

## EXTERNAL FUNCTION OF THE HUNGARIAN STATE AS A CONSTITUTIONAL AND LEGAL CATEGORY

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**Abstract.** *Most states implement their main activities through internal and external functions, which serve as a guarantee of peaceful and secure coexistence. However, in order to understand what is the basic basis of Hungarian success, in our opinion, it is necessary to analyze the external function of the Hungarian state under the main legislative – constitutional basis. The issue of state formation today is one of the most common problems in Ukraine inside and outside. It requires a clear definition of the functions of the modern state given the impact of globalization and integration processes in the modern world. This scientific article examines the issues of external functions of the state as a constitutional and legal category with an emphasis on the theoretical and legal aspect of the practice of Hungary. Particular attention is paid to the analysis of different approaches of native and foreign scholars to the external functions of the state from the foundation of modern theory of state and law. It is noticed that the Ukrainian scientist O. Andrusenko offers several sub-functions of the syncretic external function of the modern state: foreign policy (diplomatic); defense of the state from external military aggression; foreign economic; establishing international humanitarian relations; environmental, or ecological (participation in international environmental protection). It is with the help of this division, which is taken as a basis, that we analyze Hungary's invaluable experience in this area. It has been researched that each of these activities of Hungary has its deep roots, the Golden Bull, which created a strong strengthening of the state system in the state, the Tripartite - the first Legal Code, and of course the Constitution of the Republic of Hungary. It is noticed by us the main external directions of the Hungarian government, which have been unchanged and relevant for many years, a key external direction of Hungary even today. We also mention in the same context the above-mentioned sub-functions of different directions of the Strategies of the Hungarian government.*

**Key words:** *External functions, Hungary, foreign policy, strategic directions, Constitution of the Republic of Hungary, fundamental legal documents of Hungary.*

**JEL Classification:** *K10, K19, K40*

**Formulas:** *0; fig.: 0; tabl.: 0; bibl.: 10*

**Introduction.** The state-building has always been a topic of discussion among scholars of various scales, namely its underdevelopment and the possibility of its renewal to the requirements of the time. In the theory of state and law, state functions are classified according to various criteria: “quintessence and tasks”, “direction of functions”, “methods of their implementation”, “spheres of state activity”, “social weight of functions”, their “time frame” and so on. Each of these scientific classifications has a right to exist, we support the opinion of those scholars who include in this classification the division of internal and external functions of the state. The activities of the state in the implementation of its external functions, as the main directions and activities of the state are interconnected and interdependent. However, these two areas are not sustainable and are vulnerable to the least changes. For Ukraine, which was in a state of hybrid war with the Russian Federation before February 24 and after has bloody war, the issue of effective implementation of the external function of the state is vital, and most importantly be able to develop a strategy to adapt to the smallest possible fluctuations, the first of which shows all its

weakness and inability to resist. Therefore, studying the experience of those countries that have a similar path of political and economic transformation with Ukraine is an extremely important task. For our study, we have chosen Hungary, a country that has managed, despite its socialist past, to enter the European economic and security space quickly. At the same time, it should be noted that from the beginning, Hungary tried to be far-sightedly, more of it with the arrival of new political forces in Hungary there was no radical change in legislation, their repeal, completely or separately, it is a pretty good example to follow. In the Ukrainian scientific literature this question was practically not studied in a complex. Especially from the standpoint of analysis of theoretical and legal aspects of Hungarian practice. However, in fairness, it should be noted that some issues of Hungarian foreign policy, Ukrainian researchers still analyzed in some scientific works.

**Lirerature Review.** This area of research can be observed among such researchers: O. Andrusenko, M. Piskotin, M. Derzhalyuk, D. Tkach, A. Kolodiy, V. Kopeychikov and S. Lysenkova.

**Aims.** The main aim of this research is to define the external functions of the state as a constitutional and legal category with an emphasis on theoretical and legal aspects of Hungarian practice to develop further recommendations for improving Ukrainian approaches.

**Methods.** Scientific research is a difficult and controversial process at the same time is the highest level of cognitive activity. Methodology of scientific knowledge - a specific historical phenomenon. Philosophical methodology combines all general scientific methods into three major groups. The first includes: observation, comparison. To the second: idealization. To the third: analysis and synthesis, induction and deduction, abstraction, and modeling. In this scientific article we use all three groups of methods and in addition we highlight the historical method of cognition. At the beginning we use the method of analysis and synthesis based on the sub-functions proposed by O. Andrusenko: foreign policy (diplomatic); defense of the state from external military aggression; foreign economic; establishing international humanitarian relations; environmental, or ecological (participation in international environmental protection). Based on these positions, we try to explore the external function of the state as a constitutional and legal category, namely the theoretical and legal aspects of Hungarian practice. The next method we used is historical. In this context the Golden Bull issued in 1222 during the reign of King András II. This document did not contain any provisions on Hungary's foreign policy but created the conditions for strengthening the state system in the country and thus created the conditions for successful international activities. The next legal document that defined Hungarian jurisdiction for many years to come was the Tripartite (Code of Customary Law of the Kingdom of Hungary in three parts) – a legal code compiled by the royal protonotary Istvan Verbeci. Further on the text of the research article we see the method of observation and comparison, in the context of the Constitution of 1949 and before its new adoption in 2012, here we observe and compare legislative changes adopted by the Republic of Hungary, caused by time. To this we add the 1990 elections and the allocation of Hungary's main foreign directions

for many years to come, namely integration into European and Euro-Atlantic structures; development of good relations with neighboring countries; protection of the rights of the Hungarian minority living abroad. Using the method of induction and deduction, we analyze the provisions of the foreign economic sub-function and the Szechenyi Plan of 2015, which contains five parts, the main idea of which was planned to create one million new jobs in Hungary for 10 years. This was facilitated by the growth of small and medium-sized enterprises in foreign markets, which in addition to a positive impact on the balance of payments, had a positive impact on employment (and, of course, on the revenue side of the budget). Of course, investment by foreign investors has also helped create jobs. The method of abstraction and modeling is seen in the issue of Hungarian humanitarian policy in the context of foreign policy, which we study through the prism of the Orbán government's desire to make Hungary a leader in Central Europe and spiritually unite all territories formerly part of the Carpathian Kingdom. region. The game of nostalgia is firmly present in the Hungarian public consciousness, namely the idea of "Greater Hungary". This means that today's Hungarian leaders do not seek to regain lost territories, but rather promote Hungarian political and cultural influences on the Hungarian national minority living in neighboring countries, turning this task into a special area of national interest. The method of idealization is present in the context of the order № 1691/2013. (X.2.) On the approval of the seven-year political strategy for the Internal Security Fund. It is a new, complex, comprehensive instrument created in the 2014-2020 budget cycle, covering external border management and, in this context, EU visa policy, preventing and combating crime and terrorism. redistribution of EU funds in solidarity to this end. The Foundation adopted the National Program of Hungary for 2014-2020. In turn, this document is consistent with the National Strategies for Combating Corruption, Combating Trafficking in Human Beings, Combating Drugs, Cybersecurity, Crime Prevention, and Strategic Guidelines on Migration. In addition, the National Program was designed to suit relevant EU agencies such as Europol, Eurojust, Interpol, international organizations such as GRECO, GRETA.

**Results.** The scientific literature is consisting of a lot of criteria for the separation of external functions today. In our opinion, the most successful is the division into external and internal. According to Ukrainian scientist O. Andrusenko, the external functions of the state are defined as the main activities of the state, revealing its essence, lie in the sphere of its foreign policy and due to the most favorable external conditions for the existence and development of the state [1]. To the external functions of the state, their modern researchers usually include primarily the functions of defending the country from external threats, maintaining international peace, economic cooperation [2]. At the same time in the modern theory of state and law regarding the external functions of the state there is a different approach M. Piskotin identifies as part of a single external function of the state two main aspects: defense and economic, political, and cultural ties with others. states [3]. Returning to the understanding of the problem of external functions of the state, we take as a basis the approach proposed by Ukrainian scientists O. Andrusenko. He

believes that at the present stage there is one common external function of the state, which acts as a broader scientific abstraction. Within this general external function, separate external functions subordinate to it can be distinguished, or sub-functions of the external function of the state, which are the means of implementing the general external function, in fact is a condition for its implementation. These sub-functions of the external function are also a kind of abstract categories that correspond to more specific homogeneous areas of external state activity compared to the general external function and are part of the general external function as an element of its internal structure.

The scientist identifies the following sub-functions of the syncretic external function of the modern state:

- foreign policy (diplomatic);
- defense of the state from external military aggression.
- foreign economic.
- establishing international humanitarian relations.
- environmental, or ecological (participation in international environmental protection);
- countering international terrorism and international organized crime [4].

It is from these positions we will try to explore the external function of the state as a constitutional and legal category, namely the theoretical and legal aspects of Hungarian practice in this area.

Let's start as suggested by O. Andrusenko in the foreign policy diplomatic subfunction. In Hungary, over a thousand years of history, there have been a few fundamental legal documents that have had a significant impact on foreign policy, including several constitutions. Among them is the Golden Bull issued in 1222 during the reign of King András II. This document did not contain any provisions on Hungary's foreign policy but created the conditions for strengthening the state system in the country and created the conditions for successful international activities. The next legal document that defined Hungarian jurisdiction for many years to come was the Tripartite (a set of customary law of the Kingdom of Hungary in three parts) – a legal code compiled by the royal protonotary Istvan Verbeci. He was presented to the so-called Wild Sejm in 1514 and approved by the king. Having received official sanction in 1517, it became the basis of the jurisdiction of the Kingdom of Hungary (until 1848). This document also did not concern Hungary's foreign policy, but systematized customary law and royal laws with some borrowings from Roman and canon law, which strengthened the country's international prestige.

In 1949, the Constitution of the Republic of Hungary was adopted, which defined the role of all branches of government in the implementation of foreign policy. Section II, paragraph 19/3 of the Basic Law defines the following powers of the National Assembly: (f) concludes international agreements which are of particular importance from the point of view of the external relations of the Republic of Hungary; g) decide on the declaration of a state of war and the conclusion of peace. Section III, President of the Republic, paragraph 30 / A states that the President of the Republic: a) represents the Hungarian state; b) concludes international agreements on

behalf of the Republic of Hungary, if the subject of the agreement belongs to the sphere of legislation, the prior consent of the National Assembly is required for the conclusion of the agreement; c) appoint and receive extraordinary and plenipotentiary ambassadors. Section VII, paragraph 35 defines the following powers of the Government in international affairs: j) participates in determining foreign policy, concludes international agreements on behalf of the Republic of Hungary [5].

In 1990, thanks to the victory of the democratic forces in the parliamentary elections, Hungary abandoned socialist ideas and set out to build a democratic country based on a market economy. From the first days of the existence of democratic Hungary, the main foreign policy strategic directions of its activity were determined, namely:

1) integration into European and Euro-Atlantic structures.

2) development of good relations with neighboring countries.

3) protection of the rights of the Hungarian minority living abroad [6, p. 376].

All this required significant changes in the legal framework to ensure the external function of the Hungarian state, especially changes in the fundamental provisions of the Constitution.

Finally, on January 1, 2012, the Basic Law came into force, which considered all the legislative activities of the National Assembly in the post-Soviet period, as well as supplemented the provisions on Hungary's international activities as a member of the EU and NATO. Namely: Hungary recognizes universally recognized norms of international law, promotes democracy and freedom, achieves high living standards and the unity of the European continent. As a member of the EU, Hungary operates based on the provisions of the Constitution (hereinafter Basic Law) of the country and the founding treaties with the EU, ensures domestic and foreign policy by harmoniously combining the provisions of national law with international instruments adopted in the EU [7].

The Basic Law also defines the powers of the National Assembly, the President, and the Government to participate in the foreign policy functions of the state. The dramatic centuries-old history of the Hungarian states has many examples when, because of external aggression, it ceased to exist as a subject of international relations. This is what prompted the leadership of modern Hungary to develop a foreign policy that would ensure the country's independence and sovereignty.

The Basic Law of Hungary, Article Q) (1), states that Hungary seeks to co-operate with all the peoples and nations of the world in the interests of establishing and maintaining peace and security and ensuring the development of mankind. Article 45 of this law is devoted to the Hungarian Army. According to paragraph (1), the Hungarian Armed Forces are the Hungarian Armed Forces. Main task

The Hungarian Army consists in the military protection of the inviolability and integrity of the territory and state borders of Hungary, the provision of common and peacekeeping tasks arising from international treaties, as well as the implementation of humanitarian activities in accordance with international law.

Hungary's Basic Law of 2012 also flexibly harmonizes national and international law on the use of Hungary's armed forces as a NATO member. Article

45, paragraph 1 of the Basic Law states that the main task of the Hungarian Army is to defend Hungary's independence, its territorial integrity and inviolability of borders, to ensure the implementation of common tasks arising from the international treaty on peace protection and humanitarian to the provisions of international law [8].

In accordance with these constitutional provisions, on 22 February 2012, Hungary's new National Security Strategy entered into force, setting out the main objectives, commitments, and advocacy of its national interests as a member of NATO and the EU. It is in Hungary's strategic interest to maintain a close alliance between the United States and Europe, to promote constructive development and to strengthen the EU-US strategic partnership; active participation in the planning and implementation of joint anti-crisis measures implemented between the EU and the US; pursuing a coherent policy to ensure increased NATO and EU attention to Central and Southern Europe, which will help strengthen one's own national security and develop good neighborly relations in the region [9].

**Discussions.** Hungary is a small country with an open economy, the ratio of exports of goods to GDP exceeds 60%. Geographically, a significant part of Hungarian exports goes to EU member states, and four / fifths of Hungarian exports belong to large companies. The weight of Hungarian small and medium-sized enterprises owned by the majority is very small, accounting for only 12% of total exports.

That is why foreign economic activity is necessary for Hungary, and all governments of the country, without exception, to which coalitions they belong, have paid, and continue to pay special attention to this area.

On January 15, 2011, the Orbán government adopted the New Plan of Szechenyi, according to which a New Foreign Economic Strategy was established in mid-2011. The main purpose of this document is to promote the government's goals of growth, balance, and employment by setting foreign economic policy priorities and refining its instruments in the period from 2011 to 2015. Its main task is to promote the growth of exports, modernize its structural composition, stimulate the expansion of domestic enterprises in international markets, promote investment by foreign investors in Hungary. Regarding foreign direct investment, three / quarters of the capital came from EU member states, mainly from Germany. The main investment sectors are the automotive industry, electrical machinery, finance, and trade.

According to the New Plan of Szechenyi, it was planned to create one million new jobs in Hungary within 10 years. This was facilitated by the growth of small and medium-sized enterprises in foreign markets, which in addition to a positive impact on the balance of payments, had a positive impact on employment (and, of course, on the revenue side of the budget). Of course, investment by foreign investors has also helped create jobs.

In 2015, the Hungarian government adopted a foreign and foreign economic strategy. This document consists of five sections. The first section describes the new Hungarian foreign policy. It is emphasized that the international economic and financial crisis caused by globalization has led to radical changes in the nature and importance of foreign policy. As a result of the changes taking place in the world,

foreign policy and foreign economy have become interdependent: there is no successful foreign policy without a successful foreign economy and vice versa. The annual volume of Hungarian exports is almost equal to the value of gross national product. Hungary's foreign policy strategy must stand on two legs, namely, to continue to strengthen the traditional system of European and Euro-Atlantic relations and at the same time to build mutually beneficial economic relations with the countries of the East. Central Europe, Visegrad cooperation, and good relations with its neighbors remain important areas of Hungary's foreign policy. Hungary also has geopolitical interests in the Central European region: peace and stability in the region, development of trade relations, investment activities, as well as the creation of long-term security of energy supply.

The second section analyzes the conditions and prospects of the global economy.

The third defines the goals of Hungary's economic policy, namely: the creation of jobs in accordance with the country's foreign economic interests. All this work is carried out under the direction of the Ministry of Foreign Affairs and Foreign Trade, as the only integrated system of foreign economy, foreign affairs, and cultural diplomacy. In this integration, the Ministry, foreign missions, and basic institutions work closely with each other, using the tools of foreign and cultural diplomacy to ensure Hungary's foreign economic interests.

The fourth section identifies ways to implement the Strategy, such as: general strategic goals and objectives, export expansion and rebalancing its structure, investment incentives and "reindustrialization", measures to ensure the success of implementation, the relationship between economic policy and its objectives, toolkit, and institutions.

The fifth section is devoted to those areas that are priorities in the foreign economic sphere, namely: food industry, agriculture, computer science, water management, environmental protection, services, automotive, pharmaceutical industry, health care.

In March 2018, the Hungarian National Assembly passed Law LVII on the Control of Foreign Investments that may harm Hungary's Security Interests. This document consists of seven sections which clearly define the obligations of a foreign investor to report to the Ministry of the designated government, the Minister's work with investors, including the scope of permitting procedures, defines certain legal consequences of the Minister, regulates the payment of fines, as well as the financial obligations of the government and the rules related to the implementation of this law to the EU Regulation.

In April 2019, the Hungarian government adopted the National Export Strategy for the period 2019-2030, which states that its main task is to diversify the export market and increase the share of Hungarian exports outside the European Union.

In the structure of Hungary's exports, trade with the European Union is about 80 percent, Hungarian products supplied there are competitive, of high quality and technical content. It also aims to increase the share of Hungarian small and medium-

sized enterprises in exports of their own products and services by 50 percent by 2030 compared to 2018.

The strategy also identified key sectors to focus on Hungarian exports, namely the healthcare economy, food industry, construction and creative industries, IT technologies, and geographical areas, including the Western Balkans and Eastern markets.

The next sub-function is to intensify Hungary's humanitarian policy both at home and abroad, which is closely linked to the protection of the rights of the Hungarian minority living in neighboring countries. The reasons for the intensification of Hungary in this area are the role of the former Hungarian lands in the establishment of national consciousness and identity; common history, language, national traditions, cultural domination, pride in belonging to "Greater Hungary".

The right-wing conservative conception of the Orbán government about a strong and active state resonates with a certain statism that has historically formed in the minds of Hungarian society. The concept of the Hungarian ethnic nation is being implemented, an important component of which is the support of Hungarian minorities living abroad, helping them to preserve their identity.

Article D) of the Hungarian Basic Law of 2011, which states that Hungary, considering the unity of the entire Hungarian nation, is responsible for the fate of Hungarians living abroad, contributes to the preservation and development of their community, supports their aspirations to preserving Hungarian identity, exercising individual and collective rights, prosperity in the Homeland, and promoting their cooperation with each other and with Hungary. The problem of actualization of the humanitarian issue reflects all the most difficult aspects of Hungary's "central-eastern policy". These include the historical, cultural, and socio-psychological aspects of this problem: the need to overcome the national trauma and the "Trianon complex" from the loss of Hungarian territories after the First World War; seeking the support of the diaspora and the use of dual citizenship to increase support for Hungarians abroad in elections to the National Assembly; preservation of the Hungarian historical and cultural heritage in neighboring countries. The issue of Hungarian humanitarian policy in the context of foreign policy should be explored through the desire of the Orbán government to make Hungary a leader in Central Europe and spiritually unite all territories formerly part of the Kingdom of Hungary in the Carpathian region. The game of nostalgia is firmly present in the Hungarian public consciousness, namely the idea of "Greater Hungary". This means that today's Hungarian leaders do not seek to regain lost territories, but primarily to promote Hungarian political and cultural influence on the Hungarian national minority living in neighboring countries, turning this task into a special area of national interest.

The next sub-function: environmental, or environmental (participation in international environmental protection). During the years of independent Hungary, five National Environmental Programs (hereinafter NEP) have been adopted. The first was approved in 1996-2003, the second in 2003-2008, the third in 2009-2014, the fourth in 2014-2020, and the fifth in 2021-2026. The latter Program defines the country's environmental goals, as well as the tasks and tools needed to achieve them,



to ensure environmental protection in the country that will meet the long-term interests of society and the goals of its future development. All these activities must ensure that Hungary fulfills its global obligations and commitments to the EU in the framework of international cooperation. The analysis of the implementation of the fourth NEP showed that the environmental situation in Hungary has changed favorably. Emissions of pollutants into the atmosphere have decreased; the chemical quality of drinking water has improved; waste recycling rate increased; increased area of agricultural land cultivated by organic farming; the share of residential buildings connected to the sewerage network and properly treated wastewater has increased significantly; the network of ecotourism facilities has been expanded. The ecological education of young people of all ages (from preschool to higher education, its content and teaching methods appropriate for their age) has greatly improved.

The overall goal of the Fifth Program is to promote sustainable environmental conditions for the country's development. Among the strategic goals of NEP are:

- improving environmental health and quality of life, reducing the effects of negative environmental impacts.
- protection, restoration, and rational use of natural resources.
- improving the efficiency of resource conservation and greening of the economy.
- increase environmental safety.

Its horizontal objectives are to raise environmental awareness and increase adaptability in the fight against climate change, all sectors of the environment are tangential – the nature, first, we are talking about green energy, which in addition to environmental benefits, helps reduce dependence on resources, increase competitiveness and employment.

The main strategy of the Program is the European Union Action Plan for the Environment for 2030. It is based on the National Framework Strategy for Sustainable Development adopted by the National Assembly. NEP is based on the European Union's environmental development funds for the period 2021-2027, EU grants and international grants and public funds. Implementation of the Program - requires coordinated, efficient, targeted use with less cost. In addition, measures in many cases create additional resources (efficiency of new materials and renewable energy reduces production costs) and increase employment (green energy crops). Significant measures and investments related to the economy and development of environmental infrastructure (through the creation and preservation of jobs) [10].

Another sub-function that is very important in Hungary's foreign policy is the fight against international terrorism and international organized crime. In 2013, the Hungarian government issued an order № 1691/2013. (X.2.) Approved a seven-year policy strategy for the Internal Security Fund. It is a new, complex, comprehensive instrument created in the 2014-2020 budget cycle, covering external border management and, in this context, EU visa policy, preventing and combating crime and terrorism. redistribution of EU funds in solidarity to this end. The Foundation adopted the National Program of Hungary for 2014-2020. In turn, this document is consistent with the National Strategies for Combating Corruption, Combating

Trafficking in Human Beings, Combating Drugs, Cybersecurity, Crime Prevention, and Strategic Guidelines on Migration. In addition, the National Program was designed to suit relevant EU agencies such as Europol, Eurojust, Interpol, international organizations such as GRECO, GRETA.

**Conclusions.** This scientific article states that in different periods of its existence, Hungary sought to pursue a foreign policy that would ensure the country's accession to the existing system of European states, independence, sustainable development, and protection of its territories. In Hungary, over a thousand years of history, there have been a few fundamental legal documents that have had a significant impact on foreign policy, including several constitutions. Among them is the Golden Bull issued in 1222 during the reign of King András II. In 1949, the Constitution of the Republic of Hungary was adopted, which defined the role of all branches of government in the implementation of foreign policy. In 1990, Hungary identified the main foreign policy strategic directions of its activities, namely: 1) integration into European and Euro-Atlantic structures; 2) development of good relations with neighboring countries; 3) protection of the rights of the Hungarian minority living abroad. On January 1, 2012, the Basic Law entered into force, which considered all legislative activities of the National Assembly in the post-Soviet period, in the foreign policy sphere, and supplemented the provisions on Hungary's international activities as a member of the EU and NATO. Regarding legal documents that significantly influenced foreign policy, it should be noted: People's Law № V on the independent administration of the Ministry of Foreign Affairs adopted in 1918, the Constitution of the Republic of Hungary in 1949, Government Decree 45/1990. (IX. 15.) on the tasks and powers of the Minister of Foreign Affairs of the country approved in September 1990. In September 1990, the National Assembly decided to accede to the Statute of the Council of Europe and the General Convention on the Privileges and Immunities of the Council of Europe and to sign the European Convention on Human Rights, Law XLVI 2001 on Consular Protection Government Decree 104/2003. (VII. 18.) on permanent foreign service of civil servants.

Based on the conducted scientific research, we can say that today in scientific circles this area is practically not studied and has not been studied in the complex, only partially or by some general provisions, due to the difficulty of drafting relevant Hungarian legislation for their detailed analysis and development. possible recommendations for improving the identity of Ukrainian statehood, both internally and externally.

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