

Phenomenon of privatization of a state by another state

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Some state activities, such as the issuance of passports and transport services, can now be privatized by private companies. However, the phenomenon of privatization of the whole state by another is a new stage leading to the development of the institution of privatization itself.

This issue is currently being doctrinally studied by M. Strauss, Professor of Public International Law at the Centre for Diplomatic and Strategic Studies (Paris, France).

The phenomenon of privatization of a state by another is new and has no proper legal establishment or unified practice on the part of subjects of international law. The privatization by a state of a state is now understood as a situation where functions inherent to one State are privatized in various ways in favor of a foreign State and then exercised. Professor Strauss proposes the term "imperfect privatization" for this phenomenon [1].

Thus, one state privatizes part of its activities in favor of a foreign state enterprise or enterprise under the influence of a foreign state. Or it buys upland, the debts of another state. By obtaining control in this way over an important part of the activities, usually provided directly by the State, the foreign State is able to participate in the activities of the other State.

The phenomenon of privatization by a state could arise for a number of reasons. For some states, it is profitable to privatize some areas of their activities for financial and personnel optimization. At the same time, it is up to the state to make basic decisions. However, in a situation when state functions are transferred to a foreign state, control mechanisms as such are underdeveloped. Thus, if a service provided by a foreign enterprise is capable of influencing the viability of the host state, the order, and conditions of its provision acquire an important role in relations between these states. For example, the friendly pre-war relations between Syria and Turkey were closely linked to the fact that Turkey provided electricity to Syria to a large extent. However, after the Syrian authorities began to attack the protesters in 2011, Turkey used its position and declared that it would stop supplying electricity if the conflicts in Syria did not stop [2].

At the same time, today the supply of electricity (more than 80%) [3], some public transport services (bus and rail transport), as well as solid waste collection and recycling services in the UK are provided by a number of French companies or British companies, where the largest shareholder is the French state. Analyzing these statistics, there is a huge potential of the phenomenon of state privatization. The following question arises: does it mean that Great Britain in a certain sense is under the influence of France?

The phenomenon opens up an entirely new approach in the application of public and humanitarian international law and its very essence. For example, the implementation of the phenomenon in the absence of reasonable control could turn into a strategy of unarmed occupation. This raises many questions, including how should the phenomenon of privatization of a State be qualified? How does this phenomenon correspond to the basic principles of international law? Can international humanitarian law be applied in the event of an unarmed occupation? Finally, what functions of a State can, in principle, be privatized in terms of international law?

In the absence of real criteria to regulate the degree of privatization of one State by another, the nature of the phenomenon of privatization of a State by a State is currently ambiguous. On the one hand, the privatization of a State by a State creates the possibility of unarmed occupation of one State by another and provides a relatively safe alternative to armed conflict. On the other hand, this phenomenon jeopardizes, among other things, the sovereign equality of states. On this basis, the nature of the phenomenon of privatization of a state by another is ambiguous and very worrying.

Источники и литература

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- 3) 3. www.edf.fr/groupe-edf/espaces-dedies/ [U+FB01] nance/informations-[U+FB01] nancieres/l-action-edf/structure-du-capital (Electricité de France, “Répartition du capital social au 31 mars 2018”).