident in modern conditions of development of the political process. The political discourse has become a tradition to allocate the fourth branch of power - the media. Media opposed themselves to the state, achieving relative independence, taking on the function of monitoring the branches of government, the media play an important role in the life of each state, affecting almost all areas of society and institutions. The perception of the most important events in the country and the world, through and through the media. Media are aggressively penetrating the political sphere and become one of the most important instruments for the implementation of the political process.

The emphasis on settlement of the possible conflicts between branches of the power becomes an important subject. The theory of division of the authorities gains the further development in works of Zh. Zh Russo subjecting to critical reaction classical schemes of Ch. Montesquieu. Unlike Ch. Montesquieu, Zh. Zh. Russo considered that the legislative, executive and judicial authorities - special manifestations of the uniform power of the people [18, p.56]. Zh.Zh. Russo is considered the father of the classical theory of democracy as he possesses the idea of people's sovereignty. People's sovereignty has two signs - it is inalienable and indivisible. Zh. Zh. Russo

considers that "legislative functions have to be carried out by the people which have to possess the Supreme power in the state" [18, p.57]. Emphasizing indivisibility of the sovereignty, Zh. Zh. Russo opposes the principle of division of the authorities. Zh. Zh. Russo is sure to avoid usurpation of the power the government needs to convoke people's assembly for the solution of the question of confidence.

Further the theory of division of the authorities of Ch. Montesquieu developed and reinterpreted in works of other authors. Many people used Ch. Montesquieu's conclusions in the works, and some rejected this theory. F.M. Voltaire - from a position of the concept of the educated absolutism supports carrying out reforms, by investment of the Supreme power of the king, thereby acting as the opponent of division of the power. D. Diderot disagreed with Ch. Montesquieu that it kept big prerogatives for the nobility and the king. Apparently from this, need of control of the power from an arbitrariness and the excessive pressure upon society, causes quite fair attempts of conceptualization.

In Germany the theory of division of the authorities of Ch. Montesquieu had impact on I. Fichte, I. Kant, G. Hegel.

G. Hegel in the doctrine about a state system criticizes ideas of democracy and favors constitutional monarchy as optimum imperious design. In the state there have to be three branches of the power: legislative, governmental and princely. Adopting the principle, G. Hegel at the same time speaks about inadmissibility of their opposition each other [22, p.375]. Its concept is similar to constitutional monarchy of an English sample. Perhaps, it answered fashion federalism criticism which was divided by some European philosophers. In Europe shortcomings of a unitary then form of a state system were noted.

Most in detail the discourse of division of the authorities and the president's place in it is presented in the American political thought. James Madison (1751 – 1836) acted as the supporter of the republican form of government in the USA, considered that development of the republican form of government requires the big state which is stabler and viable. The republic with the big territory and a large number of citizens is necessary. He held the opinion that "the people - the only source of the political power and elections - characteristic feature of republican board" [14, p.143].

J. Madison improved the theory of division of the authorities of Ch. Montesquieu. He suggested not only to divide branches of the power, but also to isolate them, to make rather equal. For this purpose he suggested to create system of controls and counterbalances which would allow to isolate and balance distributions of borders of three branches of the power. This system is necessary to eliminate usurpation of the power from any branch of the power. So, J. Madison as we see, doesn't mark out supremacy of any one body, and supports equality of all three branches of the power. Also "an additional barrier from mistakes and an arbitrariness had to become, according to J. Madison, division of the legislature into two chambers" [14, p.145]. This idea of system



of controls and counterbalances in the modern world is embodied in constitutions of the modern democratic states. Difference of views of Ch. Montesquieu and J. Madison consists that J. Madison formulated the provision not only on division, but also on "balance of the authorities". The political model of J. Madison reflected ideological traditions of that of an eyelid. In the theory he could develop and improve system of division of the authorities, thereby to liquidate threat of tyranny any of branches of the authorities and to set democratic regime in the country.

Other American presidents also made the contribution to development of the theory of division of the authorities. It is possible to distinguish T. Jefferson, V. Wilson, A. Hamilton from them and others. Political views of the first U.S. Presidents integrally merged with practice of their political career. The principle of division of the authorities was characterized by the American educators as the new word in political science and had practical value for development of political life and a new political system of the USA because in the USA the institute of presidency for the first time starts considering within political system, being allocated with certain functions.

It is necessary to notice that prior to war for Independence T. Jefferson was under the influence of Ch. Montesquieu's theory. But it didn't prevent it to criticize subsequently the Constitution of the USA of 1787 within which the president could be re-elected unlimited number of times. It allowed, according to T. Jefferson, to the president to turn into the monarch that was fraught with usurpation of the power.

Since the end of the XVIII century, the principle of division of the authorities gets the constitutional fixing in the USA and France. In the countries of a parliamentary monarchy or the republic it is possible to see J. Locke's ideas of division of the authorities at supremacy of legislature. The second model is guided by Ch. Montesquieu's concept about independence of the authorities. It is characteristic for the countries with a presidential government.

The reflection on the theory of division of the authorities of Ch. Montesquieu isn't identical in various countries. For example, in the German scientific literature we see negative attitude to this theory. Robert von Mol, considered that Ch. L. Montesquieu's doctrine about division of the authorities can't be politically viable. Division of the government into three independent branches of the power can lead to anarchy and ruin [23, p.234].

As for the Russian theoretical discourse concerning the theory of division of the authorities and a place in it of the head of state, it is connected, first of all, with a name public and the statesman M. M. Speransky (1772–1839). The principle of division of the authorities on legislative, executive, judicial was the basis for the reform of system of public administration. The legislature had to belong to the State Duma which was supposed to be made electoral institution, judicial authority – to the Senate, and executive – to the ministries, provincial and district institutions. The special part was assigned to

the State Council which had to unite actions of the emperor with the establishments representing all branches of the power. According to MM Speransky to Sovereign power of the emperor was kept fully, it must act as coordinator of all authorities [19, p.145].

A certain contribution to the theory of division of the authorities was made by P. I. Pestel (1793–1826) and N. M. Muravyev (1795–1843), being authors of bills on a reorganization of the political power in Russia. N. M. Muravyev sought for establishment in Russia of constitutional monarchy, considering necessary to introduce some constitutional restrictions of the monarchic power represented in the form of Popular assembly. The source of the Supreme power proclaimed "the people which possesses the right to do the main resolutions for itself" [17, p.139]. We will note that N. M. Muravyev in the work on the Constitution relied on experience of functioning of "liberal democracy" and the state construction in modern to it the states of Western Europe and the USA.

P. I. Pestel was also the supporter of division of the authorities, resolutely supported replacement of a monarchist system republican at which it would be possible to carry out in practice the principles of wide democracy and people's sovereignty. According to his concept, "the Supreme power has to be divided on legislative, (The Popular assembly – is chosen for a period of 5 years, with annual re-election of one fifth part of his representatives), executive (The majestic Duma – consists of 5 people, annually one member changes) and vigilant (The Supreme Cathedral – checks and approves all laws; consists of 120 people, are appointed for life, move forward provinces, Veches)" [5, p.20]. The function of the head of state, according to P.I. Pestel, had to carry out a collective body - Reigning Duma.

At the boundary of the XIX-XX centuries blossoming of research of the theory of division of the authorities in N. N. Alekseev, V.M. Gessen, N. M. Korkunov, S. A. Kotlyarevsky, N. I. Lazarevsky, B. N. Chicherin's works is observed. Moreover, it must be emphasized that the representatives of the scientific thought of that period relate differently to the famous triad of power.

The philosopher, jurist and historian B.N. Chicherin (1828-1904) appeared in his work recognized theorist of liberalism. The most optimal form of government, according to B.N. Chicherin, is a constitutional monarchy [21, p.965]. His theory of constitutionalism at variance with the orders of the autocratic Russia. In our view, it is a constitutional monarchy was the best option for the development of Russia at that time.

Separation of powers, according to the state and political figure V. Hessen (1868-1920), is an essential prerequisite for the existence of the rule of law, which, according to him, can only function in a representative form of government. V.M.Hessen as B.N. Chicherin, advocated a constitutional monarchy. The main feature of the constitutional state it is considered "part of

the people or the people's representatives in the exercise of state power" [3, p.105].

Need of divisibility of the power is emphasized in theoretical creation of the scientist-lawyer N. M. Korkunov (1853–1904) who was putting forward the principle of "joint dominion". Its concept consists in that one function could be carried out by several authorities [8, p.235]. In our opinion, in this case N. M. Korkunov supports unity of the government, but not compatibility of dominion more. As opposed to N. M. Korkunov, the politician and the jurist S. A. Kotlyarevsky (1873–1939) considered that the principles of the constitutional state to which the principle of division of the authorities belongs, have to work not only in the field of policy and the right, and in all spheres of life of society [9, p.46].

Among the Russian researchers there were also critics of division of the authorities. One of such scientists is political scientist N. N. Alekseev (1879–1964) according to whom "three branches of the power are not the independent governments, but various functions of the same government" [1, p.269]. Here we see opportunity for a certain centralization of the government under the leadership of the strong actor capable to accumulate and mediate in ourselves interests of all social groups of society, to guarantee activity of all political design. The president can become the coordinator of all branches of the government, subordinating them to himself and public will.

The researcher N. I. Lazarevsky (1868–1921), also the opponent of the theory of division of the authorities, defines that as the strongest actor not the people – a legitimacy source, and the monarch acting "as the head of all state [10, act: 134]. Here we can observe prerequisites for a justification of the strong presidential power which is necessary in modern Russia in the conditions of the developed difficult social and economic situation and an international situation.

#### **Conclusion**

It should be noted, that today the theory of division of the authorities didn't lose the relevance. Ch.L. Montesquieu's theory still remains in the center of attention of many researchers. As a result of the carried-out analysis we established that the mechanism of division of the authorities, and also a role and a place of the head of state in structure of management of the government are specific to each country to what researches of scientists testify. However, as practice shows, existence of the balanced system of division of the authorities in this or that political system testifies to its democratic character because doesn't allow to usurp the power political elite and to use it in private interests. The institute of presidency in system of division of the authorities promotes ensuring realization of basic democratic principles of the constitutional state. Specifics of activity of this institute, its structure and personalization are very closely connected with long historical traditions, formed the political culture of the society.

**References:**

- [1] Alekseev N.N. (2001) Idea gosudarstva [The idea of the State], St.Petersburg, Lan Publ.
- [2] Aristotel (1997) Politika; Afinskaya politika [Policy, Athenian Policy] Moscow, Mysl' Publ.
- [3] Hessen V.M. (1914) Teoriya konstitucionnogo gosudarstva [Theory of the constitutional state], St.Petersburg, Tipo-Litografiya I. Trofimova Publ.
- [4] Hobbes T. (1989) Sochineniya [Compositions] Moscow, Mysl' Publ.
- [5] Grankin I.V. (2005) Konstitutsionno-pravovye osnovy rossiyskogo parlamentarizma [Constitutional and legal bases of the Russian parliamentarism], Moscow, Publishing house of Institute of professional development of trade-union shots of Academy of work and social relations.
- [6] Zotova L.V. (2004) Politicheskie tsennosti Srednevekov'ya: o sootnoshenii nebesnogo i zemnogo otechestva u Avgustina i Akvinata [Political values of the Middle Ages: about a ratio of the heavenly and terrestrial fatherland at Augustine and Akvinat], Vestnik Rossiyskogo Universiteta druzhby narodov, Seriya Politologiya No. 1 (5).
- [7] Konstan B. (1993) O svobode u drevnikh v ee sravnenii so svobodoy u sovremennykh ludey [About freedom at ancient in its comparison with freedom at modern people], Polis (Politicheskie issledovaniya), No. 2.
- [8] Korkunov N. M. (2004) Lektsii po obshey teorii prava [Lectures about the general theory of the right] St.Petersburg, Uridicheskiy tsentr press.
- [9] Kotlyarevsky S. A. (1915) Vlast i pravo. Problemy pravovogo gosudarstva [Power and right. Problems of the constitutional state] Moscow, Tip Mysl' N. P. Mesnyankin and Co.
- [10] Lazarevskiy N. I. (1917) Russkoe gosudarstvennoe pravo [Russian state law], Petrograd, knizhny magazin Pravo.
- [11] Locke J. (1988) Dva traktata o pravlenii [ Two treatises of government] Moscow, Mysl' Publ
- [12] Machiavelli N. (1982) Izbrannye sochineniya [Selected essays] Moscow, Khudozhestvennaya literature Publ.
- [13] Machiavelli N. (1990) Gosudar' [The Prince] Moscow, Planeta Publ.
- [14] Mishin A.A. (1984) Printsip razdeleniya vlastey v konstitutsionnom mekhanizme SSHA [The principle of division of the authorities in the constitutional mechanism of the USA] Moscow, Nauka.
- [15] Montesquieu (1955) Izbrannye sochineniya [Selected essays] Moscow, Gosudarstvennoe izdatelstvo politicheskoy literatury Publ.
- [16] Platon (1994) Gosudarstvo [The state] Collected works in 4 t. t.3. General edition A.F.Loseva, V.F.Asmusa, A.A. Takho-Godi, Moscow, Mysl' Publ.

- [17] Politicheskaya zhizn' Rossii. Proekt Konstitutsii Nikity Murav'eva [Political life in Russia. (1907). Draft of constitution by Nikita Muravyev] Moscow, Russkoe tovarishestvo Publ.
- [18] Russo Zh.Zh. (1908) Obshestvenny dogovor ili printsipy gosudarstvennogo prava [Public contract or principles of state law.] Moscow, Skirmunta Publ.
- [19] Speranskiy M.M. (1961) Proekty I zapiski [Projects and notes] Moscow, AN SSSR Publ.
- [20] Tsitseron M.T. (1994) Dialogi o gosudarstve o zakonakh [Dialogues about the state – about laws.] Moscow, Lodomir-Nauka Publ.
- [21] Chicherin B.N. (1894) Kurs gosudarstvennoy nauki [Course of the state science] Moscow, tipografiya tovarishestva I.N. Kushnerev I Co Publ.
- [22] Hegel. (1981). Grundlinien der Philosophie des Rechts oder Naturrecht und Staatswissenschaft im Grundrisse. Berlin: Akademie-Verlag.
- [23] Mohl, R. (1955). Die Geschichte und Literatur der Staatswissenschaften. In Monographiendargest. Bd. 1-3. B. 1 / R. Mohl. Erlangen : Enke's Vrlgsh.

## JURISPRUDENCE

---

Kaipbayeva A. O., Orazymbetkyzy A.

### PECULIARITIES OF THE LEGISLATIVE SUPPORT FOR IMPLEMENTATION OF THE PRINCIPLES AND BASES OF THE CONVENTION «ON WATER-BLANK BREEDS, UNTIL INTERNATIONAL IMPORTANCE, IT IS HABITATS OF WATER-BOWING BIRDS» IN THE REPUBLIC OF KAZAKHSTAN

Kaipbaeva A.O., Doctor of PhD, International University of  
Kyrgyzstan, Republic of Kazakhstan

Orazymbetkyzy A., doctoral student of the International University  
of Kyrgyzstan, Republic of Kazakhstan

#### **Abstract**

The article analyzes the current legislation in the field of ensuring the implementation of the principles of the Ramsas Convention, identified the legal relations that have not been settled in the legal format, developing on the wetlands, and recommendations for their elimination have been put forward.

**Keywords:** bog, specially protected natural territories, water bodies, marine areas, Ramsar Convention, contracting parties, resolutions.

Введение. Анализ неутешительного состояния водно-болотных угодий и особо охраняемых природных территорий в республике обуславливает необходимость осмысления и теоретического обоснования решения вопросов обеспечения правовой охраны водно-болотных угодий.

Следует отметить, что не случайно проблемы обеспечения правовой охраны водно-болотных угодий в республике оказались в фокусе общественного и государственного внимания.