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НАЦИОНАЛЬНЫЕ ОСОБЕННОСТИ И ДИЗАЙН

Данное исследование посвящено проблемам формирования национальной самобытности в европейских странах с точки зрения развития декоративного и прикладного искусства, а также проблемам взаимосвязи дизайна как функционального принципа, отражающего основные социо-политические и культурные тенденции, и как средства самовыражения и современности.

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при отсутствии обосновывающего его постановления суда, в том числе на том единственном основании, что дело передано в суд, не может считаться законным и само по себе противоречит принципу правовой определенности, являющемуся одним из основных элементов верховенства права (Постановление от 28 марта 2000 по делу «Барановский против Польши»).

Таким образом, принцип правовой определенности можно охарактеризовать как четкость, ясность и недвусмысленность изложения правовой нормы. Такой позиции придерживается не только Европейский суд по правам человека, который относительно правовой нормы вводит критерий разумности и предсказуемости, но и Конституционный суд РФ в своих многочисленных решениях: «Законодательство должно быть достаточно точным, чтобы позволить частному лицу – если это необходимо, после соответствующих рекомендаций – предвидеть в разумных пределах последствия, к которым может привести конкретное деяние (Постановление от 08.11.2005 по делу «Худороев против Российской Федерации»). Необходимо отдельно отметить, что суды уделяют особое внимание субъекту, которому адресована норма, – частному лицу. Именно для него законодательство должно быть предельно понятным, и, следовательно, позволяющим спрогнозировать последствия своих действий. Однако достаточно часто неопределенность может носить субъективный характер, то есть для одной из сторон норма может представляться сформулированной однозначно, тогда как другая сторона может сомневаться в ее содержании и последствиях ее применения. При этом, как Европейский суд, так и Конституционный суд РФ признают, что норма порой не может быть абсолютно точной, так как наличие в законе оценочных понятий само по себе еще не свидетельствует о ее неопределенности. «Хотя определенность норм весьма желательна, она может сопровождаться чертами окаменелости, тогда как право должно обладать способностью идти в ногу с меняющимися обстоятельствами. Соответственно, многие законы неизбежно пользуются терминами, которые в большей или меньшей степени расплывчаты: их толкование и применение – задача практики» (Постановление от 26.04.1979 по делу «Санди Таймс» против Соединенного Королевства»). А так как норма применяется к неограниченному количеству различных ситуаций, то пределы детализации нормы в любом случае должны определяться законодателем в целях установления возможности эффективного применения.

THE INFLUENCE OF THE DECISIONS OF EUROPEAN COURT OF HUMAN RIGHTS ON THE DECISIONS OF THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION. PRINCIPLE OF LEGAL CERTAINTY

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Abstract. In the article the practice of the application of the legal certainty principle by European Court of Human Rights and the Constitutional Court of the Russian Federation is considered. The analysis of the practice shows that the given principle, as a rule, is formulated not by a legislator but by supreme courts. In disputable situations it periodically leads to an independent interpretation from their side. As the practice of the application of this principle at the international level had developed much earlier than in Russia in the article the way the decisions of European Court of Human Rights influence on the decisions of the Constitutional Court of the Russian Federation is considered.

Key words and phrases: European Court of Human Rights; the Constitutional Court of the Russian Federation; legal certainty principle; leadership of law.

NATIONAL IDENTITY AND DESIGN

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Abstract. The article deals with the problem of national identity in relation to national arts. The study addresses the issues of shaping national consciousness and spirit in European countries through the development of decorative and applied arts, the relationship between design as the functional principle signifying larger socio-political and cultural trends and as the means of self-expression and modernity.

Key words: national identity; nationalism; cultural continuity; design; modernity.

The end of the nineteenth – the beginning of the twentieth century was marked by a rise of nationalist movements across Europe. Many political and cultural figures, designers, craftspeople, and manufacturers among them, sought to establish anew or re-establish their country's identity. The European debates about national identity were

closely linked to the debates about art and design and the fear of foreign influence [Hills; Cracraft; Theiding et al.]. This impulse toward nationalism in art was easily most widespread in countries that were struggling to attain political and cultural autonomy. Finland was seeking independence from Russia, Ireland from Great Britain, and Hungary was dissatisfied with its role in the "Dual Monarchy." The decorative and applied arts of these countries were conceived as an important link in shaping national consciousness. A strive for national identity also manifested itself in France's desperate attempts to re-establish its authority in the sphere of the decorative arts that was dominated by British goods and ideas. Curiously so, the material realities of nationalism in design stemmed from the British Arts and Crafts, especially the movement's advocacy of the preservation and further development of vernacular crafts, traditional way of making objects, and the emphasis on local materials. Overall, peasant craftsmen traditions and handcrafted folk objects were regarded indispensable from each country's cultural legacy. As a result, their continuing existence in a renewed, modernized version supported efforts to cultivate and legitimize a strong sense of national identity. It is important to note that nationalist ideologies oftentimes saturated vernacular with an ethical dimension, thus, forging an unequivocal relationship between design and, what ideologues took to be the national character. In truth, however, the notions of what was "true" to national spirit were controlled and constructed in order to serve the purpose of national promotion, and the design object was a vehicle of delivering an encoded message of a distinct identity.

During the first decades of the twentieth century, Germany, like many other European countries, was searching for national identity through a conscious promotion of national design style. In nationalistic circles Germany has always been seen as a victim of foreign influences, and design was enthusiastically listed as a means of creating a unique culture that would match that of Britain and France. German politicians were highly suspicious of internationalism in arts and crafts. Government support of certain workshops and individual designers indicated the importance of German designs in a context of national legibility. German designers were definitely sympathetic to some ideas expressed by Ruskin and Morris. They agreed, for example, on the necessity for logical construction and the use of materials that made an acknowledging gesture to the region where the object was made. In the long run, however, the vast majority of German designers did not agonize after grace and beauty in the object that were essential, according to Ruskin, in the final product. It was solidness and firmness as a core value that distinguished German designs, because solidness and firmness were deemed to allude to Germaneness. Not surprisingly, there was a revival of interest in traditional rustic furniture, stone jewelry, and other forms of *Heimatkunst*. References to a great tradition of fairy tales and folk tales were to be found in the design imagery, too. But perhaps above all it was the Wagnerian notion of *Gesamtkunstwerk* that took minds and hearts of German artists, forming the backbone of the nationalist rhetoric in visual manifestations.

In general, the creative and imaginative potential of German people was constantly emphasized, alongside with asserting Germany as a modern industrial empire. From the get-go German design focused more on international competition in craft production rather than on educating the general public. The impulse came largely from the demands of cultural and mercantile politics, rather than artists and designers themselves. Certainly nothing in the oeuvre of R. Riemerschmid, H. Vogeler, P. Behrens, M. Laeuger and others suggested a preoccupation with the national for nationalism's sake. If anything, they were more concerned with modernization of German decorative arts and crafts and providing quality goods and functional furnishings and appliances, reaching out to the haute bourgeoisie, as well as the middle and low middle classes. A good example of essentially "German" furniture design would be the Saxon, or Owl chair by Heinrich Vogeler. The most outstanding features of the piece are, of course, its rush seat and high back cut out in form of an owl, the traditional emblem of Lower Saxony, the region in Germany where H. Vogeler opened his workshop. The curvilinear shape of the elbow-rests compliments the curve in the back, but the elbow-rests themselves are wide enough to comfortably support one's arms. The chair appears to be suitable for many potential locations, be it a fancy dining room executed in a rustic style, or a porch of a rural house. H. Vogeler deliberately stepped away from elaborate decoration and chose traditional motifs and local materials to communicate his design idea. The Owl chair is rendered as a well-designed product of a premium quality, the product that can be afforded by virtually anybody. This particular piece places itself neatly among other examples of essentially German *volkstümliche Möbel*, for it connects with the identity of Vogeler as a local craftsman whose product is not removed from context of production and uses a unique local imagery to secure cultural meaning.

Just like in Germany, the search for national identity in Finland was extremely self-conscious, but for different reasons. Finland's quest for its recognizable self was overshadowed by the need to establish an independent political identity. Previously a part of Sweden, Finland was annexed by Russian Empire after the war of 1808. A collective resistance to Russian dominance was the factor that secured a very close partnership among Finnish artists, architects and craftsmen who also worked with textiles and furniture. The nationalism was evident in the pride in Finland took in its historical, pre-industrial past. Just like in Germany, legends and sagas were rediscovered and folk crafts and vernacular architecture was praised above all. What set Finland apart from other European countries was its turn to nature undamaged by the forces of modernity. Finnish nationalism was closely related to the eastern region of Karelia treasured as the source of Finnishness. For example, the famous Finnish national epic, *The Kalevala: The Land of Heroes*, was part of early oral traditions of Karelia. It will not be an overestimation to state that Karelia and the *Kalevala* were single most important inspirational sources for a generation of artists around 1900. Finnish nationalist program for design was most distinguished by efforts to make design an expression of collective consciousness of resistance, but in terms of its aesthetic program Finnish design was in extreme proximity to the British Arts and Crafts. Let's look, for example, at the dining room buffet designed by Valter Jung. The simplicity of structure is

emphasized in the use of untreated wood, which I take to be a reference to Finland's reach timbering traditions. The ornamentation in relief carvings echoes archaic patterns of Karelian peasants and have a handmade quality to them. Clean, straight line evokes endless pitch pine forests while wrought-iron mountings imagine the armory of the *Kalevala* heroes. One can visualize the piece in a plain dwelling inhabited by square, burly peasants, perhaps because Jung's buffet reminds strongly of Finnish uprightness and stoutness that has been often commented on. There is no attempt to sensuousness, only sobriety that embodies Finnishness.

A very thorough account of the connection existing between French decorative arts and the nationalist politics of the Third Republic was given by Deborah Silverman. She argued that the decline in "France's competitiveness in craft productions" and a distinct threat to "the Gallic regime of international consumer" prompted "an official mobilization of the applied arts," so that they would "recover the position beside painting and sculpture ... they had enjoyed in the Old Regime" [Silverman, p. 54, 61, 62]. Indeed, in 1880 the Museum of Applied Arts opened in the Louvre with its first exhibition featuring works of "Old Masters" of decorative furniture and ornamental art. The Louvre re-introduced French public to the fantastic world of rococo interiors decorated with pieces by Nicholas Pignot, François Bouschet, and Claude Claudion. Thus, in search for legitimization the Republic was adopting the taste for the *haute luxe* art of pre-revolutionary France with the idea of "French genius" embedded in it. Interestingly, French nationalism in the decorative arts was concerned not simply creating a new language for design and applied arts, but bringing back the old formulas that secured for centuries France's position as the arbiter of taste in Europe. France aimed at recovering its shaken positions through a promotion of modern artistic activity that would find the source of inspiration in the tradition of prerevolutionary craftsmanship. From the Republican government's stand point, Art Nouveau was the only movement that embodied "French genius" and Frenchness and was patronized for this reason. Admiration of artistic taste present in Art Nouveau was in concordance with politicians' image of France as the worldwide purveyor of sophistication, elegance and craftsmanship. Silverman notes that the mass-production was deemed to be the very "enemy" of *haute luxe* crafts, because it "simplified the elaborate division of labor require for precious objects" [Ibid., p. 61-62]. Understanding the fact that it was not the crisis that was caused by the decline of the traditional skills, but rather the crisis that stemmed from technological and commercial sources, the increasingly conservative political elites leaned on the historical past in order to create an illusion of uninterrupted modes of production and representation. The "healthy" art for the "healthy" society formula that worked for the British Arts and Crafts was rejected in favor of exuberant cosmopolitanism of Paris as a sign of national vitality, Symbolism with its cult of nature as an expression of national spirit, and eighteenth century Rococo as a point of aesthetic reference. The message Art Nouveau sent was of its own presentation as a point of junction in the visual experiences of modernity and French historical past.

Already the early twentieth century has been perceived as an age when modern commerce, colonization, scientific discovery and travel created necessary conditions for intercommunication between various national styles. We offered a brief account of how national and regional subtleties were attempted to be remain artificially preserved through various revivals of what was thought as national in arts and crafts, oftentimes aided by protectionism. The twentieth century was marked by the gradual disappearance of pre-industrial world, including traditions of hand-made furniture and textiles, but Europe had a hard time letting go of centuries of its cultural past. The reformulation of old principles anew fitted nicely with every country's task to necessarily prove its legitimacy and right to occupy a position of privilege in the world that was reformulated after the industrial revolution. The idiom of design styles, languages of arts and crafts was important precisely because it was fit to carry the weight of nationalist ideologies. The importance of being German, French, British, etc. was a shield against continuous cultural threats that modernity pressed upon European nations. It was, thus, essential to develop ways of asserting cultural continuity as a means of asserting the political continuity in the world that was extremely fragile, as 1914 proved.

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НАЦИОНАЛЬНЫЕ ОСОБЕННОСТИ И ДИЗАЙН

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Аннотация. Данное исследование посвящено проблемам формирования национальной самобытности в европейских странах с точки зрения развития декоративного и прикладного искусства, а также проблемам взаимосвязи дизайна как функционального принципа, отражающего основные социо-политические и культурные тенденции, и как средства самовыражения и современности.

Ключевые слова: национальные особенности; национализм; культурный континуум; дизайн; современность.