

ppi 201502ZU4645

Publicación científica en formato digital

ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185

Depósito legal pp 197402ZU34



CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia
Maracaibo, Venezuela



Vol.40

Nº 75

2022

Modern globalization transformations: methodological approaches

DOI: <https://doi.org/10.46398/cuestpol.4075.47>

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Abstract

The modern state of legal relations is characterized by the growing influence of globalization factors. These lead to global transformations of the international legal system, in which the methodology of understanding the principles of law is of significant importance. The aim of the article was to explore the methodological framework for identifying the key approaches to understanding the principles of law in modern globalization transformations. The methodological basis consists of methods such as: systematic analysis, generalization, systematization, graphical analysis and cluster tabulator. The results of the studies have established that global transformations have a destructive impact on the principles of law. They deepen the processes of unclear distinction at the international and national levels. It has been found that in the countries of Central and Eastern Europe approaches to the understanding of the principles of law differ from each other. It has been found that Germany and Slovenia set higher standards for the application of the principles of law and are more globalized than

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Hungary, Romania, Bulgaria and Croatia. It has been suggested that special measures should be designed in which the principles of law act as an instrument of globalization.

Keywords: structural transformations; globalization; methodological approaches; principles of law; legal system.

Transformaciones modernas de la globalización: enfoques metodológicos

Resumen

El estado moderno de las relaciones jurídicas se caracteriza por la creciente influencia que ejercen sobre ellas los factores de la globalización. Éstos provocan transformaciones globales del sistema jurídico internacional, en las que la metodología de comprensión de los principios del Derecho reviste una importancia significativa. El objetivo del artículo fue explorar el marco metodológico para identificar los enfoques clave de la comprensión de los principios del derecho en las transformaciones modernas de la globalización. La base metodológica consta de métodos como: análisis sistemático, generalización, sistematización, análisis gráfico y tabulador de conglomerados. Los resultados de los estudios han establecido que las transformaciones globales tienen un impacto destructivo en los principios del derecho. Profundizan los procesos de poca claridad en su distinción a nivel internacional y nacional. Se ha comprobado que en los países de Europa Central y Oriental los enfoques de la comprensión de los principios del derecho difieren entre sí. Se ha comprobado que Alemania y Eslovenia plantean estándares más altos para la aplicación de los principios del derecho y están más globalizados, que Hungría, Rumanía, Bulgaria y Croacia. Se ha sugerido que se diseñen medidas especiales en las que los principios del derecho actúen como instrumento de globalización.

Palabras clave: transformaciones estructurales; globalización; enfoques metodológicos; principios del derecho; sistema jurídico.

Introduction

The global transformations observed in today's world are a consequence of globalization as a process of world socio-economic, socio-political and cultural unification and integration into a single space. Under such conditions, the problem of ensuring civilized relations between people

and standardizing the basis for regulating changes and transformations of the phenomena occurring in the system of legal relations is exacerbated. Evidently, the development of the principles of law in the context of globalization transformations is subject to various destructive factors.

However, bringing them into a unified form will make it possible to solve a number of global problems and ensure successful integration into the unified world legal system. This requires understanding the essence of the principles of law, the peculiarities of their enforcement depending on the level of development of the national legal system and the influence of modern globalization transformations thereon. This topic is extremely pressing, little researched and requires in-depth study.

1. Literature review

The dynamics of the modern world make it necessary to align the phenomena and processes of legal development of states. The strengthening of globalization factors and the formation of regional groupings have a significant impact on international and national legal systems as well, resulting in significant disruptive changes. O. Sydorenko (Sydorenko, 2016) argues that in today's context, the need to study law under the influence of globalization transformations is particularly relevant. The view prevails that globalization processes apply only to economics, finance, public administration and society.

In fact, it has a great impact on the legal system at both the international and national level and, through the principles of law, provides a solid basis for the formation of a set of tools to anchor and manage globalization processes. At the same time, the scholar focuses on the interpenetration of legal principles and posits this process as convergence, assimilation and integration. They contribute to the legal autonomy of state legal systems and the definition of cultural identity.

G. Huk (Huk, 2017) notes the threats of globalization transformations affecting states' sovereignty and the 'transparency' of borders. This brings to the fore the consideration of legal principles such as non-interference in the internal affairs of states and the protection of sovereignty and territorial integrity, which is particularly acute in the present context. At the same time, Baimuratov *et al.*, (2019) supplement this list with a principle such as the rule of law and argue that basic fundamental and generally defined principles of law should be enshrined in legal instruments. Meanwhile, Ja. Varuhas (Varuhas, 2020) insists that the principle of legality is equally important, which requires clarity and must be taken into account when examining the principles of law and identifying the impact of contemporary globalization transformations on them.

Yet A. Atilgan (Atilgan, 2017) sees globalization as a catalyst for the challenges and transformations of legal principles that, despite the boundaries of national borders, are in the process of transformation, in which the challenges and dangers of modernity play a decisive role. T. Halliday & P. Osinsky (Halliday & Osinsky, 2006) highlight the notion of the globalization of law, which refers to the worldwide progress of transnational legal structures.

In today's context, quite often the focus of scholars is on empirical research and the evaluation of law, policy and the performance of public authorities. T. Tyler (Tyler, 2017) positions this as evidence-based law and emphasizes the particular value of applying empirical methods and theories of social science in this context. This, according to the scholar, enables different models of legal system development to be tested. A similar view is held by S. Taekema (Taekema, 2021), who also develops a theory of empirical evaluations of the principles of law in order to determine the effectiveness of the legal system and to identify factors influencing legal relations.

At the same time, O. Minchenko (Minchenko, 2021) has identified that the principles of law as its form are not distinguished in the context of globalization transformations, despite the definition of the rule of law as the basis of national legal systems and the understanding of law as a form of right corresponding to the principle of rule of law.

S. Skryl (Skryl, 2014) has researched that the convergence of the legal systems of Central and Eastern European countries is taking place within the framework of cohabitation in the Western civilisation. It is characterized by the recognition of human beings, their rights and freedoms as the main state and social value, and the formation of a common political and legal space contributes to the unification of legal principles. V. Machusky (Machusky, 2020) argues that the development of legal principles within the legal system depends on the progress of economic development. He distinguishes between the legal systems of developed countries and the legal systems of developing countries, which are more sensitive to global transformations.

The standardization of approaches to the understanding of principles of law at the international and national level remains a matter of debate. Some scholars argue that from the perspective of an international legal system, principles of law generally apply to all legal systems, while from the perspective of national law, they apply within the legal system of a particular country. In this context, O. Pomson (Pomson, 2022) proposes a solution to this dilemma by harmonizing the principles of national law with international law, while C. Eggett (Eggett, 2019) considers their frequent overlap and identity to be acceptable.

Consequently, theoretical and methodological approaches to understanding the essence of the principles of law and the impact on them of global transformations observed in the modern world allow stating certain inconsistencies. These are driven by different types of development of national legal systems and with their implementation in accordance with international and European standards, regulations and norms.

2. Research aims.

The aim of this article is to explore the theoretical and methodological foundations for identifying the main approaches to understanding the principles of law in contemporary globalization transformations.

3. Materials and methods

The methodological basis of the study consists of methods of fundamental and economic analysis. Analysis, synthesis and system analysis have been used to clarify the essence of the principles of law and determine the place of globalization transformations in the legal system. The historical-logical method served to explore scientific approaches to understanding the place and role of the principles of law in contemporary globalization transformations. Comparison and statistical analysis were aimed at identifying the main trends in the impact of globalization on the implementation of the principles of law in modern conditions.

Functional analysis supported the search for ways to improve the principles of law. Generalization and systematization helped in formulating hypotheses and drawing conclusions on the results of the study. Graphical and tabular methods were used to illustrate the outcome indicators. Finally, cluster analysis allowed for the grouping of Central and Eastern European countries according to the Globalization Index and the State Instability Index.

The Central and Eastern European countries chosen for the study are Estonia, Latvia, Lithuania, Germany, Czech Republic, Slovakia, Hungary, Poland, Romania, Bulgaria, Slovenia and Croatia.

The information base for the study is the 2018-2021 Fragile States Index Annual Report and Fragility in the World on the Fragile States Index; KOF Globalization Index and Top 50 Countries in the Globalization Index on the Globalization Index.

4. Results

The globalization of state and social processes has intensified the integration aspirations of the subjects of world relations. As a result, there is a need to unify the basic rules of implementation of the rights and obligations of the subjects of legal relations. In view of the indicated tendencies the problem of legal principles has become more acute and has gone beyond national borders and has spread at the international level. Obviously, this issue is methodologically complex and contradictory at the international level, while at the national level it is not so clear-cut. Nevertheless, most scholars interpret the principles of law as the basic rules and ideas that are legislated in laws and regulations.

Significant transformations of a globalizing nature are having a significant impact on the entire legal system and the shaping of the principles of law in particular. While recently globalization was seen as the innovative mainstream of the world community, today it is undergoing a systemic crisis. This crisis manifests itself in a radical change of basic attitudes, and the vector of development is shifting towards regionalisation, if not localisation. As a consequence, the bifurcation processes which are observed in the realities of the present provide for constructive and forward-looking changes to which the legal system, like the principles of law, is all too sensitive.

Certainly, the basic values of law remain the rule of law, respect for human dignity, ensuring human rights and freedoms, and the development of democracy. Nevertheless, the principles of law cannot be reduced only to externally expressed certain iconic forms. Their institutionalization allows for the unity, integrity and clear definition of the legal system. Moreover, some scholars have noted that the classification attributes of the principles of law differ significantly when they are examined at the national and international level.

In particular, a study of the European framework of understanding the principles of law makes it possible to establish their prevalence in all legal systems. Moreover, if the principles of law are analyzed in terms of national jurisprudence, the principles of law are positioned within the legal system of a particular country according to the criterion of prevalence. With such features in mind, in Fig. 1 the principles of law are reflected according to the classification features.

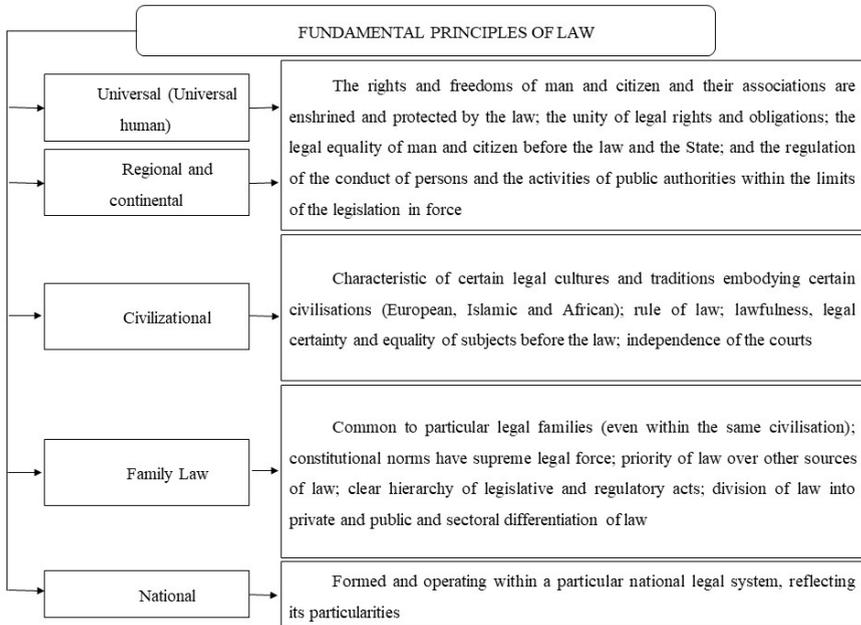


Figure No. 01. Fundamental principles of law according to classification criteria. Compiled according to: (Koziubra, 2017).

A peculiarity of the classification of legal principles is that there is a certain overlap in their affiliation. In particular, regional and continental principles of law actually coincide with universal principles, while the European legal system does not deny such a coincidence, positioning their conformity and systematicity on the contrary. It is customary to distinguish civilizational, family law, and national principles of law. Obviously, each of these groups has its own characteristics as well as common and distinctive features. Nevertheless, all of them, without exception, are aimed at protecting human and civil rights and freedoms and are equally affected by global transformations.

With this in mind, it is suggested to investigate the main trends in the level of globalization of the main social processes in the countries of Central and Eastern Europe and to identify destructive factors in the development of the principles of law in them. It is advisable to conduct the study on the basis of the analysis of the Globalization Index, which makes it possible to determine the degree of globalization of a country and involves the assessment of state parameters according to such criteria as: (1) economy; (2) politics; (3) society.

The empirical calculations shown in Figure 2 reveal a mixed picture of globalization in the countries of the group in question. In particular, Germany's economy, politics, and society are most deeply affected by globalization (GI: 86,89–88,83), Czech Republic (GI: 83,41–85,60) and Hungary (GI: 83,83–84,98), and the lowest rates are observed in Latvia (GI: 75,42–80,57), Romania (GI: 77,88–79,74) and in Bulgaria (GI: 79,52–80,78).

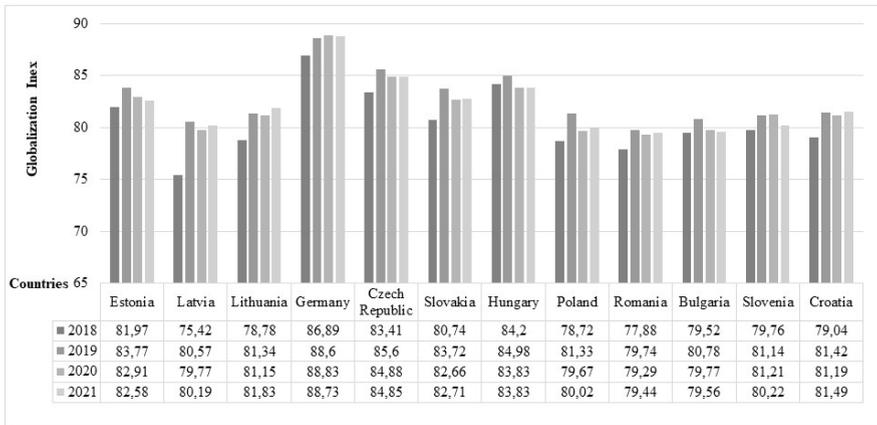


Figure No. 02. State and dynamics of the Globalization Index in Central and Eastern Europe in 2018-2021. Calculated according to: (KOF Globalization Index, 2018–2020; Top 50 Countries in the Globalization Index, 2021).

At the same time, it should be noted that the development of the principles of law in contemporary globalization transformations is characterized by a regional dimension and confirms the systemic crisis of globalization. At the same time, there have been some positive shifts in this direction. In particular, the countries chosen for analysis belong to a regional alliance, the European Union, and position themselves to comply with the norms of European law. Accordingly, national legal systems are harmonized as much as possible with European law and are systematically codified.

The principles of law implemented in Germany, Poland and Croatia form the basis of their legal systems belonging to the Romano-Germanic family of law. They reflect the tradition of Roman law, are of high quality and are structured in a way that allows for an understanding of the aims and purposes.

In the Czech Republic, Slovenia and Slovakia, the principles of law reflect the basic functioning of their national legal systems, which belong

to the German branch of the continental legal family. They are oriented towards ensuring the rule of law, declaring the protection of human and civil rights and the development of democracy.

Hungary belongs to the Romano-Germanic family of law, and its legal system has developed on a European basis. The peculiarity of the principles of law in Hungary is that they can be defined by the Constitutional Court, whose competence includes the cancellation of legal regulations. The legal principles of Bulgaria and Romania are modelled on the German and French legal systems, but contain many elements of Soviet legal thinking. Such trends need increased attention from the international community and constant monitoring of the state of implementation of human and civil rights and freedoms in these countries.

The implementation of the principles of law in the Baltic States (Estonia, Latvia, Lithuania) takes place in close cooperation between the national law subjects and is aimed at ensuring the rule of law in society.

Meanwhile, an assessment of the validity and effectiveness of the principles of law in Central and Eastern Europe should include a study of the stability of the processes and phenomena taking place on their territory. It is proposed that this be undertaken using the State Instability Index, which aims to provide an assessment of a country's vulnerability to conflict and the potential loss of sovereignty and territorial integrity. In addition, it aims to identify vulnerabilities, threats and extraneous interference in state governance.

The results of the research conducted on the state and dynamics of the Fragile States Index in Central and Eastern Europe in 2018-2021 (Figure 3) reveal the following trends: Germany is considered the most stable over the whole period under review (FSI: 23,2–25,8) and Slovenia (FSI: 25,8–30,3), which showed the lowest values of the indicator in question. At the same time, Bulgaria (FSI: 49,2–51,7), Hungary (FSI: 47,6–51,1), Romania (FSI: 46,7–51,0) and Croatia (FSI: 46,1–49,8) were found to be the most unstable.

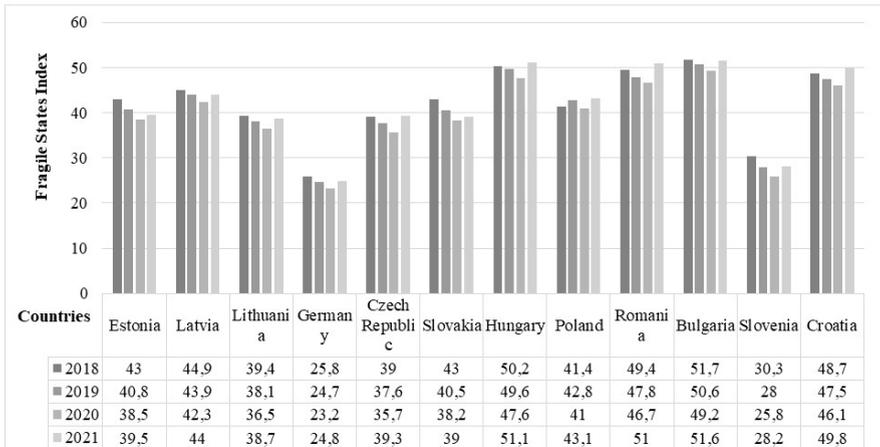


Figure No. 03. State and Dynamics of the Fragile States Index in Central and Eastern Europe in 2018-2021. Calculated according to: (Fund for Peace. Fragile States Index Annual Report, 2019–2021; Fragility in the World. Fragile States Index, 2022).

Note that there is a trend where the state stability of countries does not depend on their level of globalization. In particular, Germany has the highest values of globalization and the lowest in relation to state instability. As for the Czech Republic and Hungary, the hypothesis is confirmed: with sufficiently high values of the Globalization Index, state instability is at a high level.

It is reasonable to deepen our research towards identifying common and distinctive features among Central and Eastern European countries with respect to globalization and state instability in 2018-2021. Therefore, it is proposed to make calculations using the Statistical 7.0 software package, based on k-means cluster analysis technology, and to systematize the results in Table 1.

Table 1. Grouping of Central and Eastern European countries according to the Globalization Index and the Fragile States Index in 2018-2021.

Years							
2018		2019		2020		2021	
Country	Cluster number						

Germany	1	Germany	1	Germany	1	Germany	1
Slovenia		Slovenia		Slovenia		Slovenia	
Estonia	2	Estonia	2	Estonia	2	Estonia	2
Latvia		Latvia		Latvia		Latvia	
Lithuania		Lithuania		Lithuania		Lithuania	
Czech Republic		Czech Republic		Czech Republic		Czech Republic	
Slovakia		Slovakia		Slovakia		Slovakia	
Poland		Poland		Poland		Poland	
Hungary	3	Hungary	3	Hungary	3	Hungary	3
Romania		Romania		Romania		Romania	
Bulgaria		Bulgaria		Bulgaria		Bulgaria	
Croatia		Croatia		Croatia		Croatia	

Calculated according to: (KOF Globalization Index, 2018–2020; Top 50 Countries in the Globalization Index, 2021; Fund for Peace. Fragile States Index Annual Report, 2019–2021; Fragility in the World. Fragile States Index, 2022).

As the results of this study indicate, three stable groups of countries in Central and Eastern Europe stand out throughout the period under analysis, sharing common features of globalization and state stability. The first group includes Germany and Slovenia, which have positioned themselves as highly globalized countries with fairly high indicators of state stability. In such countries, the legal system is built on democratic principles and is sensitive to the interests of the individual and the citizen. It protects their rights and freedoms, whereas the principles of law regulate the organizational and legal mechanisms of state and society.

The second group consists of the Baltic States (Estonia, Latvia and Lithuania) and the Czech Republic, Slovakia and Poland. They are characterized as countries with an average level of legal development. The implementation of the principles of law in them occurs with occasional irregularities. The level of state instability is also assessed as mediocre, requiring appropriate measures to improve the organizational and legal mechanisms for the development of the state and society.

The third group includes Hungary, Romania, Bulgaria and Croatia, which have not completed the processes of transformational change, have rather low globalization rates and high levels of state instability. Moreover, individual countries have been too slow in transitioning from the Soviet model of development to the European one and still show a pro-Russian stance, in particular Hungary. Accordingly, the implementation of legal principles is heavily influenced by power structures. The enforcement and

protection of human and civil rights and freedoms is questioned and not fully implemented.

Consequently, the results of the research conducted prove different levels of understanding of the principles of law in individual countries. The highest level of implementation is common for countries with a higher level of development.

5. Discussion

The research of theoretical and methodological foundations to identify the main approaches to understanding the principles of law in modern globalization transformations indicates a significant impact on the principles of law of globalization processes, which are in a state of systemic crisis at the present stage. A weighty factor of the crisis period is regionalization, which is exacerbated in conditions of instability and non-standard challenges, and also forms regional peculiarities of the development of the legal system.

The study has shown that the countries of Central and Eastern Europe, being part of a regional association such as the European Union, share common features of national legal systems. Therefore, the principles of law comply with European norms and standards. Nevertheless, some of the countries in the group under review have retained elements of the Soviet legal system, which results in violations of legal principles and calls into question the protection of human and civil rights and freedoms.

The countries of Central and Eastern Europe have been grouped into three clusters, indicating different levels of development of the legal system and legal principles under the influence of global transformations. The first cluster combines high achievements in the development of the legal system as a whole and of legal principles. In particular, it is positioned on a high level of globalisation and state stability, achieved through quality and efficient legislation and regulation (Germany and Slovenia). The second group of countries shows an average performance and has isolated problems with the efficiency of the legal system and the protection of human and civil rights and freedoms. However, considerable efforts have been made to neutralize and minimize destabilizing factors (Estonia, Latvia, Lithuania, the Czech Republic, Slovakia and Poland).

The third group consists of transitional countries, which have been indirectly affected by globalization processes. However, they are characterized by a high level of state instability. As a consequence, the legal system is characterized by a significant number of negative trends, and the principles of law are not fully implemented.

It is therefore advisable to introduce reforms in the third group of countries and to develop a set of measures for the sustainable development of the legal systems in these countries.

Conclusions

Thus, the conducted research of theoretical and methodological foundations on identifying the main approaches to the understanding of the principles of law in modern globalization transformations allowed to obtain the results confirming that globalization has a significant impact on the indicators of development of legal systems in Central and Eastern Europe. It has been established that the principles of law are positioned as basic rules and ideas that are enshrined at the state level in legislative and regulatory acts and are generally binding for all subjects of legal relations. A lack of clarity in the distinction between the principles of law at the international and national level has been identified.

It consists in extending the principles of law to all legal systems in accordance with the international concept and limiting them within one country in terms of the national concept. It has been shown that Central and Eastern European countries enforce the principles of law equally, which depends on the functioning of their national legal systems, their level of development, globalization, and their ability to ensure state stability. Germany and Slovenia have been found to have higher standards of legal regulation of relations and the principles of law have been implemented to a greater extent there compared to developing countries. In particular, Hungary, Romania, Bulgaria and Croatia are more exposed to destabilizing factors, which calls for the development and implementation of appropriate measures in which the principles of law will act as an instrument of globalization and a means of managing it.

Thus, the conducted studies of the theoretical and methodological fundamentals on identifying the main approaches in order to understand the principles of law in modern globalization transformations have made it possible to obtain certain results. They testify that globalization has a significant impact on the indicators of the developing the legal systems of the Central and Eastern European states. It has been established that the principles of law are positioned as the basic rules and ideas. They are enshrined at the state level in legislative and regulatory legal acts, and they are universally binding on all subjects of legal relations.

The lack of clarity in distinguishing the principles of law at the international and national level has been revealed, which lies in spreading the principles of law to all legal systems in accordance with the international concept, and in limiting their effect within one country in terms of the

national concept. It has been identified that the main principles of law, depending on the classification features, are divided into universal, regional-continental, civilizational, right-of-family and national ones.

Their development in the conditions of modern globalization transformations takes place under the influence of regionalization, which confirms the systemic crisis of globalization. It has been proven that the countries of Central and Eastern Europe do not ensure the implementation of the principles of law to the same extent, which depends on the features of functioning of their national legal systems, the development level, globalization and the ability to ensure state stability.

It has been established that the standards of legal regulation of relations are higher in Germany and Slovenia, and the principles of law are implemented to a greater extent. Along with this, developing countries, in particular, Hungary, Romania, Bulgaria and Croatia, are exposed to greater influence of destabilizing factors, which requires the development and implementation of appropriate measures, according to which the principles of law will act as an instrument of globalization and a means of its management.

It has been found that Germany and Slovenia are more globalized (GI: 86,89–88,83) and (GI: 79,76–81,21) than developing countries (Hungary (GI: 83,83–84,98), Romania (GI: 77,88–79,74), Bulgaria (GI: 79,52–80,78) and Croatia (GI: 79,04–81,49). At the same time, it has been revealed that higher indicators of state stability are observed in the countries of the first group, while these indicators are significantly lower in developing countries.

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CUESTIONES POLÍTICAS

Vol.40 N° 75

*Esta revista fue editada en formato digital y publicada en diciembre de 2022, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

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