

An abstract of the doctoral dissertation of Bartosz Lewandowski *The concept of state in the normative theory of law of František Weyr (1879-1951)*

The concept of the law of one of the most outstanding pre-war supporters of the normative theory of law František Weyr (1879-1951) was the result of a critical analysis of the so-far dominant method of researching the law. The Czech philosopher of law in a polemical way referred to a series of so-called traditional law teaching (e.g. dominant methodological divisions, conditions of law by social reality, lack of granting real autonomy to legal sciences). Particularly, he devoted a lot of attention to the concept of the state, which is the central reference point of the legal science dominated by positivism in the early twentieth century.

According to F. Weyr's opinion it is possible to distinguish three shots of the state. The first way of understanding boils down to granting the State the characteristics of an entity of obligation and, therefore, the entity to which the legal norm was declared (in other words: an entity that should behave in the manner described in the successor-sentence of a legal norm). On the assumption that the state acts simultaneously as the creator of legal norms, this approach is not that important. However, it institutionalizes the Kantian vision of freedom, the borders of which are defined by the free subject itself.

The second and third view of the state results from F. Weyr's dual view of the law. According to the Czech philosopher of law in terms of the so-called dynamic (taking into account the continuous law-making process), the state is identical with a normative entity (normogenist). From a static point of view, the state is identical with the system of legal norms. The state is law and nothing else. Weyr shared the monistic concept of law and state presented by his friend H. Kelsen (1881-1973).

The consequences of the vision of the state adopted by the creator of the Brno-based neo-Kantian school of the state resulted in a revolutionary approach to many elements and concepts adopted in traditional jurisprudence. Weyr rejected the classical (threefold) definition of a state described in depth by G. Jellinka (1851-1911), widely accepted in legal sciences. He questioned the existing methodological divisions and concepts (e.g. the theory of division of powers, forms and types of states and regimes). In a special way, he analyzed the concept of state sovereignty (normative order), different from that which was in force among others in the thoughts of G. Jellinka or J. Pražák. F. Weyr's approach to the concept of sovereignty was connected with the monistic idea of international and state law he shared, along with the thesis of the supremacy of international law. The negation of the sovereignty of state normative norms gave F. Weyr's theory a pacifist dimension and served the implementation of his political postulates (sympathies to the democratic system).

The comprehensive vision of the state in the concept of F. Weyr is a consequence of the systematic development of law in its modern paradigm. His admission of true autonomy to the science of law, conditioned by a specific methodology of law research, led to the creation of a pessimistic vision of the state (creating its own legal norms without any content restrictions) with its specific and exclusively formal relationship to the individual brought to the point of checking the legal norm established by him .