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The concept of confederation in domestic political and legal ideas

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5.1.1. Theoretical and Historical Legal Sciences

GENERAL OVERVIEW OF THE RESEARCH

Relevance of the Research arises from the challenges that Russian scholars face when studying the category of confederation. This concept is not new to Russian jurisprudence, as pre-revolutionary legal scholars have already addressed it. However, its research potential remains unexplored. Currently, Russian scholarship lacks a unified understanding of the essence of confederation, with significant contradictions among different approaches. As V.B. Liliyak notes, the «traditionally highlighted» features of a confederation are «refuted by the objective reality of international law»¹. A similar situation is observed in foreign scholarship, best described by F. Lister's statement on confederation: «although this term is widely used in a general sense as if it were too well-known to require definition or further study, the situation is quite the contrary»². Both Russian and foreign scholars encounter significant difficulties in studying this category, which is not random or situational but has an objective nature and requires investigation.

In contemporary scholarship, there is a growing interest in the category of confederation, necessitating a systematic synthesis and investigation of perspectives in this field. The increasing interest is understandable considering the possibilities for applying confederative constructs in the modern world. For instance, Xi. Song notes an optimistic outlook in foreign literature regarding the «brilliant prospects for the revival of confederalism»³. According to M. Forsyth, these prospects are driven by two motives: a positive one, reflecting the desire for a «closer form of association than merely "international relations"», and a negative one, expressing the aspiration of individual parts of a single state towards political independence⁴. Both of these motives can be found in the post-Soviet space. Hence, the interest in the category of

¹ Liliyak, V.B. Institution of the confederacy as a form of state's union // Gaps in Russian Legislation. 2011. № 2. P. 29.

² Cit. ex: Song, Xi. Confederalism: A Review of Recent Literature / Federal Practice: Exploring Alternatives for Georgia and Abkhazia. / ed. by B. Coppieters, D. Darchiashvili, N. Akaba. Moscow: Ves Mir Publishers, 1999. P. 284.

³ Op. cit. P. 285, 296.

⁴ Forsyth, M. Towards a new concept of confederation / The modern concept of confederation. Santorini, 22-25 September 1994. Science and technique of democracy № 11. [s.l.]: Council of Europe Publishing, 1994. P. 65-66.

confederation among domestic legal scholars is understandable, given the potential significance of confederative constructs for Russian foreign policy practice.

Firstly, confederative constructs can serve as a political and legal embodiment of integration processes, highly relevant for the post-Soviet space. Currently, the Russian Federation participates in several intergovernmental unions. The legal qualification of such unions, including the Commonwealth of Independent States (CIS), the Eurasian Economic Union (EAEU), and the Union State of Russia and Belarus, involves, among other things, reference to the category of confederation.

Secondly, confederative constructs can be used as a means of «establishing peaceful coexistence» among communities in situations of social «tension» associated with the risks of state disintegration⁵. For example, the confederalization of relationships was considered in the context of seeking a resolution to the Georgian-Abkhaz conflict⁶. While the facilitation by the Russian Federation of such a method for resolving the Georgian-Abkhaz and Georgian-Ossetian conflicts, considering the recognition of the independence of Abkhazia and South Ossetia, is currently unlikely, the use of confederative mechanisms to resolve other conflicts in the post-Soviet space, to which the Russian Federation could contribute, cannot be excluded.

The object of the research is the domestic concept of confederation, understood as the totality of doctrinal views on this category within domestic political and legal ideas. The object of research appears to be quite heterogeneous, as confederation has been studied from different perspectives by various legal disciplines (the research investigates views of theory of state and law, constitutional law, and international law).

The object of the research is **chronologically limited** to the period from the second half of the 19th century to the present. For a long time, domestic political and legal thought overlooked the issue of state unions. A related category of the union state was only briefly mentioned, with «two small paragraphs» in the lecture course «Natural Law», taught by A.P. Kunitsyn at the Tsarskoye Selo Lyceum and published in 1818

⁵ Song, Xi. Op. cit. P. 297.

⁶ Ebd. P. 297-298.

and 1920⁷. No works dedicated to confederation were found in domestic legal literature until the second half of the 19th century. Within the framework of the study, earlier domestic political and legal practices are considered to the extent that it became the subject of consideration by domestic legal scholars within the temporal limits of the research.

The subject of the research is the development process of the domestic concept of confederation within the determined periods. The work examines trends in doctrinal development within domestic political and legal ideas regarding the category of confederation. It should be noted that the examination of this trends concentrates not only on how the doctrinal views of the category of confederation were changed (the plane of the doctrinal understanding), but also on how the prospects of «positive» and «negative» application of this category in domestic political and legal practice had and have an influence on such changings (the plane of practical refraction).

The aim of the research is to develop a systematic understanding of the development of the concept of confederation in Russian political and legal ideas from the second half of the 19th century to the present, encompassing both doctrinal interpretation and practical refraction. To achieve this, the following **tasks** are undertaken:

- 1) Analyze the influence of the potential application of the confederation concept on the development of its theory in domestic political and legal practice.
- 2) Identify and characterize the stages of development of the concept of confederation in domestic political and legal ideas.
- 3) Discover and explain the specifics of the development of the concept of confederation across various legal disciplines.
- 4) Assess the impact of foreign doctrines and practices on the development of the concept of confederation in domestic political and legal ideas.
- 5) Describe the contributions of domestic legal scholars to the development of the concept of confederation.

⁷ Lebedev, A.O. Federal Ideas in Russian Constitutional Law Studies in the Second Half of the XIXth Century // Pravo. Zhurnal Vysshey shkoly ekonomiki. 2015. № 4. P. 71.

Within the scope of this study, **the research question** focuses on how the concept of confederation has developed in domestic political and legal ideas during the identified stages.

The scientific development of the research topic appears deficient. There are no comprehensive works in the legal literature that cover the entire period of the concept of confederation in Russian political and legal ideas. Most studies focus on the category of confederation itself and only «incidentally» address its development in political and legal thought.

In pre-revolutionary literature, interest in state unions was generally limited. There was no clear distinction between federation and confederation, so confederation was often considered within the broader doctrine of federalism. The development of concept of confederation was briefly mentioned in the works of A.A. Zhilin («The Theory of the Union State: Analysis of the Main Directions in the Doctrine of the Union State»), A.S. Yashchenko («Theory of Federalism: Experience of a Synthetic Theory of Law and State»), and M.B. Gorenberg («The Theory of the Union State in the Works of Contemporary Publicists of Germany»). A.A. Zhilin gave little attention to the concept of confederation, while M.B. Gorenberg focused on German rather than Russian political and legal ideas. Only A.S. Yashchenko addressed the development of domestic political and legal thought on state unions, including confederation.

Additionally, the category of confederation was mentioned without detailed study and reference to doctrinal history in the works of other domestic scholars. This includes studies by A.S. Alekseev, I.E. Andreevsky, A.D. Gradovsky, F.F. Kokoshkin, M.N. Korkunov, S.A. Korf, S.A. Kotlyarevsky, N.I. Lazarevsky, B.N. Chicherin, and international legal scholars like A.L. Baikov, V.P. Danevsky, P.E. Kazansky, F.F. Martens, and M.Ya. Pergament. Aside from A.S. Yashchenko's mentioned work, only his book «International Federalism: The Idea of a Legal Organization of Humanity in Political Doctrines Until the End of the 18th Century» can be classified as a general theoretical work on confederation.

In Soviet literature, the concept of confederation in political and legal ideas did not attract significant attention. Some interest in confederation as an independent category

was noted during the early stages of Soviet state-building, due to discussions on the relations between Soviet republics before the formation of the USSR. Relevant literature, such as N.I. Palienko's «Confederations, Federations, and the Union of Soviet Socialist Republics» and G.E. Porechin's «Soviet Republics in Their Relations», focused more on defining the place of confederation in Soviet state-building rather than its theoretical development.

After the formation of the USSR, Soviet authors such as E.E. Pontovich («The USSR as a Union State») and M.O. Reichel («Forms of Association of Soviet Socialist Republics») contrasted the Soviet federation with bourgeois federations and confederations despite their external similarities. The focus was on developing the theory of Soviet federalism, based on the principle of self-determination in the Bolshevik interpretation. Consequently, significant studies of Soviet federalism, such as those by D.L. Zlatopolsky («The State Structure of the USSR», «The USSR: A Federative State») and A.I. Lepeshkin («Soviet Federalism: Theory and Practice»), did not engage with pre-revolutionary scholarship but rather developed Marxist-Leninist ideas about federation.

The category of confederation in Soviet jurisprudence was primarily significant in the context of ideologically tinted criticism of bourgeois federation as a nominal phenomenon that actually covered a unitary structure. Confederation was viewed as the initial form of a union of sovereign states, which lost their sovereignty as the dominance of the bourgeoisie strengthened, transitioning to a federative and then a unitary structure. Soviet scholars, such as G.V. Alexandrenko («Bourgeois Federalism: A Critical Analysis of Bourgeois Federations and Bourgeois Theories of Federalism») and I.D. Levin («Sovereignty»), considered the development of foreign doctrine on this theme as a reflection of class-driven centralization. The development and application of pre-revolutionary scholarship in Soviet political practice did not correspond to the skeptical perception of confederation as a bourgeois relic. Consequently, post-USSR, only one work directly addressed this category—N.N. Strakhov's article «The Concept and Essence of Confederation», which highlighted the lack of specifics in the literature on confederation.

Relevant issues for current research are also considered in Soviet works on state law by authors such as I.N. Ananov, K.A. Arkhipov, M.F. Vladimirsky, G.S. Gurvich,

D.A. Magerovsky, B.D. Pletnev, P.I. Stuchka, A.M. Turubiner, and N.P. Farberov. General theoretical works by scholars like S.A. Golunsky and M.S. Strogovich, A.I. Denisov, M.P. Kareva, Ya.M. Magaziner, M.A. Reisner, M.I. Khmelinin, and N.V. Chernogolovkin also touched on themes of confederation. In international law, works by R.L. Bobrov, I.I. Lukashuk, F.I. Kozhevnikov, S.B. Krylov, and V.I. Lisovsky are noteworthy.

Unlike Soviet literature, contemporary jurisprudence lacks ideological prejudice against bourgeois science, including achievements in pre-revolutionary law. Significant attention is given to analyzing the development of federalism in political and legal thought during the pre-revolutionary period and rethinking the Soviet legacy. These topics are highlighted in the works of M.S. Salikov («Comparative Legal Study of Federal Systems in Russia and the USA»), A.N. Lebedev («Periodization and Main Directions of Development of Federal Ideas in the Russian Empire (End of the 18th Century – Early 20th Century)»), «Soviet State Scholars on the Problems and Prospects of Development of Soviet Federalism (1918–1985)»), and A.O. Lebedev («Federal Ideas in Russian Constitutional Law Studies in the Second Half of the XIXth Century»). However, such works focus primarily on federation, only indirectly covering the category of confederation. A similar situation is observed in works dedicated to studying the views of Russian legal scholars. Thus, V.F. Kalina, addressing A.S. Yashchenko's study of federalism, only briefly mentions confederalism⁸, which was an important component of his doctrine of federalism.

In contemporary jurisprudence, the study of confederation often involves contrasting it with federation, as seen in articles by V.I. Lafitsky («A Road Leading to a Dead End? On the Confederative Form of State Structure») and S.O. Azarov («Legal Essence of Confederation and Federation», «Legal Distinctions of Confederative State Structure from Federation»). However, another approach has emerged, arguing that defining the essential features of confederation by contrasting it with federation is incorrect

⁸ Kalina V.F. A.S. Yashchenko as the first Russian theorist of federalism // RSUH/RGGU bulletin. Series Economics. Management. Law. 2011. № 8 (70). P. 228.

due to their heterogeneity⁹. Thus, works studying confederation outside this framework have emerged, examining it from entirely different perspectives.

For instance, S.Yu. Mikhailova's work («Confederation as an International Legal Union of States: Issues of Theory and Practice») aims to study confederation in general as an interstate union in the context of international relations. Significant attention to confederation is given in general theoretical works. A.V. Tsytugin's («Contemporary Types of State Unions») and V.V. Elistratova's («Unions of States: A General Theoretical Aspect») works are devoted to forms of interstate union, as one of which confederation is thought, as before; R.V. Popov's study («Confederation of States: History and Modernity») focuses on historical confederative experiences in other countries. T.P. Evseenko's article («Confederation as a Stable Form of State Structure») addresses the stability of confederations' existence. Finally, G.A. Knyazev, in his work («Constitutional Foundations of Confederation»), investigates the constitutional-legal nature of confederation. However, these works predominantly address confederation for polemical purposes rather than focusing on its theoretical development.

Significant for current research are also general theoretical works by scholars such as S.S. Alekseev, V.V. Lazarev, and S.V. Lipen, L.A. Morozova, V.S. Nersesyants, and others. The theme of confederation is touched upon in the works of scholars like S.A. Avakyan, M.V. Baglai, V.A. Vinogradov, V.D. Mazaev, and S.V. Maslennikova (Vasilyeva), D.L. Zlatopolsky, A.N. Kokotov, A.A. Mishin, and V.G. Strekozov. International legal works by L.V. Grechko, G.G. Shinkaretskaya, S.A. Gureev, I.I. Lukashuk, N.A. Ushakov, and other scholars are also referenced.

The sources of research can be divided based on the developmental plane of the concept of confederation. Among the sources, which were examined in the study of political-legal practice, for convenience of systematization possible it is broadly possible to distinguish the group of legal (juridical) sources, where the relevant legal framework is expressed and formalized. As such sources, for instance, we understand international and national treaties and agreements, normative and not normative legal

⁹ Mikhailova, S.Yu. Confederation as an International Legal Union of States: Issues of Theory and Practice: dis. ... cand. of philosophy in Law / S.Yu. Mikhailova. Ufa, 2006. P. 7-8, 46-47.

acts. Non-legal (non-judicial) sources, which do not regulate the research area, but include the positions of domestic political actors and parties as well as the political views of domestic legal scholars. These sources include materials from the meetings of state and party organs and congresses, administrative records, programmatic documents of parties, political works and projects, correspondence of party activists, the press, and autobiographical materials.

For the research of doctrinal understanding, the author uses scholarly works that reflect the scientific views of domestic legal scholars on the topic of confederation. Scholarly works were also considered when researching political-legal practice, to the extent that they exhibit the political views of domestic legal scholars on territorial structure of Russia.

To assess the influence of foreign scholarship on domestic doctrine, the author referred to the works of the Federalists J. Madison and A. Hamilton, the founder of the states' rights theory J.C. Calhoun, and German legal scholars S. Brie, G. Jellinek, M. Seydel, P. Laband, and A. Merkel, as well as British political scientist M. Forsyth and Swiss legal scholar G. Malinverni. At the same time foreign legal (judicial) sources formalizing confederative relations were used, including the Swiss Cantons' Confederation Treaty of 1815, the Utrecht Union of 1579, the Articles of Confederation of 1781, the Act of the German Confederation of 1815, and sources reflecting the struggle between local and central authorities, such as the South Carolina Act of 1832 on nullification.

For the research on political-legal practices during the pre-revolutionary stage of the development of the concept of confederation, the analyzed legal sources include the Digest of Fundamental State Laws (Digest of Laws of the Russian Empire, Volume I, Part 1), edicts of Nicholas I and Alexander I reflecting the foreign policy course on the Balkan issue, the Status on Aliens of 1892, and the Digest of Civil Laws (Digest of Laws of the Russian Empire, Volume X, Part 1). Acts of the Provisional Government on the national issue and acts of the peripheries reflecting their antagonism with the center, including the Universals of the Central Rada and the Law on the Exercise of Supreme Power in Finland, among other documents, were also studied.

Non-legal sources for this stage include constitutional projects of P.I. Pestel and N.M. Muravyov, works of I.S. Aksakov, M.A. Bakunin, A.I. Herzen, N.Ya. Danilevsky, P.A. Kropotkin, M.P. Pogodin, and G.N. Potanin, materials from the work of the Council of Ministers during the summer of 1915, memoirs of state figure S.E. Kryzhanovsky, programmatic documents of political parties including the Cadets, Socialist Revolutionaries, Mensheviks, ENES, the General Jewish Labor Union in Lithuania, Poland, and Russia, the Socialist Jewish Workers Party, as well as parties of the national peripheries. Materials of the First All-Russian Congress of Soviets, which expressed Socialist Revolutionary-Menshevik approaches to solving the national question, and the Moscow State Conference, which covered a wide range of political currents, were also included. The works of Russian legal scholars reflecting the debate on the state-territorial structure of the Russian Empire were referenced. Regarding the Finnish issue, historical works by K.F. Ordin and L. Mechelin were also utilized to illustrate the Finnish position.

For the Soviet stage, legal sources include acts of the Second All-Russian Congress of Soviets, the Declaration of Rights of the Laboring and Exploited People, the RSFSR Constitution of 1918, which defined the principles of state structure, decrees of the All-Union Central Executive Committee and the Central Executive Committee, and resolutions of the All-Russian and All-Ukrainian Congresses of Soviets regulating the relations between the RSFSR and the Ukrainian SSR, as well as treaties and agreements between the Soviet republics before the formation of the USSR. Non-legal sources for the Soviet stage include materials from the VIII, X, and XII Congresses of the Russian Communist Party (Bolsheviks), works by V.I. Lenin, departmental and party materials, press articles reflecting the position of the party leadership, and other materials.

For the contemporary stage, analyzed legal sources include the Constitution and legislation of the USSR during the restructuring period, reflecting the crisis processes of the union structure; declarations of sovereignty by union and autonomous republics, which manifested the process of sovereigntization, the Federal Treaty of 1992, and the Decree of the Constitutional Court of the Russian Federation of 2000, which reflected

the overcoming of this process at the national level. The CIS Charter, treaties on the EAEU and on the creation of the Union State, embodying integration processes in the post-Soviet space, and other relevant legal sources were also considered.

Non-legal sources include projects of the new Union Treaty, materials from «Novo-Ogarevo» discussions, transcripts of Congresses of People's Deputies of the USSR and the RSFSR, speeches by M.S. Gorbachev and B.N. Yeltsin reflecting the discussion on concluding the Union Treaty, transcripts of sessions of the Constitutional Commission and the Supreme Soviet of the Russian Federation in 1992, demonstrating the struggle of centrifugal and centripetal forces in state building. Additionally, the relevant materials, which characterize the positions of Russian legal scholars, including E.M. Ametistov, V.N. Kudryavtsev, V.I. Lafitsky, I.Sh. Muksinov, B.N. Topornin, and others, are studied in relation to political-legal practice.

Research methodology and methods. The methodological foundation of the research incorporates both general scientific research methods and specialized scientific methods tailored to the specific subject matter and objectives. These methods include the following:

Firstly, the legal-hermeneutic method is employed for analyzing domestic and foreign scientific works. The positions presented in these works are understood within the context of specific historical political and legal realities, enabling the determination of the authorial intent of texts. It is noted that the political preferences of the authors can often be inferred from the texts they write.

Secondly, the legal-dogmatic method is used in relation to legal sources that regulate social relations relevant to this work and their drafts, which reflect trends in domestic political and legal thought, as well as foreign legal sources. This method allows for the identification of the actual and potential legal significance of these sources.

Thirdly, the author uses the historical-legal method to study the content of legal sources, including foreign ones, and their drafts. It considers the socio-political conditions under which these documents were prepared and adopted, their motives, purposes, and the goals that influenced their content, as well as their impact on political and legal reality.

The scientific novelty of the research lies, firstly, in the research strategy which examines the stages of development of the domestic concept of confederation within the context of political-legal practice in the area of politico-territorial structure with regard to doctrinal interpretation and practical refraction. The research strategy allowed to establish the influence of the prospects of «positive» and «negative» application of the category of confederation on the development of the domestic concept of confederation, also to isolate and to characterize stages of this development.

Secondly, in this work the development of the concept of confederation is investigated with regard to the impact of foreign political and legal doctrines and practices, also the contributions of domestic legal scholars to scientific coverage of it. Also, the specific features of the investigation of the concept of confederation is discovered across various legal disciplines: theory of state and law, constitutional law and international law. This allowed to form a holistic view about state and possible directions of learning the scientific topic.

The research, considering its objectives and tasks, formulates and submits the following **propositions for defense**:

1. The development of the concept of confederation in domestic political and legal ideas is significantly influenced by the prospects of «positive» and «negative» application of this category in political and legal practice, reflecting centripetal and centrifugal tendencies, respectively. The possibility of «negative» application, associated with threats to state integrity, fosters a skeptical view of confederation, contrasting it with federation and perceiving it as a weak form of state union. Conversely, the possibility of «positive» application correlates with increased interest among legal scholars and does not lead to the conclusion of confederation's weakness.

2. The development of the concept of confederation in domestic political and legal ideas can be divided into three stages: pre-revolutionary (from the second half of the 19th century to the October Revolution), Soviet (from the October Revolution to 1988), and contemporary (from 1988 to the present). Each stage is marked by a political and legal crisis, for which can be said to prospects of «positive» and «negative» applications of the confederation category. The pre-revolutionary stage was defined by

the crisis of the Russian Empire as a unitary state, during the First Russian Revolution and the February Revolution, when peripheries' aspirations allowed a «negative» application of the category of confederation. The Soviet stage can be characterized by acute party polemics on the issue of union structure during the formation of the USSR, reflecting contradictions between the center and the union republics in the form of «Great Russian chauvinism» and «local nationalism». Reflecting ambition to extend independence of republics, «local nationalism» meant a possibility of «negative» application of confederation category. The contemporary stage's development of concept of confederation is determined by the crisis of Soviet statehood, within which this category can be applied «negatively». The effects of this crisis in terms of post-Soviet disintegration are still being overcome, for which confederation could be used «positively».

3. The development of the domestic concept of confederation is influenced by the prospects of «positive» and «negative» application of this category at each stage. Until the First Russian Revolution, confederation attracted limited interest and was primarily studied within the classification of state unions, recognized as a complex state due to its authority over its subjects. The crisis of the Russian Empire brought a «negative» application, leading to its perception as an international legal relationship incapable of ensuring state unity. During the Soviet stage, the initial application of this category to RSFSR and «contractual» republic relations represented its «positive» use. After the formation of the USSR, these relations were recognized as state-legal, and the confederation category's application corresponded to its «negative» use. Political and legal practice affirmed the skeptical perception of confederation as a bourgeois relic. As the Soviet statehood crisis developed, the prospects for applying the confederation category shifted from «negative» to «positive», reflecting, firstly, an forced alternative to separatism at the union level and then post-Soviet integration processes. This led to a rethinking of the confederation category in scholarship and increasingly this category is perceived as a form of integration.

4. Various attitudes towards confederation vary across different branches of legal studies can be explained by their focus. In state studies, the international legal

nature of confederation is predominantly recognized, with the statization of confederation viewed skeptically due to the dilution of statehood. As an interstate union form, confederation lies outside the domestic plane, beyond state studies' subject matter. In general theoretical works, the issue of recognizing the legal nature of confederation does not have a definitive resolution. General theoretical works on integration include authoritative relations beyond state boundaries, with some authors attributing a state-legal character to these relations. International law science, the subject of which is international relations, during the pre-revolutionary and Soviet stages, predominantly recognized confederation as a state due to its ability to participate in such relations. The contemporary stage sees a departure from this view, considering changes in international legal personality perspectives.

5. Foreign doctrine and practice have significantly impacted the development of the domestic concept of confederation. The absence of domestic confederation-building practices in the pre-revolutionary stage led scholars to study foreign experiences, perceived through foreign doctrine lenses. The thesis of confederation's weakness as a state union form, expressed in the American Federalist and states' rights debates, was reciprocated by German legal thought and absorbed into domestic scholarship amidst threats to the Russian Empire's integrity. The skeptical attitude towards confederation corresponded to its perception as a bourgeois relic by Soviet scholars, leading to minimal revision during the Soviet stage. Consequently, modern Russian political and legal thought has largely assimilated American and German scholarship achievements in studying confederative experience. Contemporary trends in rethinking these achievements largely originate from foreign political and legal thought.

6. The role of domestic legal scholars in developing the concept of confederation primarily involves advancing ideas from foreign political and legal thought. Independent contributions exist, particularly in substantiating the state-legal nature of confederation. Before the First Russian Revolution, significant support in state studies (A.D. Gradovsky, B.N. Chicherin, M.I. Sveshnikov, I.E. Andreevsky) recognized confederation as a complex state due to its authority over its subjects. In Soviet general theoretical and state-legal literature, the recognition of confederation's statehood was

explained by the class development of bourgeois countries, where the transition from confederation to federation was seen as a centralization process. In the contemporary stage, the thesis on confederation's state-legal nature is linked to rethinking the Soviet experience of structuring vertical relations (G.A. Knyazev), the sphere of activity in carrying out sovereign functions conducted jointly (S.S. Alexeev, R.V. Popov), or, as before the First Russian Revolution, the authoritative nature of relations between the center and the subjects of the confederation (T.P. Evseenko).

The structure of the dissertation, consisting of an introduction, three chapters, a conclusion and a list of literature, is dictated by the research objectives, tasks, and strategy. Each chapter is dedicated to one of the designated stages (pre-revolutionary, Soviet, and contemporary) of the development of the concept of confederation in domestic political and legal ideas. Each chapter includes two sections that examine this development in the dimensions of practical refraction and doctrinal understanding, respectively.

The research holds significant **theoretical and practical value**. The theoretical significance lies in providing a comprehensive understanding of the development of the concept of confederation in domestic political and legal ideas, encompassing both doctrinal and practical dimensions across the pre-revolutionary, Soviet, and contemporary stages. The practical significance of the research results is evident in their potential use for studying the forms of interstate unions, their systematization, and in designing confederative models based on the achievements of domestic political and legal thought.

Validation of Research Results. The results of the research were discussed within the Department of Theory of Law and Comparative Law.

The author has published four articles on the topic of the dissertation research, totaling approximately 3.4 printed sheets (personal contribution – about 3 printed sheets), three of which are in journals listed in the recommended list of the National Research University Higher School of Economics.

The research topic was presented by the author at the round table «Soviet Federalism as a Politico-Legal Phenomenon: Theoretical and Historical Issues of

Research» (Nizhny Novgorod, 22.10.2021), the report: «About the nature of relationships between union republics before the Formation of the USSR»; at scientific conferences «Institutions of Russian Statehood in the Context of Changes in the First Third of the 20th Century (on the 115th Anniversary of the Publication of the 'Fundamental State Laws of the Russian Empire' 1906)» and «Legal Aspects of Integration in the Eurasian Space (on the 100th Anniversary of the Formation of the USSR)» (Saint Petersburg, 14.05.2021 and 13.05.2022), reports: «The views of A.S. Yashchenko on confederative organization» and «The contractual models of regulation of relationships between union republics before the conclusion of the treaty on the creation of the USSR»; and at the forum «Current Issues in Comparative Historical Legal Studies and Theoretical Legal Research» (Moscow, 17.03.2023), the report: «Local deviation on the issue of the Soviet nation-building».

MAIN CONTENT OF THE DISSERTATION

In *the introduction*, the object, subject, aim, and objectives of the research are defined. The scientific development of the topic is characterized, its relevance and scientific novelty are justified, and its theoretical and practical significance is described. Additionally, the sources, research methodology and methods, structure of the dissertation, the propositions put forward for defense, and information on the validation of research results are presented.

Chapter 1 examines the development of the concept of confederation in domestic political and legal ideas during the pre-revolutionary stage. Section 1.1 defines the place of state unions, including the category of confederation, in the political life of pre-revolutionary Russia. Section 1.2 analyzes the evolution of pre-revolutionary legal scholars' views on this category, considering the political context.

Section 1.1 notes that the theme of state unions drew increased societal attention by the time of the 1917 Revolution. However, this theme was not thoroughly developed in domestic political and legal ideas. The author agrees with A.A. Zhilin that this problematic area is characteristic of countries resorting to complex political and legal

structures, whereas Russian political and legal life long avoided the theme of state unions. This theme becomes relevant during periods of crisis, as manifested during the First Russian Revolution and the February Revolution. Consequently, the author divides the pre-revolutionary stage into two parts, driven by the potential application of various state union categories, including confederation.

In the first part, except for the «official federalism» of the liberal period of Alexander I's rule, the theme of state unions was not frequently addressed. This topic was raised by the Decembrists, with both supporters of federalization (N.M. Muravyov) and opponents (P.I. Pestel), as well as by socialists (A.I. Herzen), anarchists (M.A. Bakunin, P.A. Kropotkin), panslavists (I.S. Aksakov, N.Ya. Danilevsky, M.P. Pogodin), and representatives of national minorities (members of the Society of Saints Cyril and Methodius, M.P. Dragomanov). However, national movements (except for the Polish and Finnish) generally lacked any definite form until the First Russian Revolution, when corresponding ideas crystallized into concrete political demands.

The national question significantly impacted the structure of the Russian Empire, manifesting in the presence of entities with a special legal status within its composition. Consequently, several authors (A.D. Gradovsky, V.I. Sergeevich, B.N. Chicherin) considered the relations of the Russian Empire with the peripheries (Finland, Poland, Malorossia) as cases of union during certain periods. However, the literature predominantly viewed the Russian Empire as a unitary state. In this field the author also focuses separately on the Finnish issue.

In the second part, the growing crisis of the Russian Empire intensified the national question. In the peripheries, the search for its resolution led to concrete political demands for restructuring the Empire through federalization or the introduction of territorial and national-cultural autonomies. Antagonism between the center and the peripheries meant such ideas were ambiguously received by all-Russian parties, finding resonance only among left-wing political forces and some Constitutional Democrats (Kadets). The aspirations of the peripheries for independence caused concern among the Russian public about maintaining the

Empire's territorial integrity. During the First Russian Revolution, the national question remained unresolved, leading to increased antagonism until the February Revolution.

During the February Revolution, the Provisional Government attempted to address the national question. However, the measures aimed to maintain the status quo rather than envisioning politico-territorial changes. Compared to the First Russian Revolution period, the positions of all-Russian parties like the Kadets, Social Revolutionaries (SRs), and Mensheviks on state structure became more conservative. Even left-wing parties, while supporting autonomy and federation, sought to postpone resolving the national question until the Constituent Assembly convened. This approach could not satisfy the peripheries' aspirations for independence, pushing confederative demands to the political agenda.

Section 1.2 notes that the lack of domestic practice in applying state union structures necessitated referencing foreign experience, perceived indirectly through the prism of foreign scholarship. Consequently, domestic research often represented an analysis of foreign political and legal thought achievements, rarely paying adequate attention to practical aspects. The author elaborates on how the thesis regarding the weakness of confederations as a state union form was articulated in the American debate between Federalists and states' rights advocates, echoed by German legal scholarship during transitions from confederative to federative structures, and adopted in domestic science amid threats to the Russian Empire's integrity.

The confederation category attracted the various attention in different branches of legal study according to needs in political practice. In international law, ideas of forming union structures involving Russia (primarily panslavist) remained far from practical implementation, leaving the significance of confederation understudied. Various positions in the literature viewed confederation as a complex state capable of engaging in international relations (V.P. Danevsky, F.F. Martens), as a secondary legal entity (A.L. Baikov), or as an international contractual legal relationship (P.E. Kazansky, M.Ya. Pergament).

In state studies, given changing practical needs, the author divides the pre-revolutionary stage into two parts. In the first part, interest was sparked by qualifying

the relationships between the Russian Empire and its peripheries, with the practical reframing of state unions associated mainly with the category of union. Federation and confederation were touched upon for completeness in doctrinal illumination of state unions. Literature supported recognizing confederation as a complex state due to its authority over its subjects (A.D. Gradovsky, B.N. Chicherin, M.I. Sveshnikov, I.E. Andreevsky).

The second part was characterized by a growing practical interest in federation, with confederation primarily considered in contrast to federation. Confederation was seen as opposing state unity, conflicting with classifying it among complex states. Consequently, state studies established the approach to confederation as an international legal relationship (A.A. Zhilin, F.F. Kokoshkin, S.A. Kotlyarevsky).

In general theoretical works, confederation was discussed mainly by A.S. Yashchenko in studies of international federalism. Confederation reflected the growth of unitarism concerning unregulated international relations. The author characterizes the evolution of A.S. Yashchenko's views from recognizing confederation's international legal nature to its stratification. Such approach was driven by the desire to strengthen the position of central authority, which has been formed as a result of growth of unitarism.

Chapter 2 explores the development of the concept of confederation in domestic political and legal ideas during the Soviet stage. Section 2.1 defines the place of the category of confederation within the framework of Soviet state-building and its perception in this context. Section 2.2 analyzes the development of Soviet legal scholars' views on this category, considering the political context.

In Section 2.1, it is noted that the concept of confederation received significantly more practical consideration in Soviet state construction compared to the pre-revolutionary period. The author discusses the Bolsheviks' attitude towards the category of autonomy as a means of ensuring the democratic nature of the state system as a whole and the category of bourgeois federation as a means of national division of the proletariat without providing opportunities for self-determination to peripheries. Consequently, Soviet political practice was characterized by an ideological contrast between Soviet and bourgeois federalism, viewed as voluntary and coercive, respectively.

The Soviet stage of the development of concept of confederation is divided into two parts: before and after the formation of the USSR. Prior to the completion of the formation of the USSR, its field of application of the confederation category could have been quite extensive. Several authors (K.A. Arkhipov, M.A. Reisner) applied it to the initial relations between local councils within Soviet Russia, which gradually lost their independence during federalization. However, this position was criticized as an anti-Soviet approach during the discussions on the drafts of the first Constitution of the RSFSR.

Difficulties in relations with the peripheries necessitated a special approach by the Bolsheviks, reflected in the legal framing of relations through intergovernmental treaties, recognizing the state independence of the «contractual» republics. In the first part of the Soviet stage regarding qualifying such relations in legal studies, two approaches existed. The state approach (B.D. Pletnev, M.A. Reisner, P.I. Stuchka) involved recognizing the «contractual» republics as parts of the Russian state, perceiving union relations exclusively as state-legal. The confederative approach (N.I. Palienko, G.E. Porechin) acknowledged some confederative features in union relations.

The second part of the Soviet stage was characterized by a skeptical perception of the category of confederation as a bourgeois relic, contrasting national interests against the class interests of international proletarian unity. This attitude was formed during the party debate on reforming the system established by union treaties and on the formation of the USSR. For ideological reasons, the USSR could not be recognized as a confederation.

The formation of the USSR significantly impacted the perception of previously existing union relations, questioning both the state and confederative approaches. The negative perception of the confederation category that emerged in Soviet political practice made the confederative approach unacceptable for Soviet doctrine. As a result, Soviet scholars established the viewpoint that union relations before the formation of the USSR had a federative character (I.N. Ananov, D.L. Zlatopolsky, Yu.S. Kukushkin, D.A. Magerovsky, O.I. Chistyakov).

Section 2.2 notes that there were few Soviet-era works dedicated to studying the category of confederation due to the skeptical attitude towards it as a bourgeois relic. The

view that confederation was incompatible with the socialist legal order in Soviet science was not immediate but was shaped by the ideological influence of political practice.

In the first part, prior to the formation of the USSR, the category of confederation interested some legal scholars regarding its potential application to relations between Soviet republics. However, the approaches to confederation essentially corresponded to its pre-revolutionary understanding (N.I. Palienko, G.E. Porechin, Ya.M. Magaziner). The use of bourgeois legal constructions by Soviet scholars was primarily utilitarian. The thesis about the inability of bourgeois science to adequately reflect the essence of state unions gained wider acceptance (K.A. Arkhipov, N.V. Krylenko, M.A. Reisner, P.I. Stuchka), as the bourgeois division into confederations and federations proved untenable. Recognizing a union of states as a state depended not on the union's form but on the strength of the connection between the states involved.

In the second part, the formation of the USSR as a special type of federation ideologically contrasted Soviet forms of federalism with bourgeois categories of federation and confederation. Due to the incompatibility of bourgeois forms with the proletarian essence, the direct application of these forms to qualify Soviet political practice was impossible. Bourgeois categories were primarily referenced to define the essence of the Soviet federative structure through contrastive comparison.

Confederation received the most attention in Soviet state studies, which faced the task of distinguishing the USSR as a special type of federation from bourgeois categories of federation and confederation. The thesis about the state-legal nature of confederation (N.P. Farberov) stemmed from the perception of state centralization as part of the general development process in bourgeois countries. The position regarding its international-legal nature (G.V. Alexandrenko, D.L. Zlatopolsky, I.D. Levin) was generally inherited from bourgeois science. Although this issue was not resolved, it did not have a fundamental impact on the identified characteristics of confederation. The concept of confederation underwent no significant changes compared to bourgeois science. However, significant changes occurred in the relationship between the categories of confederation and federation, which the author discusses in detail.

In general theoretical and international legal works, confederation received much less attention. In general theoretical literature, its state-legal nature was recognized, which can be explained by the presence, according to Soviet legal scholars, of a function to suppress the exploited classes (S.A. Golunsky, M.S. Strogovich, A.I. Denisov, N.N. Strakhov). In international law, confederation was also generally recognized as a complex state due to its ability to participate in international relations (F.I. Kozhevnikov, S.B. Krylov, V.I. Lisovsky).

Chapter 3 investigates the development of the concept of confederation in contemporary domestic political and legal ideas. Section 3.1 defines the place of the category of confederation in political and legal practice and its perception in this context. Section 3.2 analyzes the development of contemporary legal scholars' views on this category, considering the political context.

In Section 3.1, it is noted that compared to previous stages, the concept of confederation has gained significant practical relevance in the modern era. Interest in this category within both doctrine and practice has risen in the context of the Soviet statehood crisis. The perception of this category, as well as its potential application, has undergone substantial changes before and after the dissolution of the USSR.

In the first part, before the dissolution of the USSR, the crisis of Soviet statehood is analyzed at both the union and republican levels. The author extensively discusses the processes of sovereignization of the union republics and of the autonomies and characterizes their interconnection: on the one hand, the sovereignization of the union republics was a prerequisite to the sovereignization of the autonomies, on the other hand, the sovereignization of the autonomies contributed to strengthen the independence of the union republics from the union center. Significant attention is also paid to the analysis of new union treaty projects, which reflected the sovereignization process. The author notes that all union treaty drafts implied a more confederative structure, as even the first of them required a consensus among all its subjects for any change in the union's competency.

Issues of union-wide and republican statehood were primarily political; hence, the legal form of their resolution was largely dictated by the personal beliefs of Russian legal scholars. Due to the threat to state unity, domestic legal scholars generally had a sceptical

view of the confederation category. Nevertheless, a compromise approach emerged in doctrine, allowing limited use of this category as a means to counteract separatism.

In the second part, following the dissolution of the USSR, sovereignization ceased to be a common process at both the union and republican levels. At the union level, the sovereignization of the former union republics was completed with the achievement of state independence. At the republican level, the process continued, marked by increasingly sharp conflicts between centrifugal and centripetal tendencies. After the signing of the Federal Treaty, centrifugal manifestations in state construction gradually diminished in Russia, thus with reducing the threats of separatism the category of confederation was no longer perceived in the context of its «negative» application.

Meanwhile, in the post-Soviet space, there is a search for forms of integration that do not affect the statehood of the former union republics. One of these forms can be a «positive» application of the confederation category. The author briefly reviews intergovernmental formations (CIS, EAEU, Union State of Russia and Belarus) in the post-Soviet space and how they are perceived in the literature as confederative. The nature of the Union State of Russia and Belarus is specifically discussed in terms of its characteristics aligning with those of «classical» confederations.

In Section 3.2, it is noted that since the 1980s, a trend has emerged in foreign literature towards increasing interest in the category of confederation, driven by its potential application as a means of resolving contemporary political problems. This growing interest in confederation is also evident in Russian scholarship in the modern era, reflected in the emergence of works in domestic legal studies that directly address the doctrinal understanding of this category.

The modern stage of the development of concept of confederation can be divided according to the role of this category in political practice into two significant parts. In the first part, the confederation category was viewed as a means to overcome separatism, resulting in a restrained revisionism where some legal scholars forced to allow its limited «negative» application. The author examines the views of V.I. Lafitsky, B.M. Lazarev, and B.N. Topornin, concluding that their perceptions of confederation remained largely

influenced by pre-revolutionary ideas and the thesis of confederation's weakness as a form of state union.

In the second part, after the dissolution of the USSR, confederation began to be seen as a promising tool for facilitating integration processes. Consequently, the growing interest in confederation, characteristic of foreign scholarship, is also reflected in Russian legal studies. Influenced by the prospects of «positive» application of the confederation category, both Russian and foreign literature exhibit a trend towards critically reevaluating established notions about the practical unusability of this category based on historical experience. The author notes that such reevaluation challenges the traditionally highlighted features of confederation, exacerbating the issue of conceptual ambiguity. The author believes that resolving this issue involves moving away from considering the external features of various confederation models as essential characteristics.

The author extensively discusses the perception of the nature of confederation in various branches of legal science. In constitutional law, which primarily concerns institutions at the national level within Russia, the statization of confederation does not receive broad support due to the dilution of the concept of statehood. Particular attention is given to the position of G.A. Knyazev, who considered confederation within the constitutional-legal understanding of integration processes in the post-Soviet space.

Statization of confederation is more common in general theoretical works due to the possibilities of its «positive» application in the framework of integration in the post-Soviet space. Special attention is given to the views of S.S. Alexeev and R.V. Popov, who associate the state-legal nature of confederation with the sphere of activity for carrying out sovereign functions, which its subjects conduct jointly, and the position of T.P. Evseenko, who recognized the state-legal nature of confederation due to the authoritative nature of the relations between the center and its subjects.

In international legal literature, the question of the statehood of confederation has not received a definitive resolution. The author discusses positions that recognize confederation as a state (K.A. Bekyashev, P.P. Kremnev, I.I. Lukashuk), as an international entity (L.V. Grechko, G.G. Shinkaretskaya), or as a supranational

organization (S.Yu. Mikhailova, N.A. Ushakov). Specifically, regarding the authoritative nature of confederation, the author focuses on the views of S.Yu. Mikhailova, who bases her understanding on the unity of sovereignty between the confederation and its subjects, and N.A. Ushakov, who sees the confederation essentially as an «agent» to which sovereign powers are delegated.

In *conclusion*, the dissertation research is summarized comprehensively, and prospective directions for the study of confederation in domestic jurisprudence are noted.

MAIN PUBLICATIONS ON THE SUBJECT OF THE DISSERTATION RESEARCH

On the topic of the dissertation research, 4 articles have been published with a total volume of about 3.4 printed pages (personal contribution – about 3 printed pages), including three articles in journals included in the HSE list (list C and D):

1. Zobnin, V., Kolosov, I. Philosophical and Legal Russian Thought at the Late 19th - Early 20th Century Period on the Status of Finland in the State Structure of the Russian Empire // *Wisdom*. 2023. T. 25. № 1. P. 264-274.

2. Zobnin, V. The myths about a confederative organization: nullification and secession // *Proceedings of Voronezh State University. Series: Law*. 2022. № 2 (49). P. 37-46.

3. Zobnin, V. The legal nature of relationships between union republics before the conclusion of the Treaty on the creation of the USSR // *Russian Juridical Journal*. 2022. № 3 (144). P. 16–25.

Publication in journal included in the list of peer-reviewed scientific journals recommended by the Higher Attestation Commission of the Ministry of Education and Science of Russian Federation:

4. Zobnin, V. The legal nature of the Union state of Russia and Belarus // *History of State and Law*. 2023. № 2. P. 31-37.