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METHODOLOGY OF THEORY AND PRACTICE OF JURISPRUDENCE

I. Antoshina,
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TRADITIONAL AND NONTRADITIONAL FUNCTIONS OF UKRAINIAN LAW

Functions of law are in constant motion and development. They not only are changing, but their quality is changing due to the formation of new functions. Since there is a change in purpose of law, study of the functions of law can be seen in all areas of modern jurisprudence. Interest in studying the functions of law is justified, because it leads to the knowledge of law's mission in society, especially its mechanism of action, are demonstrated in general, and in the separate areas of public life. In reality, the functions of law do not exist in isolation from each other, they are interrelated and closely intertwined, representing their integrity.

Inextricable link of the functions of law with legal matter determines the existence of the traditional fundamental functions of law: regulatory and protective functions of law. Namely these traditional functions of law characterize it as substantive self-formation. The need of the existence of law as a social phenomenon is the necessity for the realization of these functions.

Such nontraditional function of law, as the informational function of law is working closely with the traditional fundamental functions of law.

Under the circumstances when globalization becomes a major factor in determining the development of legal systems, when the informational society is emerged, the principles of interaction between government and the individual are changing, derives the formation of new functions of law, including the allocation of the informational function of law.

Also it is proposed to consider the integrative function of law as an independent one. Among the non-traditional functions of law are considered demographical function of law and the expressive function of law.

Complex functions of law are in constant development, germinating nontraditional functions of law, in addition, a new life get the traditional functions of law.

Today for the Ukrainian law, the informational function stands out as a major part in realization of law, and determines the prospects of solving the most important problems of state administration.

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LEGAL ANTHROPOLOGY AND TYPOLOGY OF MODERN LAW UNDERSTANDING

The setting of legal anthropology as a science requires a legal decision on its place in the law and now it is going through a period of transformation to a new system of knowledge. The current stage of development of man and of humanity almost universally understood as a transformation as a transition society in a qualitatively different stateas in the information society, where the man himself is going through changes, unprecedented in previous periods (to mention about the possibilities of modern medicine to modify the human body).

Recognition of human highest social value of the modern state fundamentally changes the entire international and national legal systems, making them a number of new features, properties unknown to former legal systems, based on class or caste legislators approach to the formation of law.

The qualitative transformation of society, even taking into account maiden post-Soviet countries «steps back» causes substantial modification of the characteristics of any social institution, including the law. In turn this causes the need for change in the right paradigmal plane in legal science. In particular, we should recognize the most significant legal trend of the evolution of the growing role of law in the international community, which manifests itself, among other things, the concept of rule of law, human rights and the right to capture segments of social life, which were closed to the right earlier. Thus, the transformation of the legal theory that should explain the shift in the role of law in social life is inevitable.

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THE SYSTEM OF SOURCES OF LAW AS A COMPLEX ORGANIZED MECHANISM

The article is devoted to the disclosure of sources of law, that have the specific properties of the system, which is an organic whole, all the elements of the system are certain types of sources, that are located in the a fixed order. The author determined that the the system of sources of law has the following qualities: organization, integrity, complexity, inertiathat provides its functional completeness and determines its place in the legal system. Principles of the system of sources of law – structure, consistency, hierarchy – cause its development and operation, provide the internal unity of the system of sources of law and the consistency of components.

Conducted by author analysis of system of the sources of law possible to determine, that its effectiveness directly depends on existence of links between elements of the system of law: the faster they appear and operate, the system works more perfectly. The article determined that the system of sources of law must be stable, coherent, determined that is necessary for the strength of law enforcement, unity and effectiveness. The external manifestation and the internal structure of the system of sources of law should reflect and meet principle «rule of law». In addition, the system of sources of law must be accessible and easy to use, that contributes to its popularization, precise and strict adherence to legal standards, effective use of its. Also, the author considers that the system of sources of law should be relevant and meet the requirements of modern times.

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CONCEPTUAL GROUNDS OF STATE POLICY AS A PRECONDITION FOR EFFECTIVE TASKS AND FUNCTIONS OF THE STATE

The role of doctrine in the administrative process due to the complex nature of the interaction of law and society, the need for continued refinement of the theories put forward, monitoring the efficiency of their impact on social relations. The variability of the environment triggers the formation of reliable management principles based on legal doctrine.

The undeniable requirement of the organization and successful operation of public authorities is to implement a number of principles of organization and activities of government. As the idea of supreme authority, is a scholarship requirement.

Today, the influence of doctrinal legal provisions increasingly felt. Dependence of the legislator doctrine contributes to the quality of legal acts. Scientists can and should be more thoroughly influence the development of concepts of legislation, to carry out scientific support their adoption.

The practice of lawmaking recently, shows that it is impossible to create an area of law or law that would meet the current requirements of justice, without thorough scientific development of the concept. Legislation should be formed on the basis of carefully balanced and tested national and international practice research findings, rather than on perceptions and aspirations of individuals or groups.

Legal doctrine is a scientific basis for state policies, with a focus on the latest democratic transformation of the domestic legal system. It is also a source for the preparation of proposals for the improvement of the legal, scientific, technical, organizational and other support for the state formation. Scientists can and should not only influence the development of concepts of legislation, but also to carry out scientific support for their adoption and implementation. Current practice cannot learn, and most importantly – do not consider the theoretical conclusions arising from the experience and do not take into account the evidence-based recommendations to improve practice. Especially notable is interpenetration of science and practice today, when there is development of a strategy of state and legal rule-making in Ukraine.

CONSTITUTION OF UKRAINE IN ACTION

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CONCEPTS IMPROVEMENT CONSTITUTIONAL AND LEGAL REGULATION CONSTITUTIONAL COURT OF UKRAINE

In modern terms the constitutional reforms to develop Ukraine as a democratic, legal state, full member of the international community is necessary improvement legal regulation of the Constitutional Court of Ukraine, which will help improve legal protection Constitution of Ukraine, strengthening constitutional legality and rule of law in the country. This issue updated current conditions in activation of constitutional design work. After improvement constitutional law status of the Constitutional Court of Ukraine Amendments require, above all, the Basic Law of the State. In addition, practice of the Constitutional Court of Ukraine had identified issues that also require making appropriate changes to the current legislation to improve the formation, organization and activity of the sole body of constitutional jurisdiction in Ukraine.

The process of constitutional modernization in the country requires the creation and operation of an effective mechanism to protect the rights and freedoms of man and citizen. In this regard, it seems reasonable point of view the importance of the introduction of the constitutional complaint in Ukraine because in its absence the protection of human rights and fundamental freedoms are limited.

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DRAFT LEGISLATION FOR THE DEVELOPMENT OF LOCAL DEMOCRACY IN UKRAINE

The democratic reforms in Ukraine contribute revision of existing and new laws that would have intensified public participation in matters of national and local importance. Especially a lot of gaps in this field currently applies to most local democracy so long law needs to be updated «On organs of self organization of population» considering more than 10 years experience of its application, the regulation requires the organization and conduct of general meetings of citizens in the community, using local initiatives etc.

The elimination of the last two directed gaps legislative activity people's deputies of Ukraine which in December 2013 was filed two important draft laws – «On the general meeting (conference) of territorial community by place of residence», reg. № 3747 from 12.11.2013, and the «On the local initiatives» reg. № 3740 from 12.16.2013.

The purpose of this article is consideration of draft law of Ukraine «On the general meeting (conference) of territorial community by place of residence», reg. № 3747 from 12.11.2013, and the «On the local initiatives» reg. № 3740 of 12.16.2013 with the aim to formulate proposals for further improvement.

Presented to Parliament in December 2013, draft laws of Ukraine «On the general meeting (conference) of territorial community by place of residence», reg. № 3747 from 12.11.2013 and the «On the local initiatives» reg. № 3740 of 12.16.2013 in a case of its adoption will have a positive impact on local democracy in the country. However, the texts of draft legislation are not without some drawbacks, the main of which are discussed in the article. Perspectives for further research in this area are to develop more detailed legislative proposals.

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ELECTION CAMPAIGN: LEGAL NATURE AND CONTENT

With the aim to ensure the realization and protection of the electoral rights of citizens in the electoral process, compliance with equal rights and opportunities to participate in it for all participants in the election process, the Central Election Commission has clarified that a court bribing voters a candidate for President of Ukraine, its trustee, officer of a political party (electoral bloc of political parties), which nominated a candidate for President of Ukraine, and at the request of the candidate or on behalf of a candidate or political party (electoral bloc of political parties) who nominated him the other person pulls a warning to the candidate for President of Ukraine and the political party (electoral bloc of political parties), which nominated him.

Persons found guilty of violating the law on presidential elections in Ukraine are brought to criminal, administrative or other liability in the manner prescribed by law. This supports the idea of connectedness legal responsibility and legal liability.

The conclusion from the study is that election campaign is a complex of political and legal phenomenon and for full disclosure of its nature must be regarded as a special kind of social and legal activities, the Institute suffrage stage of the electoral process, subjective law and legal obligation. Prospects for future research is to consider the features campaigning for each type of election held in Ukraine – Parliamentary elections in Ukraine, Ukraine's presidential election, elections to the Verkhovna Rada of the Autonomous Republic of Crimea, local councils, village, town and city heads.

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VECHE AS A PREREQUISITE FOR FORMATION AND DEVELOPMENT OF REFERENDUM

To build a democratic, constitutional state must constantly develop institutions of democracy in the country. Among the institutions of direct democracy priority in allocating traditions of state constitutional are institutions referendums.

It should be noted that the referendum has attracted the attention of scientists for a long time. First, this institution interested constitutionalists, and then institute a referendum came interdisciplinary, attracting the attention of sociologists and political scientists.

This article focuses on a democratic basis veche activities as progenitor of the modern institution of the referendum. The article aims to prove the fact that the referendum relations originated in the Middle Ages at Kievan Rus. We investigate that veche meetings laid the foundations of democracy much earlier than similar institutions in other European countries. Based on materials and chronicles developments Ukrainian and Russian scientists made a generalization activities council on matters of public and national importance. Draws a parallel between decisions made on veche meetings or by referendum.

It can be argued that this council has laid the foundation for developing legal minds of our ancestors and of referendum democracy. It should also be noted that the decision taken at face marked by the highest legitimacy as they were approved by the people, which mostly spread and data solutions. Of course, the mechanism of the Chamber was effective only for such time as the number of residents who can participate in the veche meetings was not great, and most able to express their views, as opposed to the present.

PROTECTION OF RIGHT OF MAN AND THE CITIZEN

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LEGAL BASIS OF THE PROTECTION OF MINORS FROM THE NEGATIVE EFFECTS ON THE INTERNET

Improving legislation on the protection of minors from the negative effects on the Internet, based on national Ukraine and foreign countries' experience is particularly relevant nowadays.

According to this, the legal framework of Ukraine to protect minors from the negative impact of the information space was analyzed in the research. Analyzing foreign, international and national law on specific restrictions on the media, we can see that the laws are more aiming to protect the health and maintenance of normal mental and spiritual children's development, while not only does not interfere with objective information, break freedom of the media, but is required in terms of international law. However, the current Ukrainian legislation in this area is far from perfect. Pay attention that the formulations which is used in the current legislation, mostly make impossible to define clearly what information can be considered to be threatened with physical, mental, moral development and well-being of children that may actually lead to abusing and arbitrariness of government agencies, presiding in this sphere.

Many legal acts contain law rules, and significant gaps in the regulation of the information sector, which in consequence makes it impossible to establish a secure information environment for minors. We consider that it is necessary for the national legislation to implement positive experience of foreign countries, because today Ukrainian do require to form an appropriate regulatory framework for the settlement of new information relations in the context of the protection of minors from the threats of cyberspace.

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SYSTEM GUARANTEES OF CITIZENS' CONSTITUTIONAL RIGHT TO ACCESS TO PUBLIC INFORMATION

The rapid development of the information sector in Ukraine and the emergence of several new laws that govern your relationship, leads to new inconsistencies while ensuring the constitutional rights and freedoms in the information sector. January 13, 2011 the Law of Ukraine «On Access to Public Information» in this law the ordinary settled the question of access to information collected by public authorities in the implementation of authoritative and administrative functions. As we know, the validity of any law, even the most progressive can be verified only in practice. Especially when not everyone understands how the law should be applied. This applies to both citizens and officials. And as you know, Ukraine is not always enforced «rule of law «, although the proper implementation of the law is ensured by a system of guarantees established by the state. But, as is well known when the law is not respected, the guarantor and the last link in the search for justice serving the judiciary. This leads to a more detailed study of the law and the definition of the basic guarantees of the constitutional rights of man and citizen access to public information and establish the legal protection safeguards in the system. The purpose of this paper is to determine the system guarantees the constitutional right to access to public information and the importance of judicial protection in this system.

STATE ADMINISTRATION AND LOCAL SELF-GOVERNMENT

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MODERN INTERPRETATION OF INFORMATION LAW CULTURE, AS PARADIGMAL ROUTE GUIDANCE OF STATE INFORMATION POLICY

In the article author searched a basis to undermining of culturological paradigm to research a state information policy. Is given the modern interpretation of information law culture, due to anthropocentric paradigm.

The definition of information law culture is defined, the different approaches to information law culture is divided. Author formulates an important thesis about necessity multivariate discourse which responds to pluralism of science points of view about law nature of information society. Is proved, that modern interpretation of information law culture, as paradigmal route guidance of state information policy.

An important step in the development of information culture is becoming intelligence information, which can be defined as the enlightened information and information literate people, that is those with huge amounts of data is able to select only the useful and using it to acquire information superiority over others, gaining considerable leverage to establishing control over the information and other strategic spaces.

As part of the development of the concept of information and legal culture appropriate to draw attention to a new category of persons who appear due to some errors in the implementation of cultural principles are information marginals. This is a person who is outside the information society, which lost its status as a result of information unique own socio-cultural situation in the transition to global cooperation within informational capitalism and therefore the inability to resist the imposition and adapt to a qualitatively new network architecture institutional structures of the information society.

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ROLE OF LEADER AS MANAGEMENT ORGANIZER IN ORGANS OF INTERNAL AFFAIRS

The article is sanctified to research of role of leader in the organs of internal affairs, as a management organizer. Requirements, that behave to the leader of organs of internal affairs, that is presented in two aspects, are outlined. The first aspect touches requirements, that put to the person that applies on service in the organs of internal affairs. They are basic and must characterize a person as in general able to execute those or other functions of worker of organs of internal affairs, determine the lines of person as future управлінця. The second aspect touches requirements, that put to the person already assigned for corresponding position. They come forward as rules that a leader must follow in the activity are normatively envisaged. At the same time, in relation to the next complex of requirements that is pulled out to the leader of organs of internal affairs, it follows exits from certain general principles of management. To general principles of management a personnel principle of legality, social justice, humanism, respect is attributed to the man. And also, marked, that it is necessary to stick to the worker of organs of internal affairs and such principles as objectivity, collectivism and society, loyalty, tolerance, goodwill, justice, honesty, responsibility, self-weighted. Outlined personal qualities of leader, to that belong understanding of nature of administrative labour and management processes; knowledge of position and functional requirements, methods of achievement of aims and increase of efficiency of activity of organ; ability to use modern information technology and facilities communications necessary in the process of management. The general and special forms of management a personnel are exposed.

REFORMS IN UKRAINE

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THE LEGAL MEANS TRANSFORMATION OF STATE REGULATORY IMPACT ON THE BANKS ACTIVITIES IN UKRAINE

The peculiarities of legal regulation of banks in Ukraine in the period of her stay in the Soviet Union and in modern conditions. During the existence of the USSR mainly purpose banks are state-owned credit institutions, was the socialist reorganization of farms based on common ownership and activities of banks determined the national economic plan and implemented on the basis of economic calculation.

On the basis of comparative legal analysis of the organization of the credit system of the USSR and the Ukrainian banking system shown groundlessness refusal of planning economic subjects. In the study of issues related to construction of vertical relationships within the banking system of Ukraine, drew attention to the fact that the regulating body, the National Bank of Ukraine is limited in application possibilities of response to the negative results of banks. Was shown that a sharp decline in output, increase unemployment and inflation, and especially – the global economic crisis, public expectations for the market's ability to self-regulation did not come true, and this is due to the need to strengthen the methods of state influence on the economy as a whole and its individual sphere. Arguments in favor of increased state regulatory impact on the banking system of Ukraine, and in this connection justified the conclusion that the reason for this paradox is to avoid the state of planning in the understanding of these important regulatory functions of economic development that was invested in it under the administrative command system. It is described the basic principles of the organization of sectored economic competition banks under centralized approach to the planning of the economy. As solutions to existing currently problems formulated arguments in favor of the legislation of Ukraine at the level of the relevant acts regulating business planning of all economic entities, regardless of the property on which they are based.

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NORMATIVELY-LEGAL ADJUSTING OF QUESTIONS OF QUALIFICATIONS IN HIGHER EDUCATION TO UKRAINE: PROGRESS TRENDS

This article is devoted to the study of qualifications in higher education of Ukraine. Attention is accented on the constitutional guarantees of right to education, such his descriptions as availability, (in state and communal educational establishments on competitive basis), studies or her study the mother tongue. Intercommunication of right is shown to education with economic, political, ideological, normatively-legal and other guarantees. Underline, that on condition of maintenance of principles of partnerships every state must create national qualifying scopes, using here the national scopes of qualifications without an automatic printing-down, in particular, in the conditions of numerous attempts to reform the system of higher education in Ukraine. The analysed scientific researches of questions of education, including higher, ground to assert that sound researches began to appear in the second half of XX of century on territory of the former USSR. A term «qualification», «university qualifications», subjects of confession of qualifications, structure of qualifications, betweenness by concepts «educationally-qualifying (educationally-scientific) level» and «qualification of higher education», difference, is also analysed between «Ph.D.» and «candidate of sciences», substantive provisions of the National scope of qualifications (higher education) of Ukraine. The general aspects of the normatively-legal adjusting of qualifications are distinguished in accordance with the European qualifying scopes. Operating normatively-legal acts, bills, are analysed, project of Statute about qualifications (degrees) of higher education in Ukraine. Basic progress of qualifications trends are indicated in higher education of Ukraine. It offers to make alteration to in the current legislation of Ukraine, taking into account accordance of levels of higher education and degrees to the qualifying levels of the National scope of qualifications.

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SOME CHANGES IN THE ORGANIZATION AND ACTIVITIES OF THE NOTARY OF UKRAINE UNDER CONDITIONS OF REFORMING

Today is reason to believe notary functionally close to both the judiciary and of the legal profession. This is due to the fact that notaries in accordance with the fundamental principles of Latin Notaries type, designed to accompany any legal action in uncontested cases, serving its customers preventing chance of any disputes and litigation. This is provided by the International Union of notaries, of which Ukraine is in 2013, and gave the notary of Ukraine to a new level whereby the body becomes notary preventive justice.

In this regard, reform is urgent notaries Ukraine to align its organization and activities in accordance with the requirements of the International Union of Notaries and European standards of quality and volumes of notarial services. The core reform notaries should be a qualitative change in the volume of its powers and the procedure for access to the profession of notary, training already practicing notaries.

Theoretically ground and practically feasible in this regard is an attempt to provide a modern Ukrainian notaries new powers and upgrade the existing one: (1) representation of persons who applied for notarial acts before a notary, in order to notarial acts and collection of documents necessary for such actions; (2) in proceedings for the purpose of mediation court settlement of conflicts that have arisen or may arise between the subjects of legal relations; (3) the issuance of certificates of title to real property, the right to be registered for the first time; (4) the certification of contracts only at the location (place of residence) real and personal property; (5) with only the control and information functions for the payment of tax on personal income derived from the sale, acceptance of gift and inheritance of property; (6) with the state registration of legal entities and natural persons – entrepreneurs; (7) with the use of other (except for those that are used by notaries) the state and the only registers, databases, etc, with the right to obtain from them the relevant excerpts, statements, information and more.

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MAIN DIRECTION OF IMPROVEMENT OF LEGISLATION OF UKRAINE ABOUT THE SAFETY OF LABOUR AND OCCUPATIONAL HEALTH

One of the main labour rights of the human is the right to have the healthy and safe working conditions that is proclaimed in the international statements, national legislation. Providing of human rights to get appropriate, safe and healthy working conditions are consolidated in the part 4 Article 43 of the Constitution of Ukraine and are proceeded by using the complex of legal rules, which are traditionally included in the Institute «Labour protection» as a component of the labour law.

The article is devoted to the researching of the legislation of Ukraine about the safety of labour and occupational health and proposing according to the improvement of legal regulation of international standards and positive foreign legislative experience. The legislation of Ukraine about the labour protection is fundamentally upgraded during the years of Ukraine's independence that is connected with the changing role of the state and trade unions. The state is no longer the only employer and organizer of all activities in the field of labour safety. The new role of the state in this area has been reduced to setting standards and regulations and also to supervision and control of their compliance. To achieve the real influence on improvements in terms of safety of labour and occupational health it is necessary to increase the priority of legal rules in this field at the international and national levels and at the level of enterprise and to involve all social partners to the working out and providing a mechanism of their permanent abidance and improvement.

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THE MODEL OF MAGISTRATES' COURT IN UKRAINE

The article «The model of magistrates' court in Ukraine» is researching the magistrates' courts of foreign countries, the history of this institution in Ukraine and abroad. The article proofs the necessity of magistrates' court existence in Ukraine. It also shows the possible model of magistrates' court in Ukraine, for instance, whether cases should be heard by a magistrate judge or by a bench of three magistrate judges, and specifies key principles of its functioning, for example.

As a result, we suppose that the introduction of magistrates' courts in Ukraine will make a positive influence on the Ukrainian legal system. The idea of establishment of magistrates' courts in Ukraine is absolutely justified. Considering current overload of local courts, creation of the magistrates' court, as an independent institution, is quite essential.

As a conclusion, authors say that magistrates' courts should be included to the judicial system of Ukraine. It is clear that the implementation of this institution will lead to the numerous changes in existing legal acts, but successful implementation of the above magistrates' court model will reform the judicial system as a whole and we will be able to reach a new, European level of justice in our country.

PROBLEMS AND JUDGEMENTS

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OBJECTS OF THE RELATIONSHIP OF INFORMATION LAW AND LEGAL INFORMATION

The paper is dedicated to identifying the object of information law and legal informatics to predict the prospects to differentiate the latter. It is established that the legal and semantic basis of information law and legal science in the abstract covers the initial general theoretical legal concepts and the specified ones in special terms.

The paper reveals the value of information law and legal science based on the object criterion. The proposed approach in the paper allowed the author to determine the main issues of the approach on this topic.

Nihilistic approach to the object of information law and legal science determines that because there is no legal science, it is about any particular object and purpose of the latter two options. This is because the technical aspects of computer science are not included in the legal field, and since the beginning of relationships in information technology information law takes effect, which has its own object and subject of legal regulation, identical to the proposed legal science. In fact, right in science can have display and does not create any legal framework. Instead, in an electronic environment information law is valid for conditions of the relevant relationships.

System-structural approach to the problem described above leads to the possibility of ambiguous address. Given the immaturity of the system and structure as information law and legal science, can we talk about the duality of objects and the unity of things. The research is based on the schematic interpretation of the science system that has both technical and legal aspects (in case of adoption of the profile Code or the Act) that can not be fully absorbed by information law, including the initial stage of the latter formation. The criterion for the distinction of the object within the system-structural approach may be a link «information-data». On the other hand, the uncertainty in the object and the subject may lead to withdrawal and nihilistic approach due to changes in practice and doctrine relevant field.

Also, the author provided the necessary recommendations to improve the theory of the objects of information law and legal informatics.

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INFRINGEMENT OF CUSTOMS REGULATIONS IN THE STRUCTURE OF CUSTOM DELINQUENCY

The main idea of the suggested article is the research of the clarification of relation comprehension of customs violation regulations and related legal categories, such as: infringement of the law, violation of the customs law and the administrative misdemeanour.

National customs law, which regulates the totality of social relations in the area of state customs policy and governmental customs affairs, establishes the legal responsibility for the committing a certain range of socially dangerous, harmful acts that violate the norms and standards of law. In the customs law literature these illegal actions are included in the customs violations section.

It could be counted to the customs violations range such delicts as crime in the customs area, infringement of customs regulations and infringement, which prevent accomplishing the proxy, that are laid on the officials of the income and fees.

Analysis of practice in the area of the governmental customs affairs indicates that infringement of customs rules is one of the numerous manifestations of custom offences. It is also settled that infringement of customs regulations by its legal nature belong to the administrative misdemeanor and is characterized by both common indications and some differences with the last.

The author suggests that provided the separation of administrative and law of delict as an independent area of law, administrative responsibility for infringement of customs rules may be provided by such codified act as the Code of administrative misdemeanours of Ukraine.

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CURRENT PROBLEMS ADMINISTRATIVE AND LEGAL REGULATION OF CONCESSION ACTIVITIES IN THE NATIONAL ECONOMY OF UKRAINE

The paper considers the problem of concession by the method of administrative and legal regulation of public-powerful promoting economic development of human and society. The author argues the thesis that concessions related to the constant improvement of the legal regulation of the right use of public ownership in the economy as one of the main objectives of modernizing the system of administrative law, public service activities and the development of the theory of administrative law in Ukraine. It is shown that the problem of the right to use public property depends largely on how much is true and thus be able to devise methodological interdependence, or more precisely the relationship between enshrined in the Constitution of Ukraine legal system inherent social and economic rights and freedoms and administrative legal possibilities of public-powerful promoting economic development.

The proposed approach in the paper allowed the author to determine the main issues relevant administrative regulations. First and foremost is the need for systematic design methodology administrative and legal framework for the right to use public property by public entities-powerful promoting the economic development of man in general (systems of public law principles, administrative and legal means and methods right of use public property rights, issues of legal protection of public property rights in national, regional and local economy), some way usage rights (lease, license, corporate rights) particular.

Also, the author provided the necessary recommendations to improve administrative law.

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THE CONCEPT AND PECULIARITIES OF THE SUBSIDIARY ENTERPRISE

There are several types of business entities, the legal status of which is not defined, and they have some features of the enterprise. The mentioned entities are the subsidiary enterprises which have the right to be organized due to norms of some acts of legislation. An important feature that characterizes the legal status of the entity of economic law is the subsidiary enterprises and their economic competence. However, for a complete description of their legal status there are also important the other features that have an impact on the amount of that jurisdiction and its character.

Enterprises have the leading position among the business entities. This is due to specific economic and social functions of the enterprise in the economic system, for example the functions of commodity producer who satisfies the social needs in products, labor and services.

However, despite the absence of the direct regulations of the legal status of the subsidiary enterprises there are no formal barriers to their establishment and activities.

The term «subsidiary enterprise» is used in some departmental acts. Thus, a subsidiary enterprise is defined as an enterprise that is controlled by the parent (holding) company.

It is appropriate to provide in the norms of the current legislation the following statements: to give the definition of subsidiary enterprise: the general one and the definitions of its individual types – the unitary subsidiary enterprise and the corporate subsidiary enterprise; to define the main features of a subsidiary enterprise, including some of its species; to articulate the concept of the law of full economic management and the law of operational control of legal regime of property of subsidiary enterprise and to anticipate the cases of subsidiary responsibility of the controlling (parent) company for the obligations of the subsidiary enterprise.

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LONG WORKING HOURS: PROBLEMS OF LEGAL REGULATION

Today the range of workers with irregular working day is quite broad, and the practice is on the way for its further expansion. Historically this category employees were singled out on the basis of the fact that their work is not limited to the normal working hours (Note to Art. 94 of the Labor Code of the Ukrainian SSR in 1922). Since conditions of workers with irregular working hours have changed, but the law – almost none.

Lack of full legal regulation irregular working time raises a number of questions that require theoretical and practical solutions. Their relevance due to the fact that the scientific literature is almost no special research topic chosen.

It is proposed to consider the long working hours, as is done in para. 1 of the Recommendations, as a special mode of working time, which is set for certain categories of workers in failing to valuation time the labor process. The extent of work in this case is not only hours of work, but also range and volume of performed duties work (load).

It is necessary to supplement the Labor Code article (s) that regulate irregular working hours and contained the following elements: the concept of «irregular working day», a list of persons which are subject to appropriate Mode of working time, order it (list) specification at the local level compensation for work in these conditions (if several types of compensation it is clearly noted in some cases, kind applicable), restrictions associated with a complete daily recreation employee who works in such conditions.

Irregular working hours different from overtime by several criteria: the ratio of valuation workflow instances attraction, categories of workers appropriate compensation for the work limits application.

It is advisable to finish projects Labor Code of Ukraine in context settlement of the issue of irregular working hours so that were given answers to all the questions that arise when reading projects today.

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LOCAL MANDATORY FORMS IN THE SYSTEM OF LABOUR LAW RULES

The article deals with the specificity of legal regulations of labor relations that stipulate the availability of law rule and are created directly by enterprises, institutions and organizations, which are called local. They are classified into local contracting forms, the will of the employer and employees are coordinated, the only peculiarity of local mandatory forms of which is the will of the employer. The article is devoted to the clarification of mandatory local law rule essence, their place and role of labor regulation and closely connected relations in the condition of contemporary management. The author states that the local mandatory rules solve two major problems in the legal regulation: firstly, it concretizes and details law principles of normative legal acts and they are more effectual in law than local acts and secondly, they fill legal regulation gaps.

Local mandatory forms inherent characteristics typical for all kinds of law: to a great extent abstract, non-personified which are characterized by repeated use; it is admitted a state coercion to the failure of the established rules of conduct.

The author considers that the main specific characteristics of local peremptory norms are the method of establishment and predominantly mandatory standards of norms. Rules of conduct that set by employers are well defined and compulsory for certain group of people.

The author thinks it will not be in contrast with law if local mandatory rules are changed by agreement between the employer and the employee, taking into account the specificity work duties and last interested party. Such amendments should not step outside the employer's competence and couldn't make worse employee's position according to valid legislation.

In order to ensure the effective operation of the local mandatory rules it is necessary to define a sphere of local regulation in the legislation and to formalize the decentralized norm-setting procedure which should define the competence of the subjects, preparation and adoption of standards and accrual disputes.

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ON SOME THEORETICAL AND LEGAL ASPECTS OF FORCED LABOR PROHIBITION

The article is devoted to the theoretical and legal aspects of the forced labor prohibition. The approaches of scientists as to the correlation of the concepts of "forced", "required", "compulsory" labor. The term "forced" and "compulsory" labor is the same, because the meaning of labor, which is under the external factors influence against people's will by the threat of sanctions of Labour Organization representative capacity has been determined.

According to the labor law theory "forced" and "compulsory" labor is different definitions. Person's involvement to forced labor is against his will under the menace of a penalty and the required work is done voluntarily perceiving the person usefulness.

The application of labor should be based on the person's free will without any menace of a penalty. The author considers to fix the norm in the new Labour Code of Ukraine in order to define forced labour for effective prevent the enforcement of employees. Forced labor is any kind of work (service), in which people are employed against their will and it is dangerous for their life or health, forcible, threatening punishment and is carried out under the supervision and control of a public authority.

According to the International and European standards of work there is a list of works which are not against people's will, but are not considered forced labor, as it is reflected in the Constitution of Ukraine. There is a list of works that are not recognized as forced one and the use of forced labor is forbidden in the Constitution of Ukraine. The author pays attention that these regulations are contrary to the principle of the prohibition of forced labor. In labor legislation should not be any restrictions implementation of this principle.

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DISCUSSION ASPECTS OF PENSION OF JUDGES IN UKRAINE

The legislative activity of the state based on the principles of equal protection of the interests of all citizens of the state. First of all it concerns the regulation of pensions as one of the main areas of social policy. Pensioners certain categories of workers who are under the law are entitled to special pensions (judges, prosecutors, etc.) are the basis for discussion in society. In particular, this question concerns the welfare reform of judges in Ukraine. Law of Ukraine «On measures to ensure the legislative reform of the pension system « from 08.07.2011 № 3668 -VI introduced resizing and other terms of pension payments and monthly lifetime allowance of retired judges: ten limited subsistence minimum for persons unable to work, the maximum monthly lifetime allowance retired judges, abolished this increase of pay for work experience as a judge for over 20 years by two per cent of earnings for each year, but not more than 90 percent earning more. However, the decision of the Constitutional Court of Ukraine of 03.06.2013 № 1-2/2013 effect was reversed these changes, leaving the judges full social benefits. Such a selective approach in shaping national legislation, contributing to the social peace and stability in society. Based on the practice of reforming the pension systems of other countries, effective step arrangement providing benefits to certain categories of workers on pensions. Appropriate and feasible is determined to return to the Law № 3668 -VI changes in the size and other conditions of payment of pensions and monthly lifetime allowance of retired judges, it will facilitate the implementation of the principle of social justice in the legislation of Ukraine.

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ONTOLOGICAL MEANING OF TERRORISM

The problem of terrorism is now one of the most urgent, given the events of recent years, including a terrorist attack September 11, 2001 in the U.S., so that this phenomenon was also drawn attention around the world. And this is understandable, because terrorism has become a real threat to the existence of the planetary human civilization. In analysis of phenomenon of global terrorism is definitely important. A variety of types and forms of manifestation of terrorism in the modern world , a wide range of means and methods of influence used in order to impose certain types of public behavior, are surprising by how quickly adapts manifestations policy of intimidation and violence under the influence of current socio-cultural, economic and political conditions of society.

Active research and theoretical and practical activities to develop the strategy and tactics of fighting terrorism is the focus of representatives of law, sociology, psychology and other fields of science.

This paper investigates the philosophical meaning of terrorism in the context of ontology of law. Various aspects related to the subject of research in the context of philosophy of law the phenomenon of «terrorism» are analyzed. Understanding of the phenomenon of terrorism and countering accordingly are considered. The essence of terrorism, in accordance with the conceptual approaches, as well as in relation to the philosophical and legal categories: justice, violence, analyzes the methodological problems of the study of modern terrorism.

The article is to point out that the ontology underlies and is the foundation without which any phenomenon loses its essence. Terrorism is caused by violence, and it, in turn, unfortunately, overwhelmingly in the life of human society. However, there is a real opportunity to significantly reduce the promotion of violence. Leaving the situation as simple and clear as difficult to implement. Its essence is to promote non-violence, not their perception of culture is not as alien as well as the other – the original, which is worthy of attention and respect in the society to provoke interest in the creation, creativity, knowledge and respect – these are universal truths that must be implemented in the public consciousness through modern media, internet, etc.

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THE CONCEPT OF FRAUD AND ITS FEATURES

The article is devoted to investigation of fraud as a socially dangerous phenomenon, which at the present stage of development of market relations is quite common offence. Discusses the peculiarities of the subject, namely, that they may be someone's property, and the right to such property. The objective side of the crime is expressed in 2 forms: misappropriation of property by deception or abuse of trust, and receipt of another's property by deception or abuse. Definition of cheating as a way of fraud which in our opinion requires clarification, since the definition proposed by the Plenum of the Supreme Court of Ukraine provides for the verbal form of deception and does not cover other types of fraud, and in our time is a very common such forms of fraud hypnosis introduction into a trance. Discusses the concept of «abuse of trust» as a kind of deception, but in comparison with Ukraine in France abuse of trust is a separate offence. Are defined as optional elements of the objective side, which will help to distinguish between fraud and other crimes. However, for the development of forensic recommendations are important, after all the time, place and are furnished in a natural connection with the person of the offender. According to the Criminal Code of Ukraine, the subject of the crime may be a sane physical person who reached the age of criminal responsibility. But in the case of fraud is specific by the fact that the subject may be a person to whom this property was entrusted to the use of, or the person whose property has been transferred to the employment contract. Further study of the personality of the offender is necessary direction in the investigation of crimes. Discusses the identity of the victim as an important element of crime investigation, because there is a certain link between the victim and the perpetrator. Because the offender choosing himself a sacrifice pays attention to details such as age, gender, property status, lifestyle. Proven need for clarification regarding the definition of the forms of expressing the behavior of the offender to improve the effectiveness of the investigation of the crime.

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ABOUT UKRAINIAN MODEL OF CRIMINAL-LEGAL INFLUENCE ON CORPORATIONS

The article is devoted to criminal-legal influence on corporations actual problems in accordance to Ukrainian Criminal Code changes. This aspect is an important essential part of criminal-legal influence theory.

Following such approach is being proposed to observe the criminal-legal influence limits as a sphere (consisting of the attached to its influence objects or persons), includes the measures of such influence.

Three basic aspects are being pointed out and analyzed by author. There are criminological expediency, legal legitimacy and set of measures. Their complex consideration let us to make up holistic model for criminal-legal influence on corporations.

In the context of criminal law influence and criminal responsibility differentiation, in the context of criminal law reaction on corporation activity models regulation in foreign law the criminal-legal influence on corporations regulation model is substantiated by author. The basic corresponding condition is the personal criminal liability and criminal-legal influence on corporation combination.

Also, the perspectives of corresponding theoretical basis for this institute and normative text are outlined. In particular: doctrinal recognition for criminal responsibility and criminal-legal influence delimitation; the expansion of the list of crimes, able to be ground for criminal-legal influence on corporation; the list of such measures conceptual revision.

Such approach opens possibilities to improve criminal-legal influence on corporations and resolve Ukrainian criminal law conceptual problems. In particular, most important of them are: criminal responsibility paradigm, criminal-legal influence differentiation, system of punishment and criminal-legal influence measures, crime subjects and criminal-legal conflicts participants.

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SEPARATE ISSUES OF DEFENCE ATTORNEY'S NON-ADMISSION IN CRIMINAL PROCEEDINGS AS FORM OF RIGHT TO DEFENCE VIOLATION MANIFESTATION

The article provides consideration of separate issues of defence attorney's non-admission in criminal proceedings as a form of manifestation of a crime foreseen by the article 374 of the Criminal Code. On the basis of system analysis of theoretical provisions of criminal law science, provisions of criminal procedure legislation, practice of its application and semantic interpretation of the norm the notion of "defence attorney" was analyzed. The article also provides list of actions, commitment or non-commitment of which should regards to defence attorney's non-admission.

Particularly, the work provides justification that:

– one of notion of defence attorney's non-admission to participation in criminal proceedings (as well as concerning the next form of right to defence violation – delayed admission of the defence attorney) is a term to denote a person – "defence attorney". Because of non-admission or delayed admission (provision) to participation in criminal proceedings the defence attorney is not able to realize (or does not have possibility to do it completely) designated to his duties concerning execution of appropriate defence of a suspect, a defendant, a convicted person and acquitted person. Due to this, legally guaranteed rights of this person are violated. It should be remarked that unlike article 21 of the Criminal Procedure Code of Ukraine from 1960 (hereinafter – CPC 1960), article 20 of the CPC has wider contents and foresees guarantees of provision with right to defence by means of clarification of right to qualified legal assistance, as well as appointment of defence attorney at public expense (implementation of defence as intended). Herewith, the new procedural law operates such term as "qualified legal assistance", as well as establishes certain requirements to the defence attorney;

– defence attorney's non-admission as a form of manifestation of right to defence violation consists of crime subject's failure to execute requirements of Section IX "Transitional Provisions" of the CPC concerning non-admission in case of presence of denies of defendant, continuing by the defence attorney who started his activity in certain criminal case while activity of the CPC 1960, execution of his authority; requirements of parts 2 and 3 of article 20 of the CPC, particularly concerning duty of an investigator, prosecutor, investigating judge, court to provide right of a suspect, a defendant (including convicted person and acquitted person) to qualified assistance from defence attorney chosen by him (making additional requirements, which are not foreseen by law, to defence attorney that led to non-justified refusal in admission of this person to participation in criminal proceedings), as well as in non-appointment or refusal to involve defence attorney contrary to requirements of articles 49 and 52 of the CPC.

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OBJECTIVE SIDE OF CRIMES AGAINST THE CONSTITUTIONAL NATIONAL SECURITY OF UKRAINE (ART. 109,110 OF THE CRIMINAL CODE OF UKRAINE)

Determined that the legal literature describing different forms of the objective of the crimes stipulated in Articles 109, 110 of the Criminal Code of Ukraine.

When crimes against national security of Ukraine understand under criminal law intentional socially dangerous acts that infringe on the constitutional order, sovereignty and territorial integrity of Ukraine. Mandatory feature of the objective side of the crimes envisaged in Articles 109-110 of the Criminal Code of Ukraine is a violent act that can manifest itself in two ways: 1) action; 2) conspiracy to commit such acts. That is, we can state that the manifestations of peaceful revolutions or other kinds of disobedience of the people due to certain constitutional system that it is not supported, not «be subject» under Art. 109 of the Criminal Code of Ukraine.

In our opinion, the most acceptable point of view appears A. Bantyshev and E. Suslov, describing the objective side of art. 109 of the Criminal Code as: 1) an act committed with the aim of violent change of the constitutional order (Part 1 of Art. 109 CC), 2) an act committed with the aim of overthrowing the constitutional order (Part 1 of Art. 109 CC), and 3) an act committed with to seize state power (Part 1 of Art. 109 CC), 4) conspiracy to commit such acts (Part 1 of Art. 109 CC), 5) public calls for violent change of the constitutional order (Part 2 of Art. 109 of the Criminal Code); 6) public calls for the violent overthrow of the constitutional order (Part 2 of Art. 109 CC), 7) public calls for the seizure of state power (Part 2 of Art. 109 CC), 8) distribution materials calling for the violent overthrow of the constitutional amendments or failure or seizure of state power (Part 2 of Art. 109 of the Criminal Code), as the authors covered all possible actions that can be committed and alternatively entail criminal liability under Art. 109 of the Criminal Code.

Investigated, that the objective side of the offense under the Criminal Code st.110 maybe in three ways: 1) acts done for the purpose of changing the boundaries of a territory or state borders in violation of the procedure established by the Constitution of Ukraine, 2) public calls to commit these action, and 3) the distribution of materials calling for such actions.

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THE POSSIBILITY OF USAGE OF THE RESULTS OF THE QUESTIONERS SURVEY OF THE JUDGES OF THE DISTRICT COURTS ABOUT THE EFFECTIVENESS OF THE APPLICATION OF THE PUNISHMENT OF THE MINORS IN THE LEGISLATION

The problems of the punishment of the minors, the application of the criminal sanctions are in the constant attention of the state, community and scientists. There were devoted more than dozen of dissertation researches devoted to these problems since the Criminal Code of Ukraine entered into its force in 2001, and there were worked out ways and directions of improvement of the legislation of the indicated sphere. However, in spite of this, the situation in the sphere of the juvenile justice has not radically changed. It leads to the necessity of the appealing to the experts.

The aim of the proposed work is to analyze the results of the questionnaire survey of the judges about the effectiveness of application of the punishment of the minors and to propose the ways of improvement of the active legislation of this sphere.

The results of the questionnaire survey let us conclude: 1) the minors as a separate category of people need special attitude to the case of the application of the punishment on the part of the legislative and other state bodies; 2) it is necessary to be careful and critical with the humanization of the punishments of the minors in order not to permit redundancy and groundlessness; 3) the achievement of the aim of the punishment depends on the common cultural, social factors and on the proper organization and improvement of the procedure of realization of the punishment; 4) it is necessary to provide at the legislative level that the aim of the punishment of the minors is the correction only; 5) it is worth to accept separate provision of law that will provide common principles of imposing of the punishment of the minors due to the fact that these principles are not unified; 6) in order to differentiate the kinds of the punishment of the minors it is necessary to provide such age groups: from 14 to 16 years old; from 16 to 18 years old; from 18 to 21 years old; 7) to ensure individual approach to the choice of the punishment of the minors either at the CCU or methodological recommendations level; 8) the list of the duties that are imposed on the minors during his release from the punishment with probation should be reviewed and updated; 9) the system of the punishment of the minors need to be expanded by means of: a) amendment of the law by another, alternative sanctions; b) to introduce the institution of probation; 10) the possibility to work out the Draft of the Law of Ukraine “On Probation” need to be scientifically discussed.

TRIBUNE OF DOCTORAL CANDIDATE

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ON DETERMINATION OF CONTINUITY GENERAL FEATURES IN CRIMINAL LAW OF UKRAINE

The development endlessness of any state legal system, including our state, is connected to the constant changes that occur in social, economic, political, scientific life. At the same time the guarantee of an adequate level of legal regulation of public relations, and, consequently, their protection by means of criminal law is not only the creation of new law, but also certain continuity, the borrowing of the best that has been established and proved its right to exist under the long testing.

Continuity is a very complex phenomenon that exists in many spheres, including legal. Describing it, we should note a few common moments, its general features (characteristics) that are immanent to continuity in every sphere of human existence. Thus, they can be overspread to continuity in criminal law.

First, continuity possesses universality. This property follows from the fact that continuity is one of the aspects of development that in turn permeates life. Universality of continuity concerning law means not only that it is present in law at all stages of its development. However, universality does not deny that «continuity in law is the specific historical category», that is present in a particular stage of development of society, it inevitably acquires some different features and characteristics.

Secondly, continuity possesses such feature as objectivity. Continuity is determined by many factors, among which there are objective regularities and human (not as an abstract figure, but as individual with its own interests).

Third, continuity should correlate with recurrence. These categories are different, but not isolated from each other. But none of each phenomenon should be absoluted, as in this case the absolutisation either linear or cyclic development can appear.

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STUDIES OF CRIMINAL ACTIVITY IN THE REGION OF UKRAINE USING THE MATHEMATICAL METHODS

The aim of the paper is to study the basic general patterns and trends in time series crime regions of Ukraine within criminological modeling.

Dynamics and the crime rate in the region can be represented by the rate of criminal activity rate per 100 thousand inhabitants of a particular region for every single year from 1990 to 2012.

The highest average rate of criminal activity observed in Zaporizhzhya, Dnipropetrovsk, Luhansk, Sumy, Donetsk, Mykolaiv regions and Crimea. The lowest level of criminal activity in Uzhgorod, Chernivtsi, Ivano-Frankivsk, Lviv, Ternopil, Rivne and Volyn regions and in Kyiv.

The main socio-economic factor that determines the difference between the level of crime in the regions of Ukraine is the level of urbanization.

These graphics area can be divided into three groups according to the nature and intensity change rate of criminal activity. The first section includes regions where the largest peak rate of criminal activity in the 1995 – 1997 years. The second group includes regions where the largest peak factor accounts for 2000. The third – in 2004. To some extent this division is related to the difference in the orientation of regional economies.

If we consider the corresponding graph visualizes the rate of criminal activity on the territory of Ukraine, the highest are the same three peaks: in 1996, 2000 and 2004. Significantly lower than the peak observed in 2010. These peaks correspond to the greatest economic and social upheaval in Ukraine. After the 2009 rate starts to steadily increase, which continues today.

Fundamentally important to understand that the study of the causes and trends of regional crime must consider the following characteristics of the region: socio-demographic, economic, socio-cultural, and such, characterizing the material and technical base of law enforcement.

To determine the character of the time series of the rate of criminal activity in general in Ukraine and some socio-economic indicators carried out relevant research.

All calculated correlation coefficients – negative numbers, ie correlation in all cases is reversible. The most powerful is the relationship between the rate of criminal activity and the consumer price index found in the Autonomous Republic of Crimea, Vinnytsia, Donetsk, Luhansk, Mykolaiv, Rivne, Kharkiv, Kherson and Chernihiv regions. A strong correlation between the rate of criminal activity and government spending on social security and welfare (% of total expenditures) found in regions: Dnipropetrovsk, Lviv, Sumy regions and in Kyiv.

Regional crime prevention programs should be based on regional projections of the criminal activity of the population based on the results of correlation and regression analysis of the impact of various factors on crime and criminology further developments to be made within each region.

TRIBUNE OF YOUNG SCIENTIST

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TAX LIEN AS THE ENSURING MEASURES OF TAX OBLIGATION EXECUTION

The article investigates the legal nature of administrative enforcement and its place in tax law. It is shown that based on the fact that the administrative enforcement in tax law is not an independent form of state law enforcement, but an integral part of the administrative enforcement in public law of Ukraine, and taking into account that the administrative enforcement is the kind of state law enforcement, which is to be applied by the competent state bodies (public officers) for the purpose to prevent and suppress administrative misconduct, as well as to ensure the involvement of the offender to administrative liability, it can be concluded that enforcement is to be realized through certain ways: firstly, through the institution of legal liability, and secondly, through warning and suppressing measures, and according to some scientific positions, through restorative measures.

The author also emphasizes that coercive nature of collection of taxes and duties determines the basis for interaction between participants of tax legal relations in order to provide incomes to the budget. The analysis of the legal acts and scientific literature determining tax lien has been conducted. The attention is also drawn up to the fact, that ensuring measures of tax obligation execution, including tax lien, are designed to encourage taxpayers to the diligent performance of tax legislation requirements.

The complex essence of the category of tax lien as one of the ensuring measures of tax obligation execution is discovered, and the peculiarities of the procedure of tax lien as well as its distinguishing features are determined.

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CREATION AND FORMATION OF THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE

The article is devoted to research the historical and legal aspects of creation of the Committee of Ministers, as one of the main bodies of the Council of Europe. In view of the considerable importance of the Committee of Ministers in the human rights protection mechanisms, which operates within the framework of the Council of Europe, this issue seems topical.

In this article the author examines not only this problem, but also discloses the essence of the different approaches to formation of the future European organization that put forward at the beginning of its creation. French-Belgian project envisaged the creation of a «European Union». Its main body was to become the Assembly, which would take decisions by a majority of votes. Representatives of the British project insisted on creating a «Council of Europe». The delegations of member states were to be appointed by the governments and headed by the ministers.

The author points out that despite the numerous disputes about the structure of the future organization the states have found a compromise. Council of Europe was established consisting of the Committee of Ministers and the Parliamentary Assembly.

Particular attention is paid to the analysis of the opinions of various politicians on the structure and powers of the Committee of Ministers.

It is concluded that the Council of Europe was the first international organization after the Second World War, which included both parliamentary and governmental organs. The Committee of Ministers, in its turn, became dominant in the structure of the Council of Europe.

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MECHANISM OF USING THE ANALOGY OF RIGHTS

The process of usinf the analogy of rights is extremely complex and involves a number of logical operations, analysis of the law and facts of the case, which requires appeal to law recourse.

The first stage of mechanism of using analogy of right is to analyze the facts of the case and current legislation. Subject of law enforcement is necessary to clarify the nature of relationships and make sure that they really are not regulated by law. At this stage it is need to be addressed further research tasks.

The second stage performs analysis of legislation for the content of such civil law. That is an attempt to use the analogy of the law under which law enforcer proceeds to step search similar rules regulating similar relations. This step is crucial, because the analogy of the law shall be preferred application because, according to the provisions of Article 8 CC of Ukraine analogy of law applicable in the case of inability to use the analogy of the law the Supreme Economic Court confirms the present reasoning in his explanation from 07.04.2008. Thus, the enforcement authority must be satisfied that the analogy of the law in this case is impossible because of the lack of rules governing similar relationship.

The result of this stage is to use the analogy of the law on unregulated relationship or identify the inability to use the analogy of the law because of the lack of rules governing similar relationship. In the event that states the fact law enforcer inability analogy of the law, comes the third stage is the application of general principles of civil law. At this stage the court under the basic principles of civil law resolves issues that were resolved for enforcement. The final result of this stage is the publication and adjudication enforcement act that fixes it.

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CONCEPT AND NATURE OF CULTURAL PROPERTY IN CIVIL LEGISLATION OF UKRAINE

The relevance of the research of cultural values can be explained primarily by the fact that traditional cultural values is a matter of high public interest. They have attracted attention as a center of creativity of mankind, irreplaceable part of the material world, which lies at the heart of cultural diversity. Interest in issues of legal regulation of cultural values is explained by the specificity of these objects. On the one hand cultural values is a civil matter, which means the regulation of their civil rights on the basis of its inherent discretionary principle. On the other hand, the cultural values of the objects of protection from the state because of their this area of administrative law, with his characteristic imperative method. Thus, the regulation on civil law regime of cultural property in private law and order certain elements used along with the right public.

Besides it is important for the classification of things individually identified and generic. Cultural values are to be classified as individually defined things as they: a) are unique things (things, one of a kind); b) there are things that are different from the like on several grounds; c) things are isolated from the mass of similar things with them; d) often is real estate.

The most important of mentioned signs of cultural values is their uniqueness. Uniqueness may have different nature, in particular, it may be: 1) natural origin (individual specimens processed precious stones); 2) mediated by human activity (the famous work of fine art and 3) associated with any specific human factors (such as personal belongings of a famous person). Thus, the uniqueness can identify the cultural values of the totality of other things.

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LEGAL CONCEPT AND FEATURES OF LAND THAT POLLUTED HAZARDOUS SUBSTANCES AS AN OBJECT OF LEGAL PROTECTION

This article is devoted to study and research of definition conception and legal evidence of lands contaminated by hazardous substance. In this article consecrated problem of polluted lands of hazardous substances and the deterioration of their quality state that is a consequence of this action. The risk of contamination of lands is as follows: pollution of lands damaged not only externally, but also can cause damage to some components of the soil, which lands to deterioration of soil fertility and the normal functioning of the land.

Statement of a problem legal protection and prevention their pollution hazardous substances became very actuality. Especially it become exacerbated in that period, when on the grounds of scientific and technical progress to grow intensity use of lands. It is perceptible of negative ecology consequence of technological influence, which harms of lands resources and can be negative influence on life and health people. On the last time in Ukraine is observed of pollution lands hazardous substances. On while territory is spreading processes of degradation of lands, in particular of pollution lands of hazardous substances become 20 % of territory.

In accordance with article 5 of Land Code of Ukraine, economic and other activities, which bring of polluted to lands and soils high border concentration of a solution, is prohibited

In part 3 article 167 Land Code of Ukraine is settled restriction concerning of use land lot, which pollution hazardous substances and obligatory to execution demand is concerning to prevention hazardous of their influence.

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THE SIGNIFICANCE OF THE LEGAL SUPPORT OF RURAL GREEN TOURISM IN THE CONTEXT OF SUSTAINABLE RURAL DEVELOPMENT

The article describes rural tourism as one of the most optimal and feasible ways of rural development. Rural tourism is particularly important for the development and sustainability of depressed rural regions of Ukraine, especially those where it is irrational and impossible to develop agriculture and other sectors. Moreover, the state declares tourism to be one of the priorities of the development of the economy and culture.

The relevance of the legal support of the development of rural green tourism in Ukraine is caused by the urgent need to solve the existing problems of modern rural areas, sharp population decline, rising unemployment rate, and mass migration of rural people being major of them.

The article aims to substantiate the significance of the legal support of rural green tourism in the context of sustainable rural development.

As a result of the use of historical, dialectical, formal and logical, comparative and legal methods, as well as a method of analysis and synthesis, the history, current status and ways of regulation of rural tourism have been studied; special attention has been paid to international practice of the legal support of the development of rural tourism, which has strengthened claims that this activity can provide for economic and demographic sustainability in rural areas, contribute to solving social and economic problems of rural areas, and become a significant factor in rural perspective development; it has been found that the regulatory framework which is flawed and not fully formed is a major factor thwarting the development of rural green tourism in Ukraine. The author believes that the factors that impede the development of rural tourism can be divided into two groups: systemic factors typical of all rural regions of the state, and specific factors typical of a certain region. Therefore, the need to create a legal basis for rural tourism is obvious; urgent measures necessary to create this basis should be as follows: creation and improvement of the regulatory framework associated with overcoming the strain in agricultural sector; adoption of a specific Law directly relating to rural tourism; drafting and adoption of the Concept of the development of rural tourism in certain areas.

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THE FREEDOM TO CHOOSE COUNTERPARTY TO AN AGREEMENT UNDER LAND LAW

The article is devoted to the principle of freedom of agreement as one of the aspects of land law. The author highlights the freedom to choose counterparty to an agreement under land law as one of manifestations of the freedom of agreement in land law. The freedom to choose counterparty to an agreement represents a derivative from the presumption set out in Article 19 of the Constitution of Ukraine, according to which nobody may be forced to do something not provided by law.

In the scholar's opinion, limitation of the freedom to choose counterparty should mean legal framework within which a party must choose the other party to an agreement or refrain from choosing it. The author's stance on these matters is aimed, first of all, at reducing the instances of limiting the principle of freedom of agreement in land law. When studying the instances of limiting the principle of freedom of agreement, the author stresses that limitation of the principle of freedom to choose counterparty to an agreement under land law is found, first of all, in the instances of limiting such manifestation of the freedom of agreement as the freedom of expression of will to enter into a contractual relationship. In particular, the scholar includes to these instances: demands for special legal personality for land plot owners, sale of land plots on competitive basis, effect of the right to priority purchase of a land plot, requirements to counterparties in land mortgage sphere, etc.

The work also devotes substantial attention to resolution of legal collisions and problems arising from limiting the choice of counterparty to an agreement. When studying these collisions and problems, the author substantiates and recommends certain ways of solving them.

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ON THE ISSUE OF INVALIDITY OF JUDGMENTS IN THE CIVIL PROCEDURE OF UKRAINE

The article reveals the essence of the notion of validity of judgments in civil proceedings Ukraine. Determined its components, which are: a fully clarify the circumstances relevant to the case, a proof of the circumstances relevant to the case and the court's findings match the circumstances of the case.

Has been identified types of invalidity of judgments as the basis for their abolition on appeal. Describes each species separately, the analysis of ratio and differences between these types of groundlessness of judgments as incomplete clarification of the circumstances relevant to the case and the failure to prove the circumstances relevant to the case. Using examples the author demonstrates independence of such type grounds for cancellation of judgments as discrepancy court's findings circumstances of the case.

A clear understanding of the differences between the studied notions is essential not only theoretical but also practical importance given that, as an appellate court should act in case of such violations: change the decision of the trial court or to cancel it and make a new one.

The author proposes to correct to claim 1 Part 1 of Art. 309 of the CPC of Ukraine and shell it as follows: «Incomplete investigation of the circumstances relevant to the case», because specified error may occur not only due to the fault of the court. Of course, the subject of proof in case was formed by a judge, but he does so on the basis of evidence provided by the parties. By filing a claim and objection to this claim it is the parties begin to form the subject of evidence in the case.

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PROACTIVE ROLE OF THE CRIMINAL PROCEEDINGS PARTIES IN THE CONTENTIOSNESS ASPECT

The author has considered the implementing possibility of the proactive role of criminal proceedings by the parties in contentiousness aspect and analyzed scientific literature to the question. The scientific approaches to the treatment of procedural functions of the criminal proceedings parties are examined. The corresponding criminal procedural legislation is studied. The content of parties' functions of the criminal proceedings is considered taking into account the development of legislation. It is pointed up the lack of legislative recognition of the proactive role of the parties. It is proved that in order to prevent new crimes it is necessary to reconstruct the proactive activities of investigation and trial in the current Criminal Procedure Code. It is suggested to regard ascertainment of constituent elements of offence, which are understood as factual evidence of any criminal offense, as the content of proactive role of the parties. It is also proved that forensic examination may provide information to the court and the parties on the grounds of constituent elements of offence that is actively involved in the proactive role of procedural subjects.

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THE TERMINATION OF CRIMINAL PROCEEDINGS WITH RELEASE OF THE PERSON FROM CRIMINAL LIABILITY IN CONNECTION WITH SITUATION CHANGE

The urgency of a studied perspective is caused by that orientation of Ukraine to modern international legal standards of protection of the rights of the personality causes refusal of repressive reaction to a perfect crime. In relation to condemnation and punishment by institute release from criminal liability is alternative, a procedural which form of realization is the termination of criminal proceedings.

In the scientific article the author considers criminal and legal and criminal and procedural conditions of release of the person from criminal liability in connection with situation change. On the basis of the analysis of the current legislation the conclusion is drawn that the concept «situation change» is understood as two various bases of release from criminal liability: loss by act of public danger or loss of public danger by the person who has committed a crime. A valid conclusion that the prosecutor and court are obliged to establish a situation which was taking place at the moment of commission of crime and to compare it to that which develops during pre-judicial investigation or judicial consideration. Thus it is necessary to establish a direct connection between change of a situation and loss by act or the person who has committed a crime, public danger.

The author pays attention that release of the person from criminal liability in connection with change of a situation belongs to the discretionary bases of release from criminal liability that puts the decision on the termination of criminal proceedings in dependence on discretion of the prosecutor and court. Therefore in this case they, being guided by requirements of the law and the internal belief, should define existence of the corresponding positive changes of a situation, it is correct to estimate their current value and to predict future prospect.

LINK OF TIMES: CHAPTERS OF HISTORY

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APPLICATION OF THEORY OF LOBBYING IN RESEARCHES OF LEGAL STATUS OF ESTATE OF CITIZENS IN THE RUSSIAN EMPIRE IN THE SECOND HALF OF XIX – THE BEGINNING OF XX CENTURIES

In this article the author has proposed to introduce into the mythology of home historians of law the theory of lobby. For instance, for the studying of law status of noblemen, priesthood, city and village inhabitants in the Russian empire in the second half of the XIX– in the beginning of XX centuries. The purpose of this article is the determination of condition and description of the outlooks of using such approach. Thought the theme of history of lobby in Russia of that period isn't absolutely new in the politically – public sciences, Telkinena T.E. did not found similar researches made by law historians.

The author has shared her own experience of learning of the influence of noblemen, priesthood, city and village inhabitants on the legislative wording their law statuses during the named period of time like the part of the process of genesis of politically– law institution of lobby in the Russian empire. It is said that better not to use direct parallels with foreign experience of that times or measure Russian legally state reality of XIX century with modern standards.

Author not only expresses the conviction that using of lobby theory in the home historically – law science has good outlooks for the real infiltration of received results but also gives particular examples. In the article is especially accented that research of the lobby in the historically – law context will contribute to improvement of reputation of lobby in our society, which in its order can help the legalization of lobby in Ukraine.

Telkinena T.E. proposes to use creatively works of modern Russian and Ukrainian experts in the area of constitutional law, who touched the problem of history of lobby in the Russian empire and proceed. So, the author thinks that with the help of theory of lobby we can study state and legally life in the Russian empire, which will extend scopes of such studies, fill up the list of subjects and determine the circle of lobby objects, not only concentrating on the objects of economical lobby.

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LEGISLATIVE HISTORY REGULATION FREEDOM OF PEACEFUL ASSEMBLY IN THE RUSSIAN EMPIRE IN THE LATE NINETEENTH AND EARLY TWENTIETH SENTURIES

The article is devoted to the historical description of the legal regulation freedom of assembly in the Russian Empire in the late nineteenth and early twentieth centuries. Russian Empire in the late nineteenth – early twentieth senturie, was aimed at the comprehension and acceptance of democratic values, but in the process it was very difficult. Russian society shifted from a totalitarian state administrative mechanism of absolute monarchy to the legal forms of regulation of social activity. During this period, 1905-1907 years, and there are first legislation regulating the right to peaceful assembly. The period from 1905 to 1907 is known in history as the first Russian revolution. And so identified key prerequisites and conditions for such a process.

The analysis of the legislation adopted during the First Russian Revolution (1905-1907 years), namely Manifest of 17 October 1905, Name of the Supreme Decree Governing Senate, «About temporal rules against society and unions» on 4 March 1906, the Basic State Laws of the Russian Empire in amended 23 April 1906 and Cadet bill «On freedom of assembly» 1907.

Also, the author provided that the social tensions that caused the first Russian revolution was not fully resolved, which determined the conditions for further revolutionary action in 1917. Yet the legislation of the Russian Empire of the late nineteenth – early twentieth senturies, to regulate freedom of assembly, point towards the government's desire to take control of that right.

UKRAINE AND THE WORLD

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INTERNATIONAL LEGAL FRAMEWORK ACTIVITIES OF UKRAINIAN BAR

During the years of independence of Ukraine were carried out major changes in the internal and foreign policy of modern Ukrainian state on the basis of features legal traditions of the Ukrainian society, as well as the international legal standards aimed at the democratization of public life. Actual implementation of this strategy is shown in the field of implementation and protection of the rights and freedoms of man and citizen, is caused by the developed legal framework and efficient operation of all public and non-governmental human rights institutions. This in turn ensures the effective functioning of civil society, which is based on well-coordinated work of the human rights system.

Ukraine has received the status of an observer in the Council of the Bar and Law Societies of Europe and is represented by the Union of Lawyers Ukraine. According to the Charter, the main the aim of the Council is to present

Lawyers and Law Societies before the collective subject (ie. e. the European Union, European Economic Area and the Swiss Confederation), or associated or observer members on all matters of mutual interest relating to implementation of the legal profession, improvement of legislation and practices for the implementation of the rule of law and the administration of justice (art. 1). In this regard, he is the official representative of lawyers and law societies, which are about one million. European Lawyers. Thus, in modern conditions by adopting a number of legal acts, in particular the Law "On Advocacy and Legal Practice" and the law "On free legal assistance" developed the basic principles and norms that shape international legal principles and standards in the field of human rights and freedoms of man and citizen in Ukraine.

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GENESIS OF VIEWS ON THE ENVIRONMENT AND ITS PROTECTION IN INTERNATIONAL DOCUMENTS

In all mentioned documents are talking about the environment as a whole and its individual components. The Stockholm Declaration states that the environment provides the physical existence of man and gives him the opportunity for intellectual, moral, social and spiritual development. Ii is indicated that both aspects of the human environment, both natural and manmade, are crucial to their well-being.

Worldwide Charter of Nature provides that civilization is rooted in nature, which left its mark on human culture and influenced all works of art and scientific achievements. For the first time focused on the importance of civilizational mean of environment.

The Rio Declaration and the Declaration of Rio +20 fix simple and obvious position that the Earth and its ecosystems is our home. It does not pretend to any original discovery, but it is a fact conscious planetary community.

No less interesting is to see how varied views on the place and role of human in the environment. Of course, such a short historical period is estimated, it is impossible to imagine any fundamental conclusions. Still, some patterns in the transformation of views on human nature and society can be traced.

However, it must be noted that the list of problems in the environment with every decade is not decreasing but increasing. But over time and expands the arsenal of means and ways to deal with them, in particular the principle of sustainable development. This principle was formulated and accepted by the international community with optimism as a conceptual approach to the railing of the environment from harmful effects.

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SCANDINAVIAN EXPERIENCE IN FIGHTING CORRUPTION THE EXAMPLE OF SWEDEN, FINLAND

At present the problem of corruption is one of the pressing issues that are relevant not only for Ukraine but also for most countries. Among the large number of research the most complete information about the state of corruption in the world and detect corruption factors provided an international organization "Transparency International".

The article considers the positive factors to combat corruption in the example of Sweden and Finland, which have the reputation of the lowest levels of corruption in the world. In most developed countries, such as Sweden and Finland, which have a mature civil society, a high level of democracy and transparent actions of governmental authorities, corruption is minimal.

Based on the analysis of international experience have made suggestions and recommendations on combating corruption in Ukraine. In the study of positive experiences were taken into account not only the urgent global practice, but also country-specific factors: local laws, mentality, values.

We believe that victory over corruption will be provided by common action, to use military terminology on three fronts: most states, civil society and the international community as a whole. The basis of this victory can be considered three bases that form the anti-corruption strategy:

1. Strong political will and leadership of a unified state policy of confrontation corruption.

2. Direct social control by the civil society for the entire system of public administration.

3. Strict accountability of persons having authority before truly independent body with, in turn, powers to bring these people to justice, regardless of the height of their social status.

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EU CUSTOMS CODE IS THE BASIS PROCEDURES OF EU CUSTOMS REGULATIONS

Community is based upon a customs union. It is therefore recommended, in the interests of both businesses and customs authorities of the Community to include acts of the customs legislation in force in the Community Customs Code (hereinafter – the Code). Based on the concept of the internal market, the Code should contain the general rules and procedures that provide tariff and other common policy measures introduced at Community level in relation to trade in goods between the Community and territories outward Community, taking into account the requirements of common policies. Customs legislation should be to a greater extent comply with the provisions relating to recovery of tax upon import without changing the scope of the provisions of the existing legal acts on taxation.

According to the Commission Communication on the protection of the financial interests of the Community and the Action Plan for 2004-2005, it is reasonable adaptation of the legal framework to protect the financial interests of the Community.

Facilitation of legitimate trade and the fight against fraud require simple, rapid and standard customs procedures and processes. Thus, it is reasonable, in accordance with the Commission Communication on a simple and paperless environment for customs and trade, to simplify customs legislation to allow the use of modern tools and technologies and to promote the uniform application of customs legislation and modernized approach to customs control, helping thus provide a basis for efficient and simple customs clearance procedures. Customs procedures should be merged or aligned, and their number should be reduced to one that is feasible, given the increasing competition in the business.

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PRINCIPLE ACQUIS COMMUNAUTAIRE: FORMATION AND VALUE FOR PREPARATION OF AUSTRIA REPUBLIC TO THE EUROPEAN UNION

The accession of new countries to the European Union takes place in accordance with the principle of the so-called acquis communautaire. This term has no single definition, and provides generally recognizing the legal, political and economic structure of the Union as givens («acquis»), which should take no discussion of any country seeking to join the EU. The purpose of this principle is to support the foundations of the European Union, and protection from possible blurring due to non-recognition of these new member states.

Study of the principle of acquis communautaire on the example of Austria Republic during the renovation process of Ukraine's integration into the European Union is very important due to the fact that the European direction of domestic and foreign policy of Ukraine is a priority.

With further EU enlargement supplement happened principle acquis communautaire, which is not limited to legal and political spheres. During the second enlargement (which included Greece, Portugal and Spain), the principle has received new economic connotation. Accession to EU countries of Southern Europe dictated mainly by economic and political factors, as well as the necessity of consolidation of democracy in countries that have recently been authoritarian, and therefore a threat to the unity of the Communities came from the problems of new states.

It should be noted specific feature of the European legal order, resulting from the studied judgments, that State's accession to the EU means that it is your own, without waiting for instructions from the central Communities to monitor the maintenance of on-site acquis communautaire.

The principle of acquis communautaire finds current consolidation in the Maastricht Treaty. In particular, Article V of the Treaty (in redaction 1992) cemented as one of the objectives of the European Union maintain acquis communautaire. The article included the existence of a single C infrastructure Union which was to provide activities to achieve a common goal of supporting the principle of acquis communautaire.

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NOTION AND KINDS OF PROVISIONAL MEASURES IN INTERNATIONAL COMMERCIAL ARBITRATION

The aim of the paper is to research approaches to the definition of "provisional measures" and criteria used by scientists to separate different types of provisional measures in international commercial arbitration.

The author notes that in the scientific literature there is no substantive definition of "provisional measure" relating to international commercial arbitration. Definitions that are cited in the article (defining provisional measures of protection through the notions of claims or property interests of the parties to an arbitration agreement) are based on a list of security measures provided in the UNCITRAL Model Law. There is also the problem of the terminological distinction between "provisional measures", "interim measures of protection", "conservatory measures", "preliminary measures", that, according to the researchers, could be solved in different ways (by synonymic use of these terms or their differentiation).

The scientists delineate the kinds of provisional measures in international commercial arbitration by a number of criteria, mainly, depending on the purpose of the application for provisional measures and the subject of the dispute.

Despite the presence of variants for dividing of provisional measures into two, three or four groups the author notes that the differentiation of the two main types of provisional measures (those aimed at preserving the status quo between the parties and those which purpose is to ensure the future performance of an arbitral award).

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LEGAL REGULATION OF PHYTOSANITARY CONTROL IN UKRAINE ACCORDING TO NORMS OF WTO

The article deals with the theoretical research of the organizational and legal enforcement of the sanitary and phytosanitary measures in Ukraine according to the requirements of World Trade Organization. The analysis of legal literature on research of the definition of ecological safety of agricultural products are developed. The organizational legal enforcement mechanism Ukraine's obligations of the quality and safety of agricultural products are presented.

Environmental safety protection of agricultural products is one of the important areas to environmental safety protection of Ukraine and the factors that determine the health of the Ukrainian nation. Constitutionalization of law of citizens to environmental safety and recognition of environmental safety is a priority principle of State Policy of Ukraine, an important element and an integral part of national security problems are updated legislative enforcement Ukraine's obligations to agricultural products quality and safety.

Agriculture development prospects in Ukraine need to identify three main consequences: to increase volume production of agriproduct quality; to up-grade agricultural productivity; to improve agrarian external relations. It is necessary further development of technical, sanitary, phytosanitary , environmental standards and increasing control over their observance, both importers and domestic producers.

One of the line of development of organizational legal supply with phytosanitary measures in Ukraine is to provide quality, competitiveness and environmental safety of agricultural crop production through: the development of organic agriculture, increased state control over the use of agro-chemicals, limiting the use of genetically modified organisms, public support the production of environmentally clean and safe agricultural products, harmonization of national quality standards with international crop production.

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CLOSED COURT CACES REVIEW IN CIVIL PROCEEDINGS: PRACTICE OF EUROPEAN COURT

The paper given by the problem of variuos meanings of main right to public hearings in court. The main international instruments of human rights and freedoms has reinforced defining rights and freedoms, including the requirements of a fair and public hearings of cases. The meaning of "public hearings" is revealed in the judgments of the European Court of Human Rights. Differences in the definition of the basic requirements for adjudication by national legislation often becomes the subject of the appeal court decisions to the EU. In particular, it is a limitation of the principle of publicity of the trial and an hearings “in camera”. The purpose and reason for hearings “in camera” clearly enshrined in legislation, but the question of procedure of trial “in camera”, requires improvement. Thus, the article analyzes the EU’s decision in the case of Nikolova and Vandova v. Bulgaria in which the court found a violation of § 1 of Part 6 of the Convention an hearings “in camera” because court decision by the mere addition to the file of classified documents. It did not seek to ascertain whether those documents were related to the subject-matter of the proceedings or if their presence was indispensable; nor did it envisage taking measures to limit the effects of the lack of publicity. The author argues the thesis that this decision is important for improvement of the procedures for hearings “in camera”. It is proposed to decide on hearings “in camera” based on the appropriate paper and participation of persons involved in the case, according to their opinion, finding out whether there are grounds in this case for restricting the right to a public hearing or may be considered without such disclosure without limited the public hearings, not only marked the availability of documents in the case. Also, the author provided the necessary recommendations to improve this practice of EC in current ligislation.

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AGREEMENTS IN CRIMINAL PROCEDURE OF UKRAINE AND THE UNITED STATES OF AMERICA

The article deals with the analysis of amicable agreements in the USA and Ukraine criminal proceedings and the necessity of implementation of foreign extensive experience that has proved its effectiveness into Ukrainian legislation.

The article is researching historical backgrounds of settlement agreements institute and advantages of summary proceeding. For instance, the majority of criminal proceedings in well-developed countries are held in the order of amicable agreements conclusion.

Furthermore, the author pays attention to the fact, that criminal proceedings, based on agreements, answer the main objectives of criminal procedure, for example: the protection of rights, freedoms and legitimate interests of participants in criminal proceedings, as well as the insurance of quick, comprehensive and impartial investigation and trial in order that everyone who committed a criminal offense were prosecuted in proportion to his guilt. Also, the institute of agreements in criminal proceeding gives an opportunity to economize on expenses and unload the work of judges. In the same time, the article points out the problems, arising in connection with the implementation of this special procedure in the Ukrainian legal system.

The author compares the main provisions of criminal legislation of both countries and explores two types of agreements in Ukraine, in particular, reconciliation agreement between the victim and the suspect or the accused, plea agreement between the public prosecutor and the suspect or the accused about pleading guilty.

In conclusion, the author also pays attention that the process of criminal legislation reform is extremely important and proofs the necessity of implementation of foreign experience, considering all disadvantages of each implemented institute. Moreover, foreign legislation may be duly adapted to the Ukrainian legal system.

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THE NATURE OF THE EUROPEAN COURT OF HUMAN RIGHTS PRACTICE AS THE LEGAL SOURCES OF THE ADMINISTRATIVE PROCEDURAL LAW

The paper is given by the problem of application of ECHR judgments as the legal sources in the Ukrainian law. There are various notions to indicate their role in the national legal system. Considering its affiliation with civilian law system such judgments cannot play the same role as the court decisions for instance in the USA. Nevertheless, the ECHR practice is a kind of legal recommendation which is desirable to be applied by the Ukrainian courts.

The next thing to point out is the legislative provisions stipulated the role of the ECHR practice in administrative procedural law. It needs to be revised in order to avoid the technical legal collision in the mentioned article in the Code on the administrative procedure of Ukraine.

As it was mentioned herein the ECHR judgments are to be persuasive precedents the national legal system. But Ukrainian administrative courts have been guided by the normative provisions only since the Soviet judicial practice. The application of persuasive precedents hasn't become accustomed judiciary practice yet. Besides, there is a bundle of problems based on the provision of Ukrainian courts with the official translation of the ECHR judgments ruled in the cases against other countries-participants of Convention. The judges tend to interpret such judgments in multiplied way. Such pattern is becoming a common thing, in particular in tax disputes.

Despite the existence of contradiction in the interpretation of the ECHR practice and probable judicial difficulties its practicability is evident. It is necessary attribute in order to remove the legislative collisions and gaps and improve law enforcement practice in the Ukrainian courts.

CRITIQUE AND BIBLIOGRAPHY

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DIALOG TRAINING MANUAL OF PHILOSOPHY OF LAW

Modern law and system of training legal profile can not develop without the conceptual and instrumental reason that determined the philosophy of law. Not accidental, not only the intensification of the development of philosophical and legal knowledge, but also their increasing use in legal education. Indicative is omni directional research in the philosophy of law – a vivid example of this is the publication of „Philosophy of Law of the Pentateuch", edited by A.A. Huseynov and E.B. Rozhkovsky (Collection of articles – M: Lum, 2012. – 576 p.) And, in turn, the search for new forms and methods of teaching of the discipline „philosophy of law" where you can select a tutorial PM Rabinovich in five parts, the first two of which – „Philosophy of law as a science" and „epistemology of law" – was published in 2014.

Despite the fact that in the title of the first section of the training manual PM Rabinovich declared legal philosophy as a science, the author departs from the characteristic of the jurisprudence of presentation. In fact, the presentation of case studies used by personalist different positions of modern scholars, which is more characteristic of a philosophical discourse analysts doctrines of law and state. Characteristically, in the introduction PM Rabinovitch says that is not so much benefit as a mini-anthology. In general, this textbook author's design creates the foundation for the ongoing dialogue of the author and presented in the manual reviews of contemporary philosophers of law in Ukraine and abroad with anyone who will appeal to the material of the textbook.

SCIENTIFIC LIFE

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ANNUAL INTERNATIONAL SCIENTIFIC AND PRACTICAL FORUM ON LEGAL SUPPORT EFFECTIVE EXECUTION OF DECISIONS AND PRACTICES EUROPEAN COURT OF HUMAN RIGHTS

Formation of the Odessa school of international law is important not only for the south of Ukraine. She, along with other schools international law is the theoretical basis, the foundation of Ukraine's foreign policy, aimed at developing and strengthening the international legal personality of our country. That is why the president of the National University «Odessa Law Academy» Academician SV Kivalov pays great attention to the development of the science of international law and has formed a team of dedicated international law scholars, who have every right to be called «Odessa school of international law.»

One of the key areas of the Odessa school of international law are research in the field of international law of human rights, in particular by scientists of the Department of International Law and International Relations, and the Department of European Union Law and Comparative Law of the University as part of the research work on the theme «Science and legislative support for the effective execution of court decisions and the application of the European Court of Human Rights «(GRN 0112U000694), set up a research center (Centre website – http://rcechr.onua.edu.ua), which implements the second year plan for scientific research activities (workshops, conferences and round tables), the focus of which - the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the European Court of Human Rights, the response of European states to the Convention and the Court's decision.

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IX INTERNATIONAL CONFERENCE STUDENTS AND YOUNG SCIENTISTS „MODERN CIVIL LAW"

March 28, 2014 at the National University „Odessa Law Academy" held IX International Conference of Students and Young Scientists „Modern civil law". The conference was attended by scientists, graduate students and students of leading higher legal educational institutions of Ukraine and Russia. The conference was opened by President of National University „Odessa Law Academy", Academician NAPrN Ukraine, Doctor of Law, Professor S. Kivalov, who noted that the scientific and practical value of this conference.

National University „Odessa Law Academy" pays great attention to the development of abilities of students and graduate students from the first years of training under the guidance of experienced scientists have the opportunity to try their hand at tsivilisticheskoy field of legal science. In turn, participation in conferences lawyers Edition allows for practical verification of theoretical achievements, laying the foundation for further scientific research.

Vice-Rector, corresponding member NAPrN Ukraine, Professor V. Dryomin noted the importance of holding such conferences. It is a good tradition for students and beginners lawyers who can apply their skills and speaking skills during the discussion of topical issues and civil, commercial, land and agrarian law.