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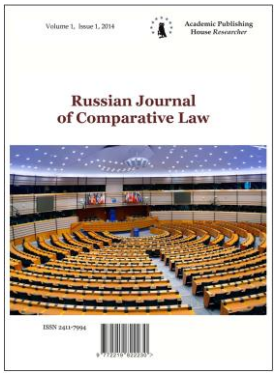


# Character, Method and Causes of Globalization of Law

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**Abstract**

The aim of this paper is to determine the character, method and causes of the globalization of law, that is, the contemporary phenomenon of the increasing harmonization of national legislations at a global level, primarily with international law, as well as with each other. In doing so, we have used the method of text analysis, formal-legal method, comparative method and statistical methods. The subject of our research is the relation between the general social process of globalization and the phenomenon of global harmonization of national legislations, in other words, the creation of the law proceeding from the harmonization of legal institutes, solutions and entire legal systems from international law or one country or culture, or to another country or culture, which is, in the legal theory, called "globalization of law". We have found that the character of the process of globalization of law should be positioned amongst the extreme views of the prominent authors in this field, and that the legal reception, primarily from international law, is the prevailing method of global harmonization of law. Also, the causes of the social process of globalization are simultaneously the causes of harmonization of national legislations at a global level. According to the type of factors, all causes of globalization of law are classified as objective and subjective. Furthermore, the characteristics of four groups of objective factors – technological, economic, political and cultural - have been presented, as well as significant examples. In addition to this, the characteristics of the group of subjective causes and the most significant factors of this group have been presented.

**Keywords:** Globalization, harmonization, international law, reception, UN.

## 1. Introduction

Modern civilization is characterized by the intense social process of globalization, which is reflected in the rapid development of new technologies and turbulent changes in economics, politics and culture. At the same time, with intensification of integrative changes of the modern world, namely, with the emergence of the «era of globalization», one may notice that there is an intensive harmonization of national legal systems at a global level. The debate on this issue is becoming more and more intense, considering, inter alia, the character, method and causes of the phenomenon of global harmonization of law, which have become some of the basic prerequisites for the proper understanding of legal development in the contemporary world.

With this research, we wanted to determine the character, that is, the essence of global harmonization of the law, its primary method, as well as to answer the question of why there is intensive harmonization of law, i.e. what the causes of this phenomenon are in the modern world.

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Thus, the subject of our research is the phenomenon of harmonization of law, that is, the creation and development of law due to the harmonization of legal institutes, solutions and entire regulations of one state or culture, with international law or national law of another state, or culture, in the conditions of the pronounced process of globalization.

## 2. Materials and methods

To examine the problem comprehensively, we used appropriate methods for researching each of the different aspects of the chosen subject: we used the method of text analysis to study theoretical papers; to compare different legal systems we used a comparative method; for the analysis of regulations, we applied the formal legal method, and for data processing we used statistical methods. When it comes to the materials and sources, both national and international regulations have been used, together with other international acts, as well as newspaper articles, relevant scientific works and official databases.

## 3. Discussion

### *3.1. Character of the process of globalization of law*

The notion of «globalization», as well as the related terms «globalism» and «mondialism», appeared in academic discussions at the end of the 1980s and early 1990s, to denote the phenomenon of growing integrative changes in the contemporary world. Soon the debate about globalization sparked off, and this concept became the primary problem of social sciences. However, not only is disagreement of the theoreticians strongly expressed about the very essence of this phenomenon, but it is also expressed about its causes, with each of these issues being characterized by the sharp polarization of attitudes.

In such a heterogeneous discourse, it is difficult to establish an adequate classification, but the most acceptable division of the authors is to: «sceptics» who deny the existence of globalization as a social phenomenon (Hirst, Thompson, 1999; Drache, 1999), "globalists", or "hyper globalists" who promote the inevitability of global integration (Thomas, 2000; Ohmae, 1999); "anti-globalists" who criticize the existing globalization and advocate a different form of world integration (Chomsky, 1999; Boggs, 1999); and "transformationalists" who try to reconcile extreme views and point to the complexity of this phenomenon (Giddens, 1999; Beck, 1992).

Considering the necessity to overcome one-sided interpretations of the process of globalization and its causes, we are at the standpoint that the changes of the modern world towards globalization may be observed as a global social process with subjective elements. Thereby, the process of globalization, as a general social process, inevitably includes the process of globalization of law, since law is a normative system i.e. social product. Therefore, the processes of globalization in all social areas generates the process of transformation of the modern legal system established in the developed countries in the 19th century, with clear distinction between international law and national legal system (Snyder, 2002: 3-4).

In the field of international law, the process of globalization has resulted in the constant development of this branch of law, especially since the end of the Second World War, consequently the development has become extremely intense precisely since the beginning of the last decade of the 20th century. The development is reflected both in public international law and in private international law, both globally and regionally, in quantitative and qualitative terms. Namely, during above mentioned period there was a rapid increase in the number of adopted international legal documents (resolutions, conventions, decisions, etc.), primarily in the UN, but also on the initiative of other global and regional governmental and non-governmental organizations. Additionally, two new courts, the International War Crimes Tribunal (for the former Yugoslavia and Rwanda) and the International Criminal Court were established in that period, and the number of international arbitrations has also considerably increased. First, a qualitative shift lays in the fact that, unlike the traditional system of international law, in which the subjects were exclusively internationally recognized countries, the jurisdiction of international law is gradually expanded directly to individuals. Also, one can notice the trend towards increasing importance of the "soft law".

On the other hand, under the influence of integrative changes in the process of globalization the area of national law is experiencing a transformation in the direction of rising internationalization, that is harmonization of national legislations at the international level, both

global and regional. The harmonization of national legislations at the international level, i.e. the transposition of international law into a national legal system, can be achieved by direct transposition of international conventions (monistic system) or by adopting national regulations that are in accordance with some international legal instruments (dualist system). Direct adoption of a conventions into the legal system (for example, human rights conventions) does not require the adoption of a national regulation on the same issue, but in this case, it is necessary to harmonize many national regulations from different areas with the international conventions.

The process of approximation of international law, on the one hand, and national laws, on the other hand, also reflects the phenomenon of harmonization of law. Namely, in the period of modern national states, there was a clear distinction between international law and the internal law of national states. Therefore, the harmonization of the law was carried out in parallel, but independent ways. International conventions have been adopted by internationally recognized sovereign countries by its own decisions. Such conventions, by their direct application, or by special laws, have been incorporated into the recipient country. In the case of legal harmonization, the law has been transferred from the national legislation of one state to the national legislation of the other state, either in segments, or in certain legal norms, or solutions, or as a whole (*en bloc*). However, in the period of intense globalization, when a clear boundary between international law and national law is lost, legal harmonization occurs in a way which has the elements of harmonization of the international law and alignment through the acquisition of the national laws, as well. This problem can be analysed best in the case of the adoption of EU legislation by non-member states or candidate countries for EU membership, whether it's a European country, or even non-European one, which adopts a legal solution, because of its quality.

Namely, by its method of creation (based on international agreements) the European Union law is a supranational international law of member states, however, by transformation of the organization into a kind of political entity, with introduction of the parliament, representatives, executive bodies, and other state institutions, as well as with defined territory, the elements of national legislation appear, so the EU law increasingly takes on its own identity. Therefore, the reception of this law, primarily by non-member countries, cannot be clearly characterized as the reception of international law, nor as a reception of foreign national law.

This is the case with many other international governmental and non-governmental organizations that initiate the legal reception at the global level. Namely, within the international law there is an increase in adoption of recommendations, guidelines and law models (*soft law)* that still produce the reception of national legislation from the countries that have previously aligned their legislation with these principles towards those countries that will do so later. In this way, a legal norm that emerged from the international level is "nationalized" in some of national legislations of the countries that have been promptly complied with international law (most often these are the most developed countries, which have stable countries' institutions and a built-in legislative apparatus). Moreover, other countries, which are late in the process of harmonization with given international principles (mostly developing countries), have adopted ready-made, harmonized legal norms by the reception.

Since international law takes on an increasing importance for the functioning of the contemporary national states within the international community, so the legal harmonization is increasingly based on international law, unlike in the times of colonial conquest and the creation of modern nation states with their own legal system and adoption of national law of other countries. This is precisely the basic distinction between the earlier and the modern way of harmonizing the law.

The debate focusing on the notion and character of globalization in social theory, primarily in economic field, but also in public, where a wide range of different attitudes is evident, has also been transferred to legal theory, and in terms of globalization of law there is no consensus among theoreticians.

For attitudes that emphasise significant changes in the traditionally understood modern world legal system, both internationally and nationally, Banakar's view is rather characteristic. Namely, this author believes that the globalization of law, facilitated by market expansion and the progress of transport and communications technologies, raises awareness of the need to strengthen a new legal infrastructure, specific in its potential to overcome national and cultural borders. Thus, this author believes that the function of law in the current transformation of the modern world

should not be viewed only in the context of satisfying the needs of economic subjects, as it is often the case in legal theory, but much wider, considering all social areas (Banakar, 1998: 326).

On the other hand, in the legal theory, there are authors who stress that the role of sovereign states in the functioning of the traditional international system, even in the field of law, is still irreplaceable. Thus, Jarrod Wiener presents thesis that the harmonization of law at the global level strengthens the states, because these are the methods by which the countries only respond to transnational impulses that come from the outside, and therefore adapt to the newly emerging situation. Since the globalization of the economy puts before the states the imperative of inclusion in the common market, the harmonization of law of national states is the widest in this area. Nevertheless, Wiener notices that equalization of laws comes in other areas, as well. However, according to this author, full legal harmonization at the global level is an undesirable, retrograde process of returning to pre-modern universal law, which would lead to the creation of the Empire of Law (Wiener, 1999: 190).

The above-mentioned globalist as well as anti-globalist attitudes may be characterized as extreme. Yet, for a proper understanding of the transformation of law in the process of globalization, this process should be understood comprehensively, that is, we should consider the undoubtedly growing integration process reflected in both international law and in national legislations. On the other hand, one should accept the reality that sovereign national states are still subjects of international law and holders of the legal system in their state territory, and in that sense, they are subjects of globalization of law. Therefore, the national legal systems are beyond doubt under the influence of the general process of globalization, but this does not mean that their legal personality or states' sovereignty is decreasing, but the harmonization of national legal systems comes primarily through prominent international legal instruments, either "hard" or "soft" law, in different social areas.

*3.2. Legal reception as a method of harmonization of law*

Theoretically, the distinction can be drawn between the concepts of unification of law and harmonization of law, although unification, as well as harmonization, is the result of the reception of law. Therefore, in both cases, the reception as a method is used, and the difference is in the scope of reception, so that unification is complete, whereas harmonization is not the complete reception of a foreign law, but the import of those legal institutes whose presence eliminates the essential differences between foreign and domestic law. Furthermore, the harmonization of law is the first stage in the unification of law, that is, it is a process, in which it is very difficult, almost impossible, to determine the boundary within which the harmonization ends, and the unification of law begins (Petrovic, 1999: 7-8).

The reception of law, as a way of harmonizing law, means the transfer of certain legal rules, solutions and institutions from one legal system or international law into another legal system, or culture, or the transfer of the entire legal system from one culture to another. This phenomenon is also referred to in the legal literature as the terms "legal transplantation", "legal acculturation" and others. Examples of legal reception are from the very beginnings of legal history, but this legal phenomenon was drawn attention to by Alan Watson in the mid-seventies of the last century (Watson, 1974, 1993). Later, the debate developed among legal theorists especially after the fall of the Berlin Wall, that is, with the beginning of accelerated transformation of the legal systems of the countries of the former Eastern Bloc and the gradual formation of the European Union.

In contemporary legal theory, there are two different approaches to the nature of the legal reception, which is reduced to the understanding of the relationship of law and society. The advocates of the theory of convergence pledge the law develops independently of the society, in which it occurs (Watson, 1974, 1993; Markesinis, 1997; Sacco, 1991). On the other hand, theorists who favour sociological approach to this issue are at the point of view that law is the "mirror of the nation", that is, law is rooted in the society to such extent that the reception of law is essentially impossible (Kahn-Freund, 1974; Legrand, 1997, 1996). To avoid the extreme attitudes that inevitably lead to theoretical reductionism, in this paper we support the view of authors who have integral approach on this issue, while recognizing the importance of sociological factors for the reception of law, which at the same time does not exclude the possibility of subjective intervention (Twining, 2000; Teubner, 1998).

It is the observation of the legal reception as a method of harmonization of law in a social context, whereby both complex objective and subjective causes are distinguished, along with simultaneous analysis of existing theoretical concepts - that can lead to the adequate theoretical explanation. Thus, harmonization of law in the process of globalization can be defined as a way of creating law by legal reception from international law or foreign national legal systems (Dabovic, 2008: 166-167).

*3.3. The causes of globalization of law*

In this article we have divided all the causes of harmonization of law in the process of globalization into objective and subjective. Thereby, it is very difficult to distinguish between objective and subjective causes, because these are dynamic processes of overlapping, interrelations and transition of the causes, from one country to another. Namely, the differences between objective and subjective causes are not at the same time the differences between material and spiritual creations, since objective causes can be both material and spiritual creations, while, on the other hand, subjective causes are only spiritual creations (either rational or irrational). Therefore, we will take subjective causes to represent conscious human creativity, and the objective causes as overall social situation in which this creativity is taking place (Stankovic, 1998: 11-16).

*3.3.1. Objective causes of globalization of law*

As stated above, the current transformation of law is an integral part of globalization as the process of social transformation, so that the causes of the globalization process are, simultaneously, the objective causes of the globalization of law. Therefore, the most important technological, economic, political and cultural factors of globalization are the indirect objective causes of the harmonization of law in the process of globalization. These factors of the globalization of law operates in close interdependence, so that it is impossible to delimit them.

In addition, these causes also lead to the creation of the appropriate legal instruments of international law (either "hard" or "soft" law), which lead to a back response, so the process of globalization is being accelerated. Under the direct influence of these legal instruments the law develops in the direction of global harmonization.

*3.3.1.1. Development of new technologies as the cause of globalization of law*

New technologies, primarily IT and biotechnology, provide unprecedented social progress, reflected in the compression of time and space, but also in the improvement of people's health, knowledge dissemination, economic growth and more direct participation of citizens in their communities, and are among the primary factors of acceleration the process of globalization. However, technological progress has its own drawbacks - each technology carries certain risks that can negatively affect the development of society. Given that new technologies are being used considerably, these risks are increasing, and with the globalization of new technologies these risks become a global issue. With the development of new technologies that take on a global character, there is a necessity to regulate this new aspect of social dimension – both positive and negative – for which regulations must be adapted.

Information technologies, especially the Internet, are encountered with the problem of legal regulation of a network that is not subject to national jurisdictions. Namely, electronic commerce is the most prominent example of the complexity of this problem. Also, since biotechnology is directly relevant to the life and health of people across the globe, there is awareness of the need to be adequately regulated. Therefore, these technologies that have an immanently global character overcome the possibilities of partial solutions of national legislations and require the broad international harmonization of laws which besides international conventions, is mostly achieved by the harmonization of national legislations.

With the expansion of the Internet, that is, with the rise in the number of its users and presentations, as well as with the increasingly complex relationships that occur within the virtual community, there has been an ever-growing need for legal regulation of these relations. However, there are two different legislative approaches to this issue in the world: on the one hand, the United States advocate "self-regulation", that is to leave this field out of national legislations, by which, the Internet users will gradually, through practice, make their own specific rules, whether they constitute an independent system, or complement the national regulations. On the other hand, the

European Union, and most other countries, advocate the promotion of relations via the Internet under national legislation. Advocates of this approach believe that the Internet is just another means of communication, such as a letter, telephone and fax, and that there is no reason to change the established way of regulating disputes in this field by national legislations and public international law.

Although, the differences between the European and American approaches in regulating relations between the Internet users are distinct, the harmonization of national regulations at a global level in this area, however, comes through international organizations, that is, through their international legal instruments, or soft laws, such as guidelines, recommendations, models of laws, etc., or binding, that is conventions and agreements (hard law). Thus, the very necessity of harmonizing national regulations, arising from the international character of the Internet as immanently global media, in any typical area (electronic commerce, privacy, cybercrime, etc.) represents an objective cause of global harmonization of law, while the competent international organizations mediate in this process by their legal instruments.

The data suggest that electronic commerce in the world has been developing more rapidly as a result of which there is a need for legal certainty. It is this rapid development of e-commerce, with the explosive increase in the number of Internet users in the world, as well as the increase in the number of presentations and their content, that is the basic objective cause which has led to the initiative for harmonizing national legislation in the electronic business areas. In this regard, the most important institutions are UNCITRAL, the World Trade Organization and the OECD. Namely, these organizations, by their legal instruments, mostly non-binding, initiate the harmonization of national regulations in this field (The Convention on the Use of Electronic Communications in International Agreements (2005), the Model of Electronic Exchange Bills Act (2017), the Model of Electronic Signatures Law (2001) and the Model Law on Electronic Commerce (1999)).

In the field of biotechnology, many countries, especially the developed ones, have rapidly worked on the legal regulations, due to their importance, that is, the fundamental issues they deal with, such as the humans' life and health. Thus, in accordance with several international legal acts, national regulations on human cloning ban have already been adopted in 70 countries (Haley, 31 July 2015).

Globally, use of GMO is regulated by the Cartagena Protocol on Biosafety, which was adopted by the Convention on Biological Diversity, signed by 166 countries (till 2018). The aim of this Protocol is to provide an adequate level of protection in the field of transport, traffic and use of GMOs that may have undesirable effects on biosafety and human health. Also, with the same convention in 2010, the Nagoya-Kuala Lumpur Supplementary Protocol on the determination of damages caused using GMOs was adopted.

*3.3.1.2. Global economic integration as the cause of globalization of law*

The economic factors of the process of globalization, as well as the process of globalization of law are the most prominent in the fields of finance, trade, production, as well as regional economic integration and the businesses of transnational companies. In finance, the Bretton Woods institutions, as the most important global financial organizations, out of 44 founding member states (in 1944), expanded their membership to almost all countries of the world (189 members in 2017). The economic power of these institutions is reflected in their approval of financial assistance, structural adjustment (International Monetary Fund - IMF) to the member countries, as well as the investment projects (World Bank - WB). Furthermore, they have built an institutionalized system of conditions that must be met for a country to receive credits from these funds. In addition to economic conditions, this system indirectly includes political conditions, which leads to the unification at the global level, of both economic policies and political principles, that is, the appropriate regulations.

In international trade, the process of globalization is characterized by the intense growth of world trade in relation to world production, which has appeared during the entire period of the Second World War aftermath. Namely, after the war years, international trade has started to grow again, and in the last few decades the expansion of trade has been faster than ever before. Moreover, at the global level, the sum of exports and imports is higher by 50% than production, while at the beginning of the 20th century it was below 10%. Over the past few

decades, transport and communication costs have been reduced worldwide, and the international trade agreements have become increasingly common, especially among developing countries. In fact, trade between developing countries has more than tripled between 1980 and 2011 (International trade, WTO).

Modern production of goods and the provision of services, influenced by the development of new technologies are characterized by the reorganization of the organizational structure into networks that spread across the globe. Export, which is the basic element of the production strategy of these networks, is one of the drivers of the global economy.

Also, understanding the globalization process of the world economy is not possible without the knowledge of the strategy pursued by transnational companies (TNC). The proof of the economic power of the TNC are the data indicating that the world's largest TNC (General Electric) has assets abroad worth about 500 billion USD of total assets which are worth about 700 billion USD, while among the 100 largest TNCs, 17 have 90 percent of their assets abroad, and the three largest TNC in the oil production, make about 73 percent of their sales abroad (Economist online, 10 July 2012).

Regional economic integration is gaining increasing economic importance, since it is precisely the regional connection of national markets that represents the stage of development of economic integration towards the establishment of the world market. Namely, since the beginning of the 1990s, the number of regional free trade agreements has been steadily increasing from 70 to around 300 agreements in 2010 (WTO, 2011: 6). In addition, more and more regional trade agreements have lately gone beyond regional frameworks, whereby regional trade integration concludes agreements that are not aimed at abolishing customs duties, but at giving preferential status. The largest regional trade agreements in terms of internal traffic are in Europe (EU and EAEU), North America (NAFTA) and the East Asian region (ASEAN).

Exponential growth in global financial transactions, trade, manufacturing, transnational companies and regional economic integration as causes of the economic globalization are institutionalized in the form of international legal instruments of international organizations, of which most significant ones are: The World Trade Organization, the International Monetary Fund and the World Bank. These organizations and their international legal instruments, according to Joseph Stiglitz, "help to establish the rules of the game", that is, they play the role of mediators in relation to economic causes and the harmonization of national laws at a global level.

*3.3.1.3. Globalization of politics – growing interdependence of political communities and democratization as causes of globalization of law*

The process of globalization in the field of politics characterizes, above all, the growing interdependence of political communities, as well as the expansion of democratic order. These two interdependent processes, with other accompanying phenomena, constitute the essence of the transformation of the international political system established by Westphalian Peace more than three centuries ago. However, the process of globalization of politics is multidimensional and contradictory, as are the processes in other social areas.

The process of growing integration of political communities manifests itself as a progressive weakening of the states' sovereignty, where the sovereignty is transferred to the international level with the increase in the number of international organizations. Namely, in 1909, there were only 213 international organizations (governmental and non-governmental), while their number increased to around 5,000 by 1989. Thereby, about 75,750 international organizations are estimated to work around the world today (Union *of International Organizations, 2018)*. Since the rise in the number of international organizations is the result of increased integration of the modern world and the desire to institutionalize the need for greater international integration, international organizations become a generator of further integration, that is, one of the accelerators of the process of globalization.

In the last few decades, in addition to the establishment of numerous new governmental and non-governmental international organizations, their individual importance has grown, above all the United Nations, with its increasingly complex and numerous bodies. Nevertheless, in this field, the European Union has made the biggest step forward, changing from the economic community to the union with the beginning of the state formation. Since it has become an unassailable political

authority in Europe, the EU also has a political influence on countries that have the ambition to join this union.

Namely, since its unpretentious establishment in the middle of the last century and led by the integration processes at the European level in the economic field, this organization has territorially expanded, along with the extension of competencies, with the tendency to cover almost all countries of Europe, as well as all their social areas. Thereby, the EU is a political authority for countries in the region that have not yet become members but have this ambition. As the integration of Member States is formally based on the legal harmonization, primarily in the field of economics, this leads to the legal harmonization in this field in almost all of Europe. Also, the EU has an active role globally, as the initiator of international acts, which contributes to global convergence of law.

The framework for the harmonization of EU law is defined in Article 3.6. of the Treaty on EU (Consolidated version), which states that the Union pursue its objectives in proportion to its responsibilities. The scope of EU competencies is limited by the principle of assignment, while the use of jurisdiction is based on the principles of subsidiarity and proportionality. Under the principle of subsidiarity, the Union will undertake activities only in those cases where the activities cannot be successfully implemented by the Member States. In addition, the application of this principle by the organs of the Union is regulated by a special protocol. In accordance with the principle of proportionality, the content and form of the activities of the organs of the Union must not exceed what is necessary for the fulfilment of the prescribed objectives in the Agreements.

The division of legal instruments of the Union, that leads to the legal harmonization, to primary and secondary regulations, has been officially established. The Founding EU Treaties together with amendments and protocols, as well as Union agreements with the new members are considered the primary law, while unilateral acts and agreements are secondary. Unilateral acts consist of Regulations, Directives, Decisions and other atypical acts (Communications, Recommendations, etc.), while agreements can be international, between member states, or between EU institutions. Besides this, additional sources of EU law are: Case studies of the EU Court of Justice; international law; and general legal principles.

Also, the World Trade Organization sets the conditions for accession, first and foremost structural and economic, but also, indirectly, political, especially in terms of respect for human rights. In addition, the Bretton Woods institutions influence the macroeconomic policies of developing countries through "conditionality" policies, which limits sovereignty of developing countries in choosing their own economic program. In the last decade, conditionality policy has been extended to include the requirements for "good governance", respect for human rights and liberal-democratic mechanisms of the political accountability and efficient public administration. The fulfilment of these conditions is insisted on by a group of the developed countries which, with regard to the decision-making system, control the Bretton Woods institutions.

In the last two decades of the twentieth century, there has been intense democratization in the world, or the expansion of democratic order. Namely, in this period, 81 countries – 29 in Sub-Saharan Africa, 23 in Europe, 14 in South America, 10 in Asia, and 5 in Arab countries – have accepted a multiparty political system based on democratic elections. Thus, at the beginning of the Third Millennium, 140 countries out of nearly 200 countries, elected their own government in democratic elections (Human Development Report, 2002; 63).

The expansion of democratic order, that is, the protection of human rights, is implemented to a large extent by international human rights' conventions which due to their large number of signatories practically establish the harmonization of national legislations in this field on a global level. Certainly, the most important international legal act in the field is the Universal Declaration of Human Rights, adopted by the United Nations Assembly, as Resolution 217, in 1948, which laid the foundations of a modern human rights' system. With many members (193), this Convention has established standards in the field of human rights that are almost universally accepted in the world.

In addition, by 2017, the International Covenant on Civil and Political Rights, which was offered for accession in 1966, was signed and ratified by 170 countries. Also, the Convention on Elimination of All Forms of Racial Discrimination was ratified by 179 and the Convention on Elimination of Discrimination against Women was ratified by 189 countries, while the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by 163 countries and the Convention on the Rights of the Child by 196 countries.

In addition to the international conventions in the field of human rights, international humanitarian organizations in this area, such as Amnesty International, Human Rights Watch, CARE, Transparency International, Reporters Without Borders etc., largely contribute to the harmonization of regulations on human rights at a global level. By their acts, these organizations influence the countries in which they operate to adopt regulations in accordance with the international standards, and they ensure that the existing regulations are applied adequately.

*3.3.1.4. Cultural globalization - establishing a humanistic system of values as dominant in the context of global harmonization of law*

In the debate on globalization, the cultural aspect of this phenomenon is not so much present as economy, politics or technology, which, still, does not mean that it is less important. On the contrary, the cultural aspect is much subtler and more concealed than the others, but it is precisely the very essence of the process of global integration, that is, the integrative thread which, in addition to the technological, economic and political factors, truly connects countries and individuals from different parts of the planet. In this regard, cultural aspect is characterised by the connection actualised at the level of individual consciousness as well as phenomenological level.

Namely, the cultural transformation of the modern world is characterized by two contradictory processes. First, the process of strengthening of cosmopolitan culture and, at the same time, cultural fragmentation to the level of ethnic communities. Second, the process of dissemination of cultural patterns from the developed countries to the developing countries, which at the same time have the character of humanistic values and mass culture.

According to one survey conducted in the period 2001-2016 on the identification of people with citizens of the world, on the sample of 20,000 inhabitants from 18 countries, the identification of the people with the citizens of the world increased to an average of 56 percent in 2016. However, a double trend was identified. Namely, in developing countries, as well as in countries with emerging economies, there has been an increase in the identification with the world's citizens, especially in Nigeria (73 %), China (71 %), Peru (70 %) and India (67 %). On the other hand, in the developed countries there is a reverse process, i.e. a declining trend, so in Germany the identification with the citizens of the world in 2016 dropped to only 30 % (Grimley, 2016).

Also, some theorists find that, in addition to the process of increase in identification with the global level, the simultaneous contradictory process of cultural individualization of ethnic communities is taking place, so both sides of this phenomenon must be considered. Thus, Robertson (Roland Robertson) has a balanced view of this issue, believing that global and local culture are complementary (he uses the term "glocalization", a coined word for this interaction), that is, the global culture should be understood as a contradictory phenomenon which is at the same time a source, but also a threat to local cultures (Robertson, 1992).

Also, Benjamin Barber believes that two contradictory processes of the cultural transformation of the modern world are occurring: the disintegration of national states to the level of ethnic communities, whereby the core of every conflicts lies in cultural differences and the integrative process of globalization moved by the economic and ecological forces and embodied in the symbols of the consumer society of the West (Barber, 1992).

The expansion of international cultural patterns from the most developed countries of the West to the rest of the world is, apart from strengthening the cosmopolitan culture, one of the basic cultural processes of transformation of the modern world. First, economic globalization, that is, the establishment of the world market, as well as the development of telecommunications, have been contributing to this process. Namely, in the world market, dominated by the companies and the products from the most developed countries, as well as in the media, in which western pop culture prevails, alongside with the products, the English language, appropriate lifestyle, and the system of values have been disseminated.

When it comes to the question of the character of the value system that is being transferred from developed countries to developing countries, there is no consensus among theorists. Thus, some authors consider that in the last decades of XX and the beginning of XXI century in the most developed countries, the process of transformation of the dominant value system in the direction of strengthening humanistic values is taking place. Namely, these theorists consider that the values such as life, as the basic human value, health and the protection of the environment are of an increasing importance in the current post-industrial stage of development, instead of the material

wealth that was one of the basic values on which Western society rested in the period of industrialism (Brzezinsky, 1970).

In contrary, P. H. Ray and R. S. Anderson, who when analysing the value systems of the social strata in the United States, during the 1990s, noticed the existence of three basic social classes with specific value systems: "traditionalists" - characterized by attachment to the traditional values of small cities from the interior USA; "Modernist" - characterized by the materialistic system of values, i.e. orientation towards consumption, success and new technologies; while "cultural creators" prefer humanistic values, ecology and the global community. These authors found that, at the time, about 50 million inhabitants in the United States, and about 80 million people in Western Europe shared humanistic social values. However, the media and political life were dominated by "modernists" who promote their materialistic system of values. The authors found that in the mid-1970s, there were less than 4 percent of "cultural creators" in the United States, which was a remarkable growth, compering to 20 percent in just two decades, with a tendency to accelerate this process. They estimated that by 2020 cultural creatives would reach more than half of total population in USA (Ray, Anderson, 2000).

Transformation of the counter-cultural value system into the dominant one, which is in progress in the developed societies, can be seen in all spheres of social life, primarily in the field of economic marketing. Moreover, given the emergence of a new post-industrial stage in the development of developed societies, one may notice that the market mechanism remained the same as in the previous, industrial period (it can be said to be even more perfect), so that the new social form has characteristics of the consumer society too. However, there has been a change in the types of products that are now referred to as socially prestigious: so, the characteristics of products that promote healthy life are now highlighted, environmental conservation, global togetherness (such as: organic foods, less-fuel-consumption cars, recycled packaging, GMO-free, etc.), which implies that they are now the most acceptable social values.

*3.3.2. Subjective causes of globalization of law*

As stated above, it is difficult to determine the difference between objective and subjective causes in the process of creation of law by legal reception from international law or other national legal systems. Although in the process of globalization the influence of objective factors, i.e. global processes in the fields of technology, economy, politics and culture is evident, this does not mean that the harmonisation of law is determined only by objective factors. Furthermore, subjective factors, which involve all conscious actions that social groups or individuals carry out within the framework of the legally prescribed procedure, or outside of it, with consent, more or less freely, setting goals, including the activities led by irrational motives (emotion, subconscious, etc.), affect the final shaping of every legal phenomenon, as well as global harmonization of law (e.g. Bilderberg Group, Trilateral Commission, Queen of the UK, „Five families“ in USA, etc.).

As distinctively subjective causes of harmonization of law in the process of globalization, we can isolate the "project of globalization", that is, the deliberately directed actions of social groups and individuals in the direction of spreading globalization, as well as legal and technical assistance provided to developing countries by developed countries, Additionally, in the process of globalization of law one of the main subjective causes is legal profession, which in the process of globalization is experiencing a transformation in the direction of increasing integration internationally (through the dissemination of foreign language skills, the use of the Internet for obtaining information and communication with colleagues abroad, attending international seminars, conferences and training, etc.).

Unlike the objective causes, which influence the harmonization of law in the process of globalization, mainly indirectly, through legal institutes, the subjective causes may have an influence on the globalization of law directly by determining the reception of concrete legal acts. In this process of globalization, the interactions of subjective and objective causes come to prominence, so that subjective causes are determined by objective causes, that is, objective causes direct the operation of subjective causes.

## 4. Results

This article contributes to the current debate in the legal theory on the basic characteristics of the increasingly prominent process of harmonization of national legislations at the global level,

which is marked by the term "globalization of law". The discussion of the essential questions about the character, method and causes of the globalization of law, with formal legal, theoretical and empirical data, enables a better understanding not only of this phenomenon, but also of the development of contemporary law.

**5. Conclusion**

The current process of harmonization of national legislations at the global level, which is specified in the legal theory as "globalization of law", is an immanent part of the general social process of globalization. The character of the process of globalization of law regarding the loss of the sovereignty of national states in this process can be positioned between the extreme attitudes of globalists and anti-globalists. Moreover, it is determined that the sovereignty of the states has gradually been decreased, but that their sovereignty in essential issues has still not called into question. In addition, the basic method of global harmonization of law is the legal reception mainly of international legal instruments, either "hard" or "soft" law. Since globalization of law is an immanent part of the social process of globalization, the objective and subjective causes of the social process of globalization are at the same time the causes of globalization of law. The objective causes, that is, technological, economic, political and cultural facts, affect global harmonization of law principally through international legal instruments. On the other hand, the subjective causes, among which are the most prominent the "globalization project", the legal-technical assistance and the legal profession, influence the global harmonization of law mainly directly.

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