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ZURAB AVALISHVILI ABOUT LEGAL STATE AND AUTHORITY

(Based on German Example)

The famous lawyer, historian, literary figure, diplomatic and political figure, publicist, one of the estublisher of the national-democratic party (1917) Zurab Avalishvili was born in 1874 in the family of Davit Avalishvili and the Swiss Olga Hombaldt (the daughter of the Caucasus medical center manager). He finished the Tbilisi first Classic school (1893) and Peterborough university juridical faculty (1898). After graduating the university with the diploma of the first degree he kept university activites to be prepared for the professor degree. In 1901 his histprical-legislative work «Georgia-Russia union» was estublished. In 1902-1904 and he was sent to Paris for three years. During that period he participated in the preparation of the Georgian newspaper «Georgia» established by the Socialist- federal party [1].

In 1904 he returned to Peterbourgh where in 1906 he prepared the thesis of magister degree «Decentralization and self-government from the Napoleon Period up to 1905». In 1907-1909 and 1912-1913 he was a private assistent professor in the Peterbourgh University state law chair and later he became a professor and administrative law chairman. In 1912-1917 he was a Finance Ministry consultant. Besides, Avalishvili managed the newspaper «Ruskaia Molva» international department. He was also one of the estublishers of the newspaper «Ogni». He was chosen as one of the memeber of the Russian emperor juridical society board of diretors. After the revolution of 1917 fabruary he was given a post of Senator in the first state department.

Zurab Avalishvili is one of the main aurtherors of the Georigan Democratic Republic Constitution (the Constitution was stated by the independet Georgia leader in 1921, February 21, several days earlier to the Georgia's ocupation by the bolshevik Russia) [2].

After Georgia's occupation by Russia and factual anex (February-March of 1921) Zurab Avalishvili is a political emigrant. He made his activities in France (1921-1940) and Germany (1940-1944). In 1922, January 6-12 the Georgian delegation in Kan the supreme council member states meeting honored the union (one of the members was Avalishvili) the Georgian authority Note, based

on the mentioned the following was demanded: taking the Russian military troops away from Georgia and defending the Georgian nation's rights.

Zurab Avalishvili was noticeable both with his political and diplomatic activities. Zurab Avalishvili made fundamental research in Georgian, Russian, French, English and German languages about Georgia's ancient writing and history issues, also many letters in Georgian Emigrant newspapers and journals. From this period of his life we can underline his monographic research «the knight in the Panther's Skin» issues» (Paris 1921) Teimurath I and his poem «Torture of Queen Ketevan» (Paris 1938), Georgia's freedom in politics of 1918-192 period (in Russia, Paris, 1924, Tbilisi 1990, poem «Since crusaders time (four historical researches) (1929), etc. in 1933, Zurab Avalishvilis extensive literary review was published in Mikheil Tsereteli Sulkhan-Saba Orbeliani «Falsehood's wisdom» in German language. Avalishvili is also the author of the Georgian History written in German in 1944, but unfortunately we have not found its trace yet.

In 1940 Zurab avalishvili moved to Munich. In the last period of his life he participated in the research of the continental Europe research institute that was managed by the Georgian emigrant Al. Nikuradze. He was married to the Norwegian wife Maia Fogt. He had no posterity. He was buried to Shvandorf. In 1993, May 22, Zurab Avalishvili relics was buried in writers and public figures Didube pantheon in Georgia. Together with Zurab Avalishvili political issues we come across his legislative works from the authority and state standpoint.

We would like to point out that he as a lawyer and practical researcher analysed the politics though the wide veiw and its meaning in people lives. He knew that politics was inter related with the state though he tried to divide these two ones from each other. This is proved by his researches about the politics and the state though he did not attempt to write a special work about the mentioned one. Despite of it he liked the German model of the legislative state as this term was first used by the German scientist K. Velker (1813) and I. Fraikher Fon Aretini (1824) works.

Though the mentioned terms were first discussed and adopted into the scientific works also by vthe German specialist Robert Fon Milem (1832). Based on his opinion the legislative state was constantly developing one and took its place on the fifth position after the patriarchal, theocratic, despotic and liberal state. This idea about the legislative state was in the center of the German scientists and politicians during more than a century.

The philosopic analysis about the legislative state in his systemic veiws is related with Kant and Hegel. Kant thinks that the state is a unite of the law and law-obedient nation. The human's brains categoric order demanded such an action that the private intersets democratic vision could be combined with any person's freedom and general laws.

For Hegel the state was the same as the law («existance of free will»), but the most developed one (the whole law system), that included the person and

society law. For Z. Avalishvili, the state with its dialect meaning is a realized freedom space, that is well reflected in the legislative state conditions. For Z. Avalishvili the following conception was important: to realize the role and function of the state the most important is the national thinking, meaning to care about the particular person's safety and not for the political party interests. He thought that the state oriented towards the nation's welfare was a guarantee for strengthening the country.

Z. Avalishvili perfectly knows that the order protection is very important and ancient principle for the authority as well. That's why he uses the terms law and order. We can conclude that without law norms the justice and social order are impossible. So the authority power realization source together with people are law and order. The law's supreme principle is an authority lever in the order establishment process.

Z. Avalishvili likes the approach based on which the authority may be defined as a powerful subject, by which the authority manages to keep safety and vitality of the population and their property protection.

Z. Avalishvili points out the necessity to adopt the principle of equality in his works, so it means that he establishes the three main directions in the state and authority activities, these are the following: a) the citizens' life and health defence; b) Personal property defence principle; c) without distinction of the population nation, belief, social origin, etc. Adopting the principle of equality during the justice process. These are the basic directions that are characteristic for the contemporary democratic state. So Zurab Avalishvili was distinguishable with not only national thinking of that period but also his doctrine responds even the modern standards as well connected to the state and law authority activities.

In the literature the four stages of the legislative state German idea development are divided: the period before the revolution of 1848, it was formed as its establishment's theoretical and constitutional – political basis. In the project of Paul Kirchhoffs constitution of 1848 the attempt of legislative state and democratic ideas uniting took place. Since 1871 the authority division, law notion and court process principles had been formulated. Based on 1919 Weimar constitution that united the legislative state and representative- parliamentary elements. Based on the existed law GFR is a social-legislative state. In the German literature we come across the notion according to which the first legislative state was established in 1880 in Germany [3].

That's why he thought that Germany was a perfect European State. He deeply believed that in his motherland's support Germany had an enormous role and this could have been kept in future as well.

Z. Avalishvili's target was to strengthen the relations between Georgia and Germany and this fact is clearly shown in his following words: «my thesis is to form some kind of a model aiming the development of Georgia's national existence based on Germany, establishing the proper conditions for national

development and this plan includes the close and friendly relations between the two states despite the geographical distance».

Conclusion. Z. Avalishvili paid enormous attention and importance to the political party principle, but the authority of the state must always remember the populations interests (including people that have not voted for the authority in the elections) rather than its particular ones. This fact's ignorance caused the Soviet Russia's small armament contradiction where the counter side was the political party leaders group and not the «armed people» and this political problem caused too negative results [3].

Based on Z. Avalishvili sources the foreign policy direction of that period of the Georgian state and authority was not right and positive for nation. The doctrine of Zurab Avalishvili was the following: the strengthening of justice in the state, the population's safety, the human rights defence and these three points were the basic pre-conditions for normal development of the state, nation and government. He thought that the authority should have obeyed the moral and legislative norms of the political doctrine and based on this discipline the state and nation would have gain the opportunity to develop in future.

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