

LEGAL GLOBALISATION AND ECONOMIC SYSTEMS

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Abstract. The objective content of globalisation is made up of processes that are heterogeneous in their origins, mechanisms and consequences, which makes it possible to consider globalisation as a complex system of phenomena and relations that is internally quite contradictory. This status of globalisation processes gives rise to a wide variety of concepts and theories of the origin and development of globalisation, among which a separate group studies globalisation in the field of economics and law. The article examines the main theories and concepts of the globalisation process and, on the basis of these, formulates general trends and guidelines for the development of the national legal and economic system. The author presents the main modern scientific positions on the nature and content of globalisation in the field of economics and law, which have made it possible to highlight its characteristics and conceptuality. It should be noted that the analysis of academic theories shows, firstly, that scholars tend to argue for legal globalisation exclusively through the sphere of economic relations and, secondly, that there are significant differences of opinion regarding the prospects of globalisation in this area. The authors suggest that the main trends are: (a) legal globalisation: internationalisation of national law, internalisation of international law – incorporation of international law into national law, globalisation of legal regulation; (b) economic globalisation: concentration and centralisation of capital, strengthening of the international division of labour, formation of international transport and logistics infrastructure, development of information and technological progress. The *subject* of the study is the main patterns of globalisation in the field of economics and law: theoretical concepts and models; current status, dynamics, main trends of development, as well as the state of scientific research in this field. The *methodological basis* of the study is, first of all, modern philosophical methods of cognition (dialectical, historical and logical, systemic and analytical). The study used general scientific methods of comparison, analysis and synthesis, abstraction and generalisation, analogy, induction and deduction. For the purposes of this study, system-structural and system-functional methods of cognition were widely used. These tools made it possible, first of all, to identify the dynamic characteristics of law in the system of socio-cultural values. *Results.* Globalisation is an objective process independent of the will and desires of individuals and states. An intensive direction of globalisation is the acquisition of a new quality by world economic ties – increased interdependence and interaction of all spheres and components of international relations. Whereas at the previous stages of internationalisation of international relations, economic imperatives were recognised as dominant, today the importance of the legal factor is growing. It is stated that when studying the phenomenon of globalisation, at least two aspects are distinguished: (1) globalisation is an objective process, (2) it is promising to identify and use its positive aspects, and to identify and neutralise its negative phenomena. The complexity of the study of globalisation processes lies in the need to take into account the old and develop new models of social transformation.

Key words: legal globalisation, economic globalisation, economic systems, internationalisation, concept of scepticism, hyperglobalisation, transformativism.

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1. Introduction

The theoretical basis of the study is the ideas, approaches and concepts of prominent scholars of statecraft, theorists of economics in Ukraine and abroad, international law and other disciplines.

For a long time, theoretical problems of the foundation and development of globalisation processes have been the subject of research mainly by representatives of foreign economics (L. Weiss, E. Giddens, T. Cowan, G. Thompson, A. Turen, E. Toffler, M. Waters, etc.) and national economists (O. Bilous, A. Galchynsky, D. Lukyanenko, O. Mozgovyi, L. Sokhan, N. Stukalo, M. Cheshkov, A. Chukhno, Y. Shyshkov, etc.). Work in this area has gradually intensified in the legal sphere.

In studying certain aspects of legal globalisation, the works of such authors as Y. Baulin, R. Voitovych, O. Zhytnyi, B. Kormych, N. Kuznetsova and P. Fries are of great interest.

Current theoretical, legal, axiological and methodological problems of transformation of national law in the context of globalisation are considered in the works of N. Onishchenko, O. Petryshyn, M. Khoustova, L. Udovyka, I. Yakoviuk.

While highly appreciating the contribution of these scholars to the study of the phenomenon under investigation, it should be noted that there are currently not many comprehensive studies devoted to the formation of concepts of globalisation processes in the field of law and economics.

The *purpose of the article* is to form a holistic view of globalisation processes in the field of economics and law, to substantiate the impact of globalisation on the main elements of economic and legal institutions, and to define the conceptual aspects of globalisation's impact on the development of national legal and economic systems.

2. Globalisation as a Phenomenon

One of the main features of human development in the late twentieth and early XXI centuries is the process of globalisation in all spheres of social life, which is a worldwide economic, political and cultural integration and unification.

The term "globalisation" – as well as related terms such as "blurring of borders" (*Entgrenzung*) or "international integration" – summarises a number of different observations, the common denominator of which is usually the assertion of a profound transformation of the traditional nation-state (Wolf, 1998).

Globalisation is a multifaceted and evolving process, a set of social phenomena that develop and change over time, contributing to the transformation of local problems into global ones and opening wide opportunities for the development of human

civilisation. Under its influence, the social system is transformed, a new community is formed, which is characterised as a global social system or megasociety, which is a kind of open, weakly organised system. According to Professor Francisco J. Laporta, globalisation should be seen as a complex and long-term process of human interaction that transcends established state boundaries and determines the existence of political, economic, cultural and social relations that transcend local, regional and national constraints to create the conditions for a new transnational civilisation (Laporta, 2007).

The nature or concept of globalisation is not always interpreted in the same way by different experts, due to the specificity of the field. However, everyone agrees that the essence of globalisation is the expansion and strengthening of interconnections and interdependencies between entities, which may be countries, individual sectors of the economy or specific individuals.

Meyer J.W. suggests that globalisation should be viewed in terms of several dimensions: (1) political – means the growing political and military interdependence of existing sovereign states through the expansion of interconnected organisations and institutions; (2) economic – means the growing interdependence of national and regional economies and relevant multinational and international public and private organisations; (3) spatial – is associated with the expanding movement of individuals in the social environment through socio-economic migration; (4) cultural – means the expansion of the interdependence of cultures through the intensification of global communication and the mutual penetration of objects of local cultures transformed into commodities in the global market of mass culture; (5) the spread of common rationalised instrumental models of organising certain activities from around the world, i.e., general models of social order become widespread in similar local social conditions (Meyer, 2000).

Within globalisation, certain globalisation trends are distinguished, i.e., the merger, consolidation, and affinity of economic, political, social, legal, environmental, military, and other systems of different countries, creating a single globalised space with standardised and universalised rules of conduct.

In the economic context, the term "globalisation" is used to describe the fundamental transformations of the modern world economy, which were caused by the increasing effect of universal laws and patterns that cover all spheres of social life and shape the post-industrial world civilisation.

It is an indisputable fact that globalisation is based primarily on processes in the economy and finance, which are the foundation of global processes in other

areas. That is, globalisation is primarily economic in nature, genesis and foundation.

It is therefore no coincidence that economic globalisation is defined as a process of systemic transformation of the world economy, accompanied by qualitative changes in traditional international economic relations that are gaining global scale (Kutsyk, 2015).

As for legal globalisation, it can be recognised as an objective trend towards convergence of legal systems of the modern world, which is realised in the process of formation of common standards of legal regulation of transnational legal relations and leads to universalisation of law.

It should be noted that, in authors' opinion, the phenomenon of legal globalisation is primarily about the formation of a new socio-legal field, which is formed under the influence of the following factors: firstly, a fairly rapid expansion and complication of interrelations and interdependencies in the field of law between states; secondly, a change in the internal structure of states due to the influence of external environmental factors; national law becomes part of the international legal system and is regulated by the supranational legal mechanism; thirdly, the emergence of new principles and norms of law at the level of modern universally recognised universal standards of members of the world community, the establishment of which previously belonged to the internal affairs of sovereign states; fourthly, the formation of supranational (global) law and relevant new scientific trends that change the modern scientific paradigm.

3. Concepts of Globalisation in Law and Economics

According to D. Held, there are 3 main strands in the conceptualisation of globalisation – sceptics, hyperglobalists and transformists (Held, 1999).

According to the sceptics (I. Wallerstein, L. Weiss, G. Thompson, B. Barber, etc.), globalisation is nothing more than increased internationalisation. The proponents of this trend recognise the existence of the phenomenon of globalisation, but only as an increase in global interdependence; in essence, they point to the division of the modern world into regional and civilisational blocs and the growing state of conflict between them. It can be said that sceptics view modern world relations (political, economic, socio-cultural, etc.) through the prism of the "national/international" ("international/regional") rather than the "local/global" dichotomy. The significance of national borders in the modern world is not only still very important, it is growing. The modern world is not a world of open localities, but of growing tendencies towards nationalism and regionalism (Barber, 1996).

Contrary to the sceptics, the hyperglobalists (P. Dicken, S. Latosch, T. Cowen, W. Greider) see globalisation as a new era in human history in which the nation-state as a form of organisation of world political, economic and cultural life is gradually disappearing. Not only is the nation-state being replaced by the global market, but national culture is gradually being replaced by a global ideology of consumerism that is shaping a new identity, universal values and lifestyles. The global spread of liberal democratic values and institutions also reinforces the formation of a single global civilisation. This global civilisation takes its own forms of global governance, represented by various transnational organisations such as the World Bank, the UN Security Council, etc. (Latouch, 1996).

Transformists (R. Robertson, P. Berger, W. Beck, E. King, etc.), like hyperglobalists, recognise globalisation as a key phenomenon of the modern world, underpinning the main radical transformations in all spheres of modern society. However, unlike sceptics and hyperglobalists, who place the economy at the centre of the logic of globalisation processes, transformists attach great importance to culture. They argue that globalisation is transforming traditional patterns of inclusion and exclusion between countries, creating a new hierarchy that is no longer tied to a geographical territory but permeates the entire community and regions of the world.

The transformationist concept of globalisation processes is based on two fundamental theories: *glocalisation* and *detritorialisation*. The theory of glocalisation describes the two-level nature of globalisation, the simultaneity of globalisation and localisation processes. This theory is largely based on the broader theory of hybridisation, developed in the mid-20th century to characterise the cultural phenomena of the colonial and post-colonial world, which demonstrates the emergence and existence of cultural forms based on the synthesis of two or more cultures. Glocalisation is most often defined as a process of economic, social and cultural development characterised by the coexistence of multidirectional trends: during globalisation, instead of the expected disappearance of regional differences, they are preserved and strengthened. Instead of fusion and unification, phenomena of a different direction emerge and develop: separatism, increased interest in local differences, growing interest in ancient traditions and the revival of dialects (Twining, 2009).

Another key idea of transformationalists is that of the growing role of the nation-state. Transformationalists argue that globalisation processes trigger certain mechanisms of self-defence that lead to the intensification and revival of national identity. States are forced to develop strategies of behaviour in the context of globalisation in order to respond

to the challenges of globalisation, which further enhances their role. Under these conditions, the essence of the classical state is being transformed, which consists in changing the nature of the relationship between sovereignty, territoriality and state power. Such a transformation of the state is fully consistent with the logic of deterritorialisation and globalisation, as well as unification and the promotion of diversity (Rodertson, 1995).

Summarising the analysis of theoretical models of globalisation, it can be concluded that the above concepts historically form three waves (or directions) of conceptualisation of social change within a single globalisation paradigm, which are characterised by a common logical structure. As M. Kravchuk rightly notes: "social change is considered as a historically unique set of processes, as a result of which a new social organisation replaces the old one; the previous and new types of social organisation are distinguished on the basis of the dichotomous typology "local/global" (Kravchuk, 2003).

One of the prerequisites for the creation of the modern theory of globalisation is the theory of convergence (P. Sorokin, W. Rostow, J. C. Galbraith, R. Aron, J. Tinbergen, etc.). According to this theory, the interaction and mutual influence of the two economic systems, capitalism and socialism, in the course of the scientific and technological revolution should lead to a "hybrid, mixed system". According to the convergence hypothesis, the "single industrial society" will be neither capitalist nor socialist. It will combine the advantages of both systems without their disadvantages. As history has shown, some elements of the socialist system (e.g. planning methods) were indeed borrowed by capitalist countries and led to positive changes in the economic system of capitalism, and later, in the early 1990s, the socialist system almost completely ceased to exist and the former countries of the socialist camp embarked on the path of market transformation and capitalist development (Wallerstein, 1995).

Against the background of the above concepts, a separate group of scholars should be distinguished who, while recognising the existence of globalisation processes, are at the same time inclined to its imperfection. D. Rodrik, for example, defines globalisation as a "fundamental political trilemma", which means that "democracy, national self-determination and economic globalisation cannot be supported simultaneously. If we want deeper globalisation, we have to give up either the nation state or democratic politics. To preserve and strengthen democracy, we will have to choose between the nation-state and international integration. And if the nation state and self-determination are declared priorities, then the choice is between deepening democracy and deepening globalisation... A limited set of international rules that

leave national governments considerable room for manoeuvre is the best globalisation." (Rodrik, 2009)

Polish researcher T. Kowalik notes that the process of globalisation of the world economy is considered the greatest threat to the preservation of the diversity of socio-economic systems. There is an opinion that this process is intensifying and that the time is not far off when systemic features will disappear and be replaced by a more or less homogeneous private capitalist market economy in the world. Not only production and consumption, but also lifestyles and customs should be unified. Sovereign states should be limited and, in the long run, disappear (Kowalik, 2000). A similar concern is expressed by the well-known American political scientist Fukuyama, who writes that the development of the global economy has led to the "erosion of the autonomy of sovereign nation-states" due to the increase in the flow of information, capital and, to a lesser extent, labour (Fukuyama, 2005).

Thus, the globalisation of law in the conceptual dimension is mistakenly understood as the construction of a simple hierarchy of legal orders, with national legal orders at the bottom, regional legal orders above them, and the global legal order at the top. The real picture is more complex. It shows a network of interactive legal interactions that do not fit into the scheme of a linear global legal order, when full harmony between regional, national and global legal orders is not achieved.

In this regard, the question of the direction of the globalisation process and the key values around which it is taking place is of paramount importance.

4. Relationship Between the Phenomena of Internationalisation and Globalisation

An analysis of the academic literature, both economic and legal, shows that there is no single paradigm of globalisation. Therefore, the main processes that have shaped the modern interpretation of economic globalisation are transnationalisation, internationalisation and integration, with globalisation often being defined by researchers as the highest stage of development of these processes.

An original approach to understanding the relationship between "internationalisation" and "globalisation" is offered by L. Sklar, who believes that internationalisation covers the sphere of international or interstate relations, and globalisation – the whole sphere of world relations, in which not only states but also many other actors in world politics are involved (Sklar, 1999).

This idea is continued by other scholars (P. Hirst, G. Thomson), who emphasise that there is an "international" economy, in which national economies are the fundamental integrity, and a global

economy as a special ideal type, which is different from the international economy and can develop in contrast to it. In such a global system, certain national economies are included in the system of the international process. In the international economy, on the other hand, processes are determined at the level of national economies, which are still dominant, and the international phenomenon is the result of a clear and differentiated manifestation of national economies (Hirst, 1999).

Similarly, P. Dicken distinguishes between internationalisation and globalisation: (a) internationalisation processes are the simple expansion of economic activity across national borders. This is mainly a quantitative process; (b) globalisation processes are qualitative processes involving not only the expansion of economic activity across national borders, but also (and more importantly) the functional integration of such internationally dispersed activities (Dicken, 2003).

Thus, in the above theories, internationalisation and globalisation differ in terms of the scale of their manifestation: the former concerns international relations and the latter concerns relations around the world. It is quite difficult to identify internationalisation and globalisation using these concepts, as global processes occur at different speeds in different sectors of the economy.

In a generalised form, the correlation between the phenomena of internationalisation and globalisation and the scientific categories reflecting them is well characterised by N. Navrotska: if globalisation is a new quality of internationalisation at the stage of its maximum possible development in breadth, then integration is the highest stage of its development in depth (Navrotska, 2012). Thus, the processes of internationalisation and globalisation unfold in two respective directions – breadth and depth, and since internationalisation is the core process of globalisation and it is impossible to establish the difference between these processes, it can be argued that globalisation itself has two directions of development – territorial, or extensive, direction, and qualitative, deep direction, which characterises the intensive content of development.

There is another important difference between economic globalisation and the internationalisation of economic life. This is a serious intensification of competition at the global level. However, the positive effects of increased competition between countries (for example, the search for ways to significantly reduce production costs without compromising product quality) also conceal a number of problems. In the face of fierce competition between industrialised countries and their relentless expansion into new markets, it is difficult for developing countries' industries to strengthen and gain a worthy

place in their own domestic markets, rather than in world markets.

In addition, not only economic ties but also many economic problems are becoming global. It is no coincidence that the term "contagion" is increasingly used in the economic literature, i.e., the possibility of contracting economic "diseases" from other countries due to the enormously increased interdependence. This is evidenced by periodic financial crises. In addition, a number of problems, such as limited natural resources and the state of the environment, also have a global dimension (Rudkovsky, 2005).

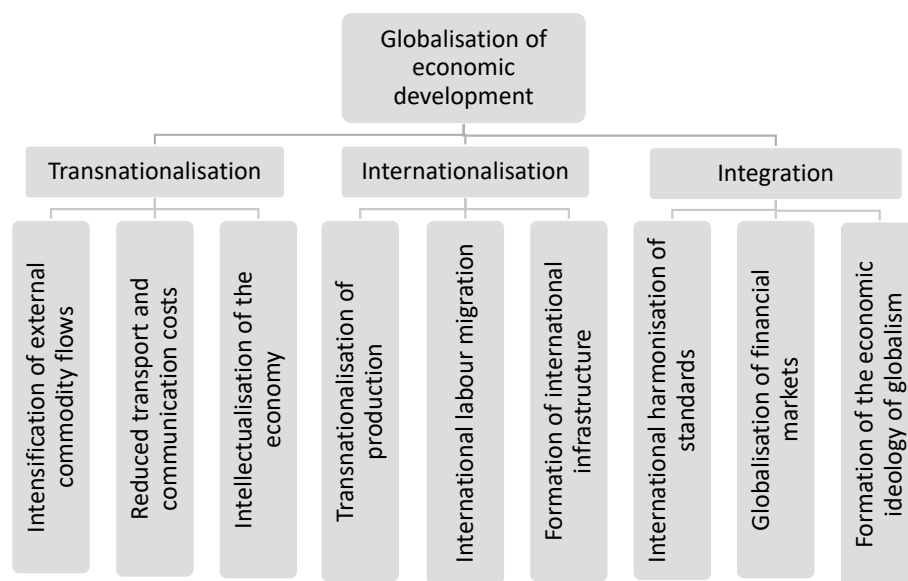
To summarise, in the context of globalisation, the internationalisation of the economy is acquiring new features associated with the activities of transnational corporations; the development of long-term production ties, strategic alliances and cooperation agreements; a fundamental change in the content of global economic processes, directions and structure of international trade; and qualitative transformations of the financial sector; growth in the role and importance of global capital, intensification of its territorial expansion and functional diversification; increased focus of developed economies on the development of all spheres of human activity; intensified search for a global centre of governance and instruments to regulate global economic processes.

5. Determinants of Global Development in Economics and Law

Globalisation is, above all, the economic synthesis of civilisations through the integration of national and regional markets into a single unified space of global exchange, in which no isolated local community can exist.

The globalisation of economic development stems from the deep interdependence of the components of the world economy, its unity and integrity, which is reinforced by the widespread internationalisation of production and circulation and the intensification of integration processes. There is a controversial process of global synthesis on a world scale involving almost all the countries of the world. This development is not unidirectional, linear and involves the creation of a single and monolithic international economic system. Global integration is accompanied by disintegration trends, not only at the global level but also within individual countries. However, the dominant trend is towards global economic integration, and thus towards globalisation of economic development of individual countries and the world economy as a whole (Bashnyanin, 2006).

The main economic factors-preconditions of globalisation are: (a) further internationalisation



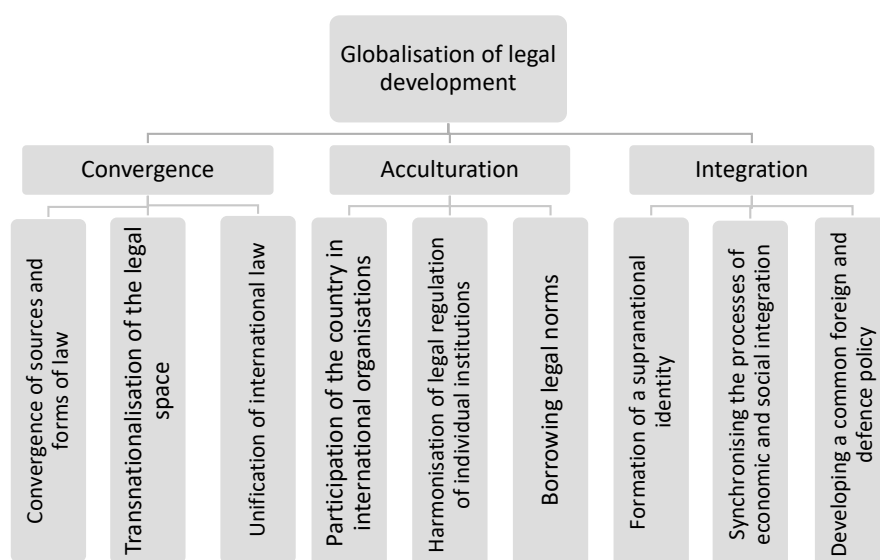
of the economy, intensification of its transnationalisation, which turns whole countries into system countries capable of controlling vast economic zones; (b) formation of inter-company division of labour on a global scale and the emergence of a new geo-economic space controlled by transnational capital; (c) deconcentration of production, accompanied by a decrease in the share of standardised mass goods and an increase in the volume of individual, flexible, diversified production based on the latest technological modes; (d) formation of a market economic system on a global scale, based on the use of uniform mechanisms of operation and development; liberalisation of trade in goods, services, intellectual property, adoption of uniform rules in the field of regulation of banking and financial transactions, standardisation and certification of products.

Globalisation processes require the creation of an adequate legal framework to ensure the harmonious coexistence of nations and to solve universal problems. Law is the most important element of globalisation and the necessary normative foundation.

An integral part of the globalisation process is a clear understanding of the relationship between the influence of economics and law.

Thus, the economy influences law: (a) directly (manifested in the right of the state to dispose of the means of production owned by it); (b) indirectly – through state policy and legal consciousness (manifested in the state's determination of the amount of taxes, minimum wages, duration of holidays, establishment of environmental and technical safety rules, etc.)

In turn, law has an impact on the economy: (a) law consolidates existing economic relations, guarantees



their stability due to material living conditions, and secures them; (b) law stimulates the emergence and development of new economic relations, if appropriate conditions exist, can remove obstacles to the market, create additional economic incentives, etc.

Scholars who actively study the problem of globalisation in the legal sphere usually identify three main areas of its impact on legal understanding and the methodology of cognition: (1) the first is related to the impact of globalisation on the relations of national legal systems, increasing their interdependence and interconnection; it is no longer a separate legal system that is subject to research, but a general system formed as a result of close connection and interaction of legal systems; (2) the impact of globalisation on law and its understanding is seen in the change of the basic approach to the development of law; it is increasingly aimed not at ensuring domestic law and order, but at solving problems of a world (global) scale; (3) the third area is related to the impact of globalisation not so much on law as a phenomenon, but on approaches to its interpretation and methodology of cognition; scholars conclude that under the influence of globalisation, old concepts will be "modified" and new legal approaches will emerge, the fundamental basis of which will be a new ideology, legal culture and updated methodology of cognition of the legal environment (Storizhuk, 2018).

In today's environment, when the development of globalisation processes has both positive and negative consequences, the task of society is to create a world system that would maximise the positive effects of globalisation while minimising losses. Such a system can only be based on cooperation between countries and dynamic innovations in this area, including the formation of international and supranational institutions.

6. Conclusions

Modern science has not created a single paradigm of such a phenomenon as globalisation, and therefore the existence of different concepts of globalisation

indicates that, on the one hand, the general principles of the theory of globalisation are being formed, with the separation of such major areas as economic and legal globalisation, and, on the other hand, the full range of globalisation processes has not been finally determined with full awareness of both its positive and negative features.

All modern theories of globalisation can be formally divided into two groups according to the way they predict the development of society, without taking into account their advantages and disadvantages: negative (pessimistic) theories and positive (optimistic) theories.

Ukraine, as an active participant in the globalisation process, is open to conceptual transformations in the development of the national economy and law based on the principles of the latest tools, organizational, economic, information and model components, the implementation of which creates the content and essence of the functioning of the country's effective economic and legal mechanism in the context of globalisation for the purpose of its stabilisation and development.

As for the trends of legal globalisation, almost all scientific sources address such issues as adjusting traditional ideas about the range of sources of law; codification of legal norms; processes of blurring the boundaries between the main categories and institutions of certain branches of law; borrowing legal concepts, categories and institutions of different legal systems; establishing universally recognised legal standards, etc.

Thus, globalisation significantly changes the internal structure of each individual society and state, affects virtually all aspects of social relations, and directly influences the political and legal processes taking place at the domestic and international levels. Therefore, in authors' opinion, the conceptualisation and theoretical substantiation of the mechanisms of functioning of the globalisation process in the legal sphere, as well as the identification of development trends, will only contribute to the harmonisation and efficiency of this process, as well as to the minimisation of various contradictions that may accompany it.

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