

Kh. Bekhruz,

Doctor of Law Sciences,
Professor of European Union law and comparative jurisprudence department,
National University "Odesa Law Academy"

ROMAN LAW AND ISLAMIC LAW: COMPARATIVE LEGAL ASPECT

Question about the nature and extent of the influence of Roman law on Islamic law in the context of the functioning of legal doctrines, sources and structure of law is investigated in the article. The forms of such influence are analysed. It is noted that certain provisions of the principles and rules of Roman law had both direct and indirect influence on the formation of certain provisions of Islamic law. It is specified to strengthen this influence, since the XIX century. When there was a direct borrowing norms and institutions Romano- Germanic law, formed under the direct influence of Roman law. We are not talking about the direct reception of Roman law provisions. Some of them were included as a result of Islamization established jurisprudence by adopting rules that do not contradict the basic provisions and principles of Islamic law.

So, the question of the influence of Roman law on Islamic law drew more than one generation of researchers (Sh. Amos, A. Akhmedov, Van den Berg,

D. Gasheti, I. Goldziher, A. Kremer, P. Crone, H. Reland, I. Schacht, M. Enger and others).

It is consider the main principle of Roman law, which is the recognition and approval of the fact that the state appeared as a result of the agreement reached between the citizens to deal with legal problems that are emerging in society.

Islamic law considered which a pronounced religious legal system is based on religious sources – the Qur'an and Sunnah. Lawmaking function of the Islamic state is manifested not only in the establishment of the rule of law, but mainly in the basic provisions authorizing the Islamic legal doctrine. Accordingly, as the most important source of Islamic law supports the Islamic legal doctrine.

It is compared and analyzed the structure of the Roman and Islamic law, sources and principles of Roman and Islamic law, identifies the objective laws related to the formation of these legal systems.