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THEORY AND HISTORY OF STATE AND LAW; PHILOSOPHY OF LAW

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PHILOSOPHICAL INTERPRETATION OF LEGAL CULTURE

Legal culture from the perspective of philosophical approach is presented as a kind of perfect sphere, as a model that combines all the positive things that benefit the legal development of the society. Moreover, it is important to emphasize that from the perspective of representatives of the philosophical approach to legal culture, it appears as a phenomenon that is much broader than law.

In general, philosophical approach to legal culture has a number of undoubted positive traits. First of all, it directly connects the legal culture with the general context of culture, thus including the whole legal sphere into the system of values developed and transmitted by community. In this case, an indication of the normative legal culture where it must meet some criteria (these can be the ideas of freedom, human rights, justice, or collectivism, traditionalism, security, etc.) should be associated rather with the desire of representatives of this approach to mark some baselines, dotted lines, focusing on which the post-Soviet transitional society will be able to find its way to the law. At the same time, the isolation of the legal culture from the real law, its closeness in itself, appeal to the proper without regard to being, as well as a certain degree of Eurocentrism and subject-centrism show key deficiencies of philosophical approach. Legal culture, instead of being seen as the core of modern law, its spiritual center, becomes only a set of truths that are too abstract to claim to be a reality.

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POSITIVES AND NEGATIVES OF THE INFORMATION SOCIETY: A VIEW FROM THE STANDPOINT OF PHILOSOPHY

The article highlighted the positive aspects of the information society. They are: free access to all information that is not public or other secret, the possibility of free communication between people from different countries in real time, change of forms of work, the possibility of self-realization. Information society gave mankind a new world with a wide range of activities and opportunities, whereby man got the ability to lead an active life, without leaving computer (phone).

However, the information society has some inherent disadvantages. Technological advances gave mankind not only physical diseases (obesity, less physical activity), but also mental ones. Another problem of the information society is a glut of information. A significant problem for society creates and misinformation which a person inevitably faces and in ignorance uses unverified information, which may carry a significant risk to health and even life.

However, it is necessary to stipulate that legal regulation of proper information and other relationships that arise, change and terminate in the information society, can not solve these problems, but at least can mitigate the negative impacts of the information society. The leading role in this regulation should play information law that will provide specialized regulation of information relations.

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MEDIA CULTURE AND LAW: LIMITS AND ASPECTS OF INTERACTION

The article is devoted to research of the aspects of interaction of such complex phenomena of modern society as media culture and law. Author refers to the study of forms and limits of mutual influence of mentioned phenomena based on analysis of their components. Referring to exploration of the phenomenon of media culture, the author pays special attention to the study of the definition characterizing those facts. Comparison of different points of view on this subject suggests that media culture can be represented as a special type of culture of information society, as part of general culture, covering books, newspapers, magazines, films and television, radio and Internet resources.

The attention is paid to research of media culture as information and social space, which is constantly expanding and growing thanks to the Internet. The above is confirmed by such terms as "social networks", "information society" and others. Media culture is an occurrence of modern cultural theory, introduced to identify the specific type of cultural information society. At the same time it is indicated that components that make up media culture are rather vague and uncertain and require investigation.

This article is devoted to detailed analysis of the interaction of media culture and law. The author emphasizes that law as well as culture is a product of human activity, which aims to streamline relations in society. The interaction of the aforementioned phenomena is caused by the determination of rules of conduct in society based on law, the formation of which is undergoing significant impact of media culture. The above is confirmed by the fact that each historical period, characterized by peculiar culture, has its inherent characteristics of law.

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LAWFUL HUMAN ACTIVITY

One of the important features of the modern stage of the society development is the growth of the social human activity. Man actively comes in contact with the outside world: he analyzes the surrounding reality, recognizes the moral and legal rules of behaviour, social and cultural values formed in this society. Knowing the laws of social development man influences the surrounding reality. Society and man are interdependent phenomena that exist only in the inseparable unity.

Human behavior is a form of manifestation of man's activity. Moral values are embodied in human activity; they define the character of human behaviour. Real actions can have a positive and a negative goal, socially useful and asocial direction.

People needs enforce to real activity. Before becoming a motivating force of the activity an objective need must pass through the human consciousness; appear in it; and there should be the process of awareness.

Social and lawful activity of man is not an innate ability, a peculiarity; it is an individual, specific feature of each person, an impact of the social life.

Social and lawful activity is a creative, harmonious and sublime attitude of man to his rights and obligations. It is the antithesis of the passive, indifferent attitude to the interests of the society. Moral, ethical norms stimulate social and legitimate human activity. At the same time providing material, political, spiritual and objective conditions for the social human activity today there is a task of forming such internal settings of the person that lead to his/her perception of the interests of the society as own, to real activity aimed at achieving both personal and public goals which will contribute to natural and legal harmonization of the society.

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SOME AXIOLOGICAL ASPECTS OF THE FUNCTUIONS OF CRIMINAL LIABILITY

The axiological ground of the concept of criminal liability or its functions is relevant, because, in fact, the juristically positivistic doctrine keeps dominating (it is one of the manifestations of the value crisis). Though the positivistic jurisprudence hides behind the formal equality (e.g. in court), equal accessibility to qualified legal assistance, etc., it is focused on the empirical values, the recognition of any success, even if it is unjust, if there is no formal conflict with legal regulations. This pragmatic, value-neutral or even nihilistic jurisprudence represents law as the special legal instrument designed to service the political ambitions, business, but it deletes law as the high spiritual phenomenon that brings timeless, universal principles.

In order to reveal the axiological aspects of the functions of criminal liability, it is necessary to clarify the value content of the functions of legal liability.

Legal liability is revealed due to its functions, through its social purpose and goal. That is, the functions of legal liability are determined by its aim, purpose, the objective regularities of social development, the processes of state building and law-making. Each function of legal liability corresponds to a certain goal, which is set by a state; in this case legal liability is one of the means to achieve it.

Characterizing the axiological aspects of the functions of criminal liability, it is necessary to resume that criminal liability is central to the kinds of legal liability system and it aims at ensuring law and order in society and at using measures of negative and compulsory nature to persons – members of society who have committed crimes. This is the first point. Secondly, the criminal liability has the state and power value, which describes it as being derived from a state, represented and by its authorities, which have the empowerments fixed in the law. Thirdly, the criminal liability has punishing value, as it allows, with the help of penalties, to correct and prevent further commissions of offenses by persons who committed them in the past.

Fourthly, the criminal liability has the restoring value which identifies it as the mean to restore the violated rights of victims of crime.

In general, the axiology in criminal law is intended to determine the ideal values of criminal law, on the one hand, and to ascertain the real social values of the criminal law – on the other. This approach will improve the criminal law and make it more effective, more "working" and the most relevant.

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ANALYSIS OF THE POLITICAL AND LEGAL DOCTRINES IN THE ANCIENT EAST

The purpose of this paper is to analyze the political and legal doctrines of the Ancient East, as well as define the theoretical value of these doctrines in the development of legal education. It was determined that the state legal thought in China appeared in the period of Shang-Yin civilization, which was formed in the valley of the River Huang He in the fourteenth and thirteenth centuries BC. It is established that the ethical and political tenets of Confucianism and political and legal concept of Legalism formed a traditional Chinese thinking, laid the foundations of the mechanism for law enforcement. The common feature of these two schools was their political orientation – the desire to organize life in Chinese society on "rational", "fair" basis. However, understanding of these principles was different. The author emphasizes that thinking about the natural origin of law was at first found in Taoism – the philosophical doctrine of the universe and of human society. Already in ancient China, we see a clear orientation of legal consciousness and political culture towards the norms of natural law (Book of Documents (Shujing)) – the idea, which only germinated in ancient Egypt. Basic principles of natural law as natural human equality, the right to exercise the needs in freedom were embodied in the teachings of Zoroaster, Buddhists, Taoists.

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CONCEPTS AND APPROACHES TO CLASSIFICATION OF PRESUMPTIONS

The article aims to research the variety of approaches to the classification of legal presumptions. The author analyzed the classification of presumptions. The author paid attention to the flaws and positive aspects of the proposed classification and value of such a classification of presumptions for legal science and practice. Background of the research is the presumption that a specific legal form is not only inherent in the legislation of Ukraine, but also in other legal systems of today. In recent decades, interest of legislators in the legislative instrument is steadily increasing. Presumption can increasingly be found in civil, tax, administrative, criminal, civil procedural law and other areas of law.

Also conclusions are made that the basis for the classification should be an essential feature that is crucial for a given group of facts, phenomena so that it affects and defines all other features of this group of facts, phenomena. These signs for classification, which determine the nature of the phenomena studied are consolidation of presumptions in the law, or their property of being a natural logical consequence of the law, or have quality of disputability to contain final conclusions, be a basis for resolution of the case essentially or regulate the use of the law. These most essential features of the classification ensure the stability of place for every presumption and determine all the other features. Irregular reasons are not classification in its scientific sense, but are the bases of the division, which is essential for any practical purpose. Therefore, we believe that the emergence of new classifications of presumptions may lead to more complicated understanding of the nature of this phenomenon and its use in legal practice.

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GENESIS OF NATURE OF LEGAL CONDUCT AND PROPOSALS FOR THE CONCEPT

The article is devoted to theoretical legal analysis of the genesis of understanding the concept of legal conduct, which is proposed to be subdivided into two areas: primary-historical and modern. The essential features of understanding the concept of legal conduct before and during Ukraine's independence are studied. Using the method of comparative review we compared works of modern Ukrainian and Russian scholars in the context of understanding this category. Author's concept of legal conduct is provided.

After analyzing the literature, we identified two main areas of understanding legal conduct. The first is primary-historical trend that characterizes scientific doctrine on the definition of legal conduct before Ukraine became independent. The representatives of this trend support the regulative concept of legal thinking, which defines the legal conduct as behavior regulated by means of the rule of law. The second is a modern trend in understanding of legal behavior, covering modern scientific approaches of Ukrainian and Russian scholars. We used the method of comparative studies and concluded that the concept of legal conduct has not significantly changed: since the first attempts to interpret it, scholars only improved this category and enriched it with important characteristics.

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HISTORICAL ASPECT OF DEVELOPMENT OF THE INSTITUTE OF MEDIATION AND CURRENT TRENDS OF ITS DEVELOPMENT

The article examines mediation as one of the alternative methods of solving legal conflicts. The historical aspect of the emergence of the institute of mediation is analyzed. In general, the conciliation proceedings, which include mediation, have gone through long evolution and were applied differently in different historical circumstances and regarding different people. History of conflict resolution is a history of changing of its three main forms: violent (anti-legal), judicial (through coercive restoration of violated right in court), and conciliation.

In the history of Ukraine it is also possible to identify trends related to non-judicial means of dispute resolution. Thus, in Zaporizhian Sich important gatherings, including the ones of the military council took place in a circle. Discussions of the circle continued until the community came to a consensus acceptable to all its members. In XV-XVI centuries in Ruthenian Voivodeship existed common procedures of "amicable reconciliation" with the umpire, who used to resolve conflicts between nobles.

It was determined that in its modern sense mediation began to develop in the second half of the twentieth century. Especially in countries of Anglo-American legal system – USA, Australia, UK, and later it gradually began to spread to other countries.

There are new models of effective mediation.

Now the terms of the settlement of the dispute are based on the interests of the parties. Most researchers and lawyers believe that the purpose of the conciliation procedure is not justice or material truth, but the feasibility, benefits for the parties to the dispute.

Modern mediation is a structured process that has certain rules. Mediation is a procedure where a mediator who does not have the authority of the judiciary, facilitates interaction between the parties to the conflict in order to create conditions for the parties to solve their conflict.

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THE POSITION OF THE CATHOLIC CHURCH ON BIOETHICAL PROBLEMS OF ABORTION AND EUTHANASIA: PHILOSOPHICAL AND LEGAL THINKING

The Catholic Church closely monitors all processes and scientific discoveries in modern medicine. The result of such researches is a large number of documents, reports, books and articles that represent the official position of the Church on issues that are at the intersection of science and morality, namely bioethical issues. Bioethics concerns important anthropological issues and values and is the subject of special attention of the Catholic Church.

Catholics defines human life as the highest social value, and therefore it must be properly protected by state mechanism. Human life as the highest priority should be guaranteed by positive law, regardless of person being born or unborn, sick or healthy, socially active or one that needs to be protected by the state.

Secularization, which finds frequent expression in recent years resulting in loss of understanding of the value of human life, leads to the legalization of abortion and euthanasia, which is contrary to morals. Now there is an obvious need in monitoring of all processes in modern medicine by the Catholic Church, because the latest scientific developments in this area are often close to the edge of acceptable and ethical. Any interference into the natural processes of the human body according to the Church must first of all be guided by respect for human life and dignity.

The Catholic Church protects the life and dignity, regardless of their health condition, age or stage of development.

The article deals with official documents of Church on bioethical issues of abortion and euthanasia highlighting its strong position which completely rejects the possibility of their implementation.

I. Mokin

FEATURES OF NEGATIVE SIDE OF LEGAL LIFE IN UKRAINE IN TIMES OF REVOLUTION OF 1917-1921

Ukrainian society and its public and legal institutions are in the state of transition from post-totalitarianism to democracy with a market economy and rule of law. There is a grounded parallel between the Revolution of Dignity and War for Independence of 2013-2014 and political and legal situation in Ukraine of 1917-1921. In order to prevent repetition of negative outcome as a hundred years ago, it is necessary to adequately analyze historical events.

During the revolutionary process of 1917-1918 except for crimes against persons and property, the most common type of offense was desertion, which in most cases was almost unpunished according to criminal law. Deserters were given a chance to atone at the front line. In many cases, they created regiments on their own in places of concourse with the purpose not to move to the front. Deserters could not be the driving force of the revolution, as it was quite clearly showed by regiment named after Polubotok.

Bolshevik terror against property classes with social and political slogans was actually nothing more than rampant of uncontrolled crime, sanctioned by authorities. During the Bolshevik terror in January-March 1918 in Ukraine the concept of the rule of law was almost gone. This period was characterized by the maximum number of crimes against persons and property.

The counter-revolution in Ukraine was “brought on German bayonets” and caused a widespread attempt to bring order and restore legality in the country by the German and Austro-Hungarian military law, drumhead courts-martial and non-judicial punishment in the form of contributions.

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LEGAL REGULATION OF SANATORIUM AND SPA TREATMENT IN THE USSR IN THE 1920S

The article deals with the legal framework of spa facilities in the provision of medical care in USSR in the 1920s. The author argues that sanatorium and spa treatment was an integral part of the health care system. To ensure public health care by the state, all sanatoriums and resorts were nationalized. In addition to medical condition, a prerequisite for referral to the aforementioned facilities was passing social selection, carried out by insurance agencies and unions, which ensured Bolshevik class approach to medical care.

The difficult financial situation of the state in the transition to market principles in the economy has forced state and party leadership to decide on creation of sanatorium and spa facilities funded by insurance agencies and unions. Closing up of new economic policy negatively influenced sanatorium campaigns during the showed activation of social insurance in this area. However, the reduction in funding due to the rising budget deficit and social insurance due to a lack of centralized distribution of insurance funds led to the failure of tasks implementation and adversely affected the quality of service.

With the phasing out of the new economic policy enhanced class positions in sanatorium and spa industry, which resulted in the establishment of standards of care for different social groups and provision of benefits to insured industrial areas. Due to the increasing number of industrial proletariat in the modernization of the economy, the authorities had taken a course to expand the simpler and less costly forms of mass prophylaxis and participation in the distribution of costs.

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LAW INTERPRETATION BY COURTS OF SPECIAL JURISDICTION AS A FORM OF SYSTEMATIZATION OF UKRAINIAN LAW

Interpretation is clarification of the content of regulation that comes from certain individuals and agencies and has auxiliary adaptive value for the appropriate use of standards in specific situations.

The types of interpretation in this context are formal and informal interpretation. They vary according to four criteria: 1) by the subjects of interpretation; 2) by legally binding effect for executors; 3) by the form of expression of interpretation; 4) by the elements of legal regulation of limits and procedures of execution.

The official interpretation of the Constitution and laws of Ukraine by the Constitutional Court of Ukraine can be viewed in two ways: as activities for clarification and official interpretation of the Constitution and laws of Ukraine to overcome the ambiguity of their understanding; as a result of these activities, i.e. acts of official interpretation.

The official interpretation of the Constitution and laws of Ukraine by the Constitutional Court of Ukraine is carried out within the statutory procedures and on the basis of known scientific techniques and methods.

The official interpretation might be regulative and casual.

Regulative interpretation is provided by authorities and specially authorized officials; it is applied to all cases stipulated by regulation; it is referred to when there is a need for additional clarification of the rule issued earlier or its separate provisions; these explanations are certainly required in the application of law and are enforceable.

In the legal system of modern Ukraine there are three types of regulative interpretation: constitutional, legal and authentic.

CONSTITUTIONAL AND MUNICIPAL LAW

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STAROSTA AS A NEW ORGANIZATIONAL FORM OF LOCAL SELF-GOVERNMENT AND ITS PARTICIPATION IN THE IMPLEMENTATION OF SOCIAL FUNCTION

The article exposes an old municipal legal institute of starosta, who has to represent the interests of the inhabitants of the areas formed by united local communities and geographically remote from the representative body of local self-government.

Starosta will appropriately represent their interests in the relevant bodies to convey to the head, the executive committee of MPs about pressing social needs and will monitor the implementation of the decisions taken in the interests of the community and bring them to the attention of people. Thus, starosta will not only represent the interests of the inhabitants of the settlement in the executive council of the community, but also will provide residents with intermediary administrative services of executive council of the community, will promote intensification of activities aimed at implementing social function.

The author believes that it is necessary to legally consolidate powers of starosta to monitor the observance of the rights and legitimate interests of the inhabitants of unit in the field of environmental protection, law enforcement, social protection, in the field of housing, municipal services, in the area of the right to work, the right to health care and other areas.

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FEATURES OF PROTECTION OF HUMAN AND CIVIL RIGHTS BY THE BODIES OF CONSTITUTIONAL JUSTICE IN UKRAINE AND THE REPUBLIC OF POLAND

This article explores the legal regulation of constitutional rights and freedoms of man and the citizen by the bodies of constitutional justice in Ukraine and the Republic of Poland. The features of the implementation of policy of the Constitutional Court of Ukraine and the Constitutional Tribunal of Poland aimed at protecting and ensuring the rights and freedoms of man and the citizen are defined.

It is noted that the Constitutional Court of Ukraine and the Constitutional Tribunal of Poland play important role in the mechanism of human and civil rights protection in these countries.

It is defined that the Constitutional Court of Ukraine and the Constitutional Tribunal protect directly or indirectly the constitutional human and civil rights. However, the possibilities of Constitutional Court of Ukraine in this sphere are quite limited, as the legislation sets high standards concerning the grounds and procedure of constitutional appeal to the body of constitutional justice.

The solution to this problem is the introduction of the constitutional complaint institute in Ukraine to be an effective measure ensuring the rights and freedoms of individuals and legal persons.

It is indicated that the experience of the constitutional complaint functioning in the Republic of Poland can be useful both in the overall process of amending the constitutional law of Ukraine for introduction of a constitutional complaint, and in the subsequent practice of the Constitutional Court of Ukraine. The study of the functioning of the constitutional complaint in the Republic of Poland will help to create the concrete proposals for the implementation of this institute of law in Ukraine.

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PROBLEMS OF ADOPTION AND REGISTRATION OF MUNICIPAL CHARTERS IN UKRAINE

Nowadays in Ukraine only some territorial communities (municipal communities) have their own municipal charters. The Law of Ukraine "On Local Self-Government in Ukraine" allows the municipal councils to adopt such charters, though it is not obligatory. The paper proposes a binding decision to establish the municipal charter for each territorial community.

The author thinks it is reasonable to make the municipal councils responsible for the adoption of the municipal charters, as these councils are the representative bodies of the local communities. In the article the second way of the municipal charter's adoption through the local referendum is analyzed. However, the current situation in Ukrainian legislation makes it rather difficult. The problem is that there is only the law of Ukraine on state referendums, not on local ones. Thus, at first the legislation on referendum has to be changed, and only after that – the legislation on the municipal charters. Thus, for now the municipal councils seems to be the only one affordable and available option to adopt the local charter. It might be fruitful to introduce a special procedure of such a charter's adoption.

The author argues it will be productive to cancel the state registration of charters of the local communities.

Also this article suggests making some terminology improvements.

ADMINISTRATIVE, FINANCIAL, TAX LAW

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THE SUBJECT OF PROTECTION OF POLICING ACTIVITY OF STATE

The scientific article focuses on the need to study public order as a subject of policing activity of state. The author investigates features of activities of internal affairs bodies to ensure public order and determine ways, means and methods of operation, which involves the need to identify the nature of public order. Background of research is the fact that provision of the proper social order that meets the requirements of the modern period is one of the functions of the state. In its implementation an important role belongs to bodies of internal affairs, the main goal of which, according to their legal status, is protection of public order in the country.

The purpose of this paper is to determine the characteristics of the activities of bodies of internal affairs to ensure public order.

It is concluded that public order is a versatile and extensive category that requires full and thorough investigation. The magnitude of the sphere of public order is also reflected in its hidden connection with many other areas of public relations: with internal labor regulations in enterprises and institutions, with family life and leisure of citizens. Low labor and corporate discipline, immoral atmosphere in the family adversely affect public order, often serving the main causes of offenses in public places.

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THE PROCEDURES OF ACCEPTANCE AND REALIZATION OF THE ADMINISTRATIVE DECISIONS IN THE HIGHER EDUCATION SPHERE

Modern processes of democratization of public relations and decentralization of the government significantly affect the character and content of administration of executive bodies and local authorities in the field of higher education.

The purpose of the article is to analyze the procedure of decision-making and implementation of decisions in higher education, which involves definition of the essence of the concept "administrative decision", consideration of types of administrative decisions in higher education, elucidation of the structure of this procedure and content of its individual elements.

The article states that the principles that are fundamental for the development and implementation of administrative decisions in the field of higher education include: principles of scientific validity, commitment, reality, competence, effectiveness, timeliness, objectivity, consistency, clarity, regulation of decisions, optimal allocation of functional responsibilities of administrative staff, rational delegation of authority and responsibility, and others.

Today there are distinguished the following stages of the procedure of making administrative decisions: problem definition, problem selection, creation of information model of the problem situation, building a conceptual model of the problem situation, solutions to problems.

It is noted that the administrative decision in higher education is a key element of administration by authorities and local self-governments aimed at solving specific educational problems by determining the most effective course of action to achieve the goal. Administrative decisions in higher education can be classified by such grounds as the level of management hierarchy, the level of binding decisions, time, the number of participants; functional and administrative content; causes; development methods and others. The main elements of the procedure of making administrative decision in the field of higher education include: the stage of preparation of the decision, the main steps of which are acquisition and analysis of information; identification and analysis of the problem; prediction of the situation development; stage of development and making decision, the basic steps of which include: setting goals (priorities); development of alternative administrative decisions; selection and adoption of the best administrative decision; stage of implementation of administrative decision, the basic steps of which are: organization of implementation of administrative decision; managing the implementation of the decision; evaluation of the results of administrative decision.

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LEGAL AND ORGANIZATIONAL PROBLEMS OF MAN-CAUSED (TECHNOLOGICAL) AND NUCLEAR TERRORISM COUNTERACTION AND THEIR SOLUTIONS

This article analyzes the legal and organizational problems of technology-related safety and protection of the critical infrastructure of the state in terms of military and terrorist threats, security sector reform and defense and improvement of the efficiency of civil protection in Ukraine, taking into account the specifics of its implementation in terms of counter-terrorism operations. We investigate the state of the legal regulation of technology-related safety issues of cooperation in this area.

Factors that influence the level of terrorist threat are functioning in Ukraine facilities under high-risk of sabotage and the poor level of physical protection of these objects.

Summarizing the above, we note that the legal regulation in the sphere of technology-related safety and combating technological terrorism has basically the overall strategy. There is need for immediate adjustment of legislation in this area, taking into account fundamental changes in the nature of threats of military and terrorist nature, turning them from potential into totally real. Providing technology-related safety and protection of critical infrastructure should be a priority of the policy of national security, because the consequences of terrorist acts can threaten the lives and health of millions of people.

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FOUNDATIONS OF THE FORMATION OF THE CONCEPT OF PUBLIC ADMINISTRATION OF UKRAINE BASED ON EUROPEAN PRINCIPLES

Today in Ukraine takes place a series of reforms aimed at bringing the public administration and regulatory support of functioning of public administration in line with European standards. However, their successful implementation is hindered by numerous problems caused by irrational organization and content of administrative reform, including a vague understanding and ignoring of European practice in this area. Therefore, in our view, effective implementation of European integration policy and implementation of the concept of public administration in Ukraine as part of approximation of the legal system of Ukraine to the EU legal system, above all, should facilitate borrowing of the relevant European experience. In this respect, it is important to study understanding of the nature of public administration in the light of European legislation.

With this in mind, there are several important features of public administration according to EU law:

– the concept of public administration covers public authorities at various levels, other public institutions, as well as subjects of delegated powers;

– recognition by certain persons or institutions of the legal status of public administration is directly linked to the performance of public functions of the state;

– attribution of certain persons to the subjects of public administration, and thus fulfilment of the tasks and functions of the state by them is possible only if this is provided and regulated by state regulations.

Thus, on the basis of European legislation and taking into account the features of national legal systems, public administration can be understood as legal subjects, which on the basis or national regulations or administrative acts (contracts) on delegation of powers perform public functions of the state or local importance thus exercising their own or delegated powers in the field of administration.

Thus, the formation of the concept of public administration in Ukraine must necessarily take place based on the European understanding of the practice of public administration, the European experience of building the system of public administration, practical errors in the course of implementation of administrative reform in order to prevent their recurrence, and certainly focusing on the need to address the issues unresolved by measures previously employed by the government.

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CONCERNING THE QUESTION OF COMPOSITION OF THE PROCEDURAL TAX REGIME

In this article the author considered the regulations of the Tax Code and scientific works dedicated to the elements of composition of the procedural tax regime. On the basis of their analysis the author offered an approach according to which each of tax procedures has its own features, which find the reflection in the regime of such procedure, which, being an aggregate of requirements, ensures the whole process of its realization. With this regard, the elements of procedural tax regime are regimes of each of tax procedures carried out within the limits of tax law, simultaneously being a basis for formation of structural constituents of procedural regime.

Taking into account the indicated, the article also represents the author's vision of composition of the procedural tax regime made up on the basis of its basic descriptions. The procedural tax regime includes:

– general regime, which embodies the regime for tax procedures which touch all without an exception procedural tax relationships;

– special regime – determines the regimes of tax procedures for separate tax payments;

– special regime – sets the special regimes of tax procedures, which determine the features of procedural relations in certain legally defined terms or for individual taxpayers.

Thus, every tax procedure within the limits of the indicated regimes can be characterized by its own procedural regime, which does not contradict to procedural tax regime in general but determines the features of realization of one or another separate procedure. Their due legislative regulation must contribute to a clearness and unambiguity of realization of procedural tax relations and to formation of the unique integral tax process both at theoretical level, and in practice.

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ON THE ISSUE OF FORMATION OF POSITIVE IMAGE OF THE STATE FISCAL SERVICE OF UKRAINE IN MODERN CONDITIONS

The article is devoted to the peculiarities of the issue of formation of positive image of the State Fiscal Service of Ukraine. With regard to the modern state reform, the image of the State Fiscal Service is essential to reform fiscal relations in the country, as well as to build democratic and legal relations between the state and individuals and legal entities. Background is that one of the important aspects of the overall perception and evaluation of public body is the impression that it produces, or its image. The tasks of "reorganization" of awareness deformed by totalitarian society, creation of a positive image of the State Fiscal Service, development of public loyalty to taxmen are of particular relevance today. Regardless of the wishes of both the public authority and public relations specialists, image is an objective phenomenon and it plays a significant role in the assessment of any social phenomenon or process.

The article discloses features of creation of a positive image of the State Fiscal Service of Ukraine. Relevance of the article is determined by process of in-depth innovation reform of the fiscal system of the state.

The author concludes that people are in a certain dependence on government. State organization, designed to respect and monitor the implementation of the law, has a particular responsibility. Its major functional duty is to inform citizens about their rights and responsibilities. It is especially important to consider that the same organization provides services to the public. This condition prevents a situation where the state organization feels all-powerful and citizens – powerless. In this case, it is important for the state organization to remember that citizens have rights as well as responsibilities. And these rights should not be violated under any circumstances.

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PERSONAL SECURITY GUARANTEE OF AN ARMED MILITIA OFFICER: TO THE QUESTION OF LEGAL REGULATION IMPROVEMENT

The article presents a critical analysis of the current legislation on militia regarding the personal security guarantees for an armed militia officer, taking into account the results of generalization of judicial practice in criminal cases. International acts, which regulated the rules of conduct of law enforcement bodies' employees.

The aforesaid applies particularly to the allocation of a separate article determining extreme cases, the onset of which involves the deliberate use of firearms by officers and procedures of application. The separate part of this article may include provisions of Article 15-1 of the Law of Ukraine "On Militia". Allocation of this article in that Law evidences the attempts of legislator to present in detail the procedures of the use of firearms in extreme cases that can be identified as a security guarantee, but in substance is a specific reason. Title of the suggested article can be summarized as follows "Exceptional cases of firearms application and the procedure of such application". The requirements, which should provide prohibitions in course of application of firearms, should be specified. The relevant provisions can be allocated in a separate article 15-2, the title of which it is advisable to be amended as follows "Prohibitions in firearms application".

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THE LAW OF UKRAINE "ON THE HIGH COUNCIL OF JUSTICE" AS THE LEGAL FRAMEWORK OF THE HIGH COUNCIL OF JUSTICE AND THE PERSPECTIVES FOR ITS IMPROVEMENT, BASED ON THE RECOMMENDATIONS OF THE COUNCIL OF EUROPE

The specific provisions of the Law of Ukraine "On the High Council of Justice" and the Law of Ukraine "On the Judicial System and Status of Judges" as the legal framework of the High Council of Justice have been analyzed in the article. Taking into account the fact that the system of temporary appointments still exists in Ukraine, it is recommended for purposes of the warranty term of office of judges to consider the appointment indefinitely as an extension of the first appointment if the judge grants an objective, transparent and pre-established criteria.

Ukrainian legislation attempts to establish criteria for the appointment of judges at the legislative level, which were welcomed by the Council of Europe. On the other hand, it appears that the mechanism of indefinite appointments, introduced in Ukraine is extremely complex and could be simplified.

Appeals and complaints received from different sources can have a serious impact on the length of tenure of judges in the sense that they are taken into account before their appointment to the post permanently.

The perspectives for the improvement of abovementioned legislation based on the recommendations of the Council of Europe have been investigated. The appropriate recommendations for the reform, taking into account the best practices of European countries have been provided.

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PUBLIC CONTROL IN THE OIL AND GAS SECTOR IN UKRAINE: ISSUES OF LEGAL REGULATION

The article substantiates that Ukrainian legislation does not provide the complex mechanism that would determine the subjects of the mechanism of public control in the oil and gas sector in Ukraine. Provided by the legislation of Ukraine rights of citizens in the oil and gas industry are to some extent fragmented, do not create a single clear system and do not provide a sufficient level of information about the state of affairs in the oil and gas industry. That is why it is necessary to amend the legislation of Ukraine in order to secure an efficient mechanism of public control in the oil and gas sector of Ukraine.

The article notes that public control over the production and use of oil and gas in Ukraine in terms of content should include three elements: 1) obtainment of the necessary information related to the peculiarities of exploitation of oil-and-gas bearing deposits, extraction, transportation, storage and use of oil, gas and their products; 2) analysis and assessment of information in the oil and gas industry; 3) respond to the identified rights violations related to subjects of relations arising from geological exploration of oil-and-gas bearing deposits, development of oil and gas fields, oil and gas processing, storage, transportation and sale of oil and gas and petrochemical and gas products, consumers of oil and gas as well as industry workers.

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"AN OFFICIAL" AND "A SERVICE PERSON" IN PUBLIC ADMINISTRATION: PROBLEMS OF DEFINITIONS IN THE LEGISLATION OF UKRAINE

The article is devoted to examination of the notions "an official" and "a service person" in administrative law science and national legislation. The basic stages of these notions are determined and characterized.

This article analyzes the theoretical principles of the differentiation of the terms "an official" and "a service person".

The thesis discusses a term "an official" and "a service person" from doctrinal and legal perspectives. As a result of a conducted research, the author formulates characteristics of the terms "an official" and "a service person" in public administration.

In new Law of Ukraine "On State Service" there is no determined legal notion of "an official". Significant attention is paid to the problem of unification of the notion "an official" in public administration and national legislation as well as characterization of certain elements of legal status of an official. The author in this article focuses on peculiarities of the notion "publics-service functions" and authorities of an official in public administration.

On the basis of scientific theoretical sources and effective legal regulations, practically concerning legal consolidation of notions "an official" and "a service person", the author attempts to define the ways of further improvement of public service legislation in Ukraine.

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TO THE QUESTION ABOUT THE CONCEPT, SIGNS AND CONSTITUENTS OF NON-STATE FINANCIAL CONTROL

In the article the questions of coexistence of public financial relations and such types of public financial control as state and non-state control at the modern stage of development are examined. Attention is focused on differentiating state and non-state financial control, as at first blush, it does not make any substantial problem, because state control must be carried out by the state and the persons of the authorized bodies, and non-state – by the proper non-state control structures. However the research shows that it can be carried out also by legally authorised non-state bodies and structures, accordingly it is sufficiently difficult to draw the line between state and non-state financial control.

Using the stated hallmarks together with the signs of non-state financial control it is possible to determine the following features of such control: 1) activity of legally authorised non-state bodies; 2) control is carried out in financial sphere which means that it embraced spheres related to financial activity of both state and non-state subjects, at the same time control over state subjects is carried out mainly as initiative non-state external control or as public control through the proper public organizations; 3) concentration on realization of control procedures within the limits of economic entities or on the repeated (after state) public inspection by the proper public organizations; 4) the purpose of control is maintenance and efficient use of financial resources of economic entities and the state on the whole, with attachment to the separate decentralizing funds.

Also on the basis of foregoing signs it is offered to understand the concept of financial control as an activity of non-state public bodies, which carry it out on the basis of the proper plenary powers enshrined in legislation, which engulfs the sphere of relations concerning financial activity of both state and non-state subjects, aimed at realization of control procedures within the limits of economic entities or at the repeated (after state) public inspection by the proper public organizations with the purpose of maintenance and efficient use of financial resources of economic entities and the state in the context of separate decentralizing funds.

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INFORMATIONAL AND LEGAL BASIS FOR ROAD TRAFFIC SAFETY: INTERNATIONAL EXPERIENCE

The article analyzes the international experience to improve information and legal principles of road safety, as the appropriate level of road safety is an important factor in public safety in any country. Informational and legal support of road traffic safety is an urgent problem not only in Ukraine but also in many countries. As for the world experience, the basis of information and legal support for road safety are the national strategy, doctrine, concepts, programs, plans, etc., which are implemented through coordination and cooperation between state agencies and the public. The author conducts research of experience of individual countries, efficiency of improving road safety based on changing model to improve the behavior of road users.

Proper implementation of these models depends largely on the extent of compliance strictly required by society and government. International experience shows that informing people about innovation in traffic law relating to its security, training of road users, information about the work of public authorities, both in social work and in education, use of the television, radio, agitation in the form of social advertising contribute to the quality of the road traffic. Important role is played by awareness of road users on roads and road infrastructure, level of roads equipment. Such information minimizes the chance of accidents, maximizes protection of citizens from the adverse effects and provides the appropriate level of protection and security as components of road traffic safety.

This study demonstrated that the use of the best international practices in the field of road traffic safety with adaptation to local conditions, can provide an opportunity for Ukraine to get tested and the most effective solution of basic problems in this area: accidents and deaths.

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LAW INTERPRETATION BY COURTS OF SPECIAL JURISDICTION AS A FORM OF SYSTEMATIZATION OF UKRAINIAN LAW

Interpretation is clarification of the content of regulation that comes from certain individuals and agencies and has auxiliary adaptive value for the appropriate use of standards in specific situations.

The types of interpretation in this context are formal and informal interpretation. They vary according to four criteria: 1) by the subjects of interpretation; 2) by legally binding effect for executors; 3) by the form of expression of interpretation; 4) by the elements of legal regulation of limits and procedures of execution.

The official interpretation of the Constitution and laws of Ukraine by the Constitutional Court of Ukraine can be viewed in two ways: as activities for clarification and official interpretation of the Constitution and laws of Ukraine to overcome the ambiguity of their understanding; as a result of these activities, i.e. acts of official interpretation.

The official interpretation of the Constitution and laws of Ukraine by the Constitutional Court of Ukraine is carried out within the statutory procedures and on the basis of known scientific techniques and methods.

The official interpretation might be regulative and casual.

Regulative interpretation is provided by authorities and specially authorized officials; it is applied to all cases stipulated by regulation; it is referred to when there is a need for additional clarification of the rule issued earlier or its separate provisions; these explanations are certainly required in the application of law and are enforceable.

In the legal system of modern Ukraine there are three types of regulative interpretation: constitutional, legal and authentic.

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LEGAL NATURE OF OPERATION AND DEVELOPMENT OF ANALYTICAL COMMUNITIES IN UKRAINE

Modern researchers pay attention to strengthening of the role of analytical communities in politics, business, and civil society. Analytical community is formed of a group of researchers, consultants, experts and analysts with common objectives, ideas, scientific methods of researchers, working in specific areas of analysis.

At the same time, when analytical communities are sufficiently consolidated to speak with a single intelligent program, they are quite resourceful and effective participants of modern social life.

Experts believe that the main achievements of analytic communities in modern Ukraine are that they, being in unfavourable political and economic conditions:

– learned to look for and find ways to survive, while maintaining independence and objectivity;

– developed topics relevant to the implementation of social transformations in Ukraine in the direction of its movement towards European standards, combining rapid response to the current challenges and formation of a strategic vision of country's development in different sectors;

– became widely recognized by authorities and political parties – as a player in political life, and by public – as a spokesman of its interests;

– influence on public opinion, receive significant attention of media, are widely present in the information space;

– expand international cooperation, contribute to the positive perception of Ukraine in the world and international organizations;

– gradually integrate into the global expert community, keep proper product quality.

Search for the best ways of legal regulation of analytical communities in Ukraine should be primarily aimed at greater involvement of communities in the analytical processes of state building with respect to the peculiarities of the industry. The main directions of development of legal regulation of the areas are determined by new challenges, relationships and threats, which require constant updating of existing mechanisms of regulation.

In view of the results, the provisions of this study should be developed in order to analyze the role of analytical communities in the state building process.

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PROBLEMS IN UNDERSTANDING THE CATEGORY OF "PUBLIC" IN THE CONTEXT OF COMBATING CORRUPTION

The article deals with the problem of understanding the category of "public" in the context of preventing and combating corruption. According to the content of p. 4 Art 2 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters of June 25, 1998, item 3 p. 6 Art. 5 and Art. 18 of the Law of Ukraine "On Grounds of Corruption Prevention and Counteraction", p. 1.2 of Regulations on Public Participation in Decision-Making in the Field of Environmental Protection, the category of "public" in the context of combating corruption has the following inherent features:

– this concept covers all individuals, regardless of the presence of citizenship of Ukraine and legal persons, associations of citizens, their organizations etc.

– these subjects do not include bodies of public administration and their officials, i.e. legal persons endowed with the power, because their status and participation in prevention and combating corruption is separately provided by law;

– natural or legal person may act as public itself (one person) or jointly with others (several persons);

– these individuals are considered to be public if they are involved in a relationship on preventing and combating corruption;

– comprehensive list of powers and forms of public participation in the prevention and combating corruption is enshrined by legislation;

– the public acts exclusively based on and in the manner provided by legislation of Ukraine.

Based on the above features, we can formulate the following definition of "public" in the context of combating corruption. It is any personality (natural or legal person, public associations, their organization, etc.), which does not have the authority and is alone or jointly with others involved in relations of preventing and combating corruption on the basis and in the manner provided by legislation of Ukraine.

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PROBLEMS WITH TERMINATION OF TAX OBLIGATION

The article deals with the problematic issue of termination of the tax obligation. The author analyzes the process of termination of tax obligation, reveals a mismatch between the articles of the Tax Code governing the termination of the tax obligation, and some problems the taxpayer may face due to unequal interpretation of these articles.

The imperfectness of solution of the issue of tax obligation is outlined. It results in incorrect establishment of moment of implementation of obligation.

Author divided tax obligation into three constituents – obligations to calculate, to count and pay the tax indebtednesses. The attention is also paid to the difference between the concepts of tax obligation and indebtedness. The provisions of the Tax Code regulating the mechanism of stopping of tax obligation for the purpose of collisions, are considered, it is differentiated for every obligation included into the concept of tax obligation.

It is suggested to consider founding of stopping of tax obligation as completion of limitations.

An author gives classification of grounds of stopping of tax obligation on periods, in relation to what obligation ceased to exist.

To decide dispute of supervisory body with taxpayers by the authorized court, the article analyzes judicial practice for the purpose of interpretation of rules of litigation in relation to such affairs.

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REALIZATION OF PLANNING FUNCTION IN PUBLIC ADMINISTRATION: PROBLEM ASPECTS

The activities of state planning is a very important part of public administration in the light of current transformation processes in Ukraine and an organic component of the administrative reform as an important tool for that. In this regard it is important to cover the problems that arise in the implementation of this function of public administration. The formation of the system of state planning, as a function of public administration, has currently no holistic nature. Because of that there are problems in the realization of planning, including: the absence of a single approach to state planning; inefficient use of strategic planning in public administration; lack of coordination between various strategic and planning documents; lack of a clear link between the planning documents and the state budget; uncertain status of some planning documents, political and legal consequences of non-compliance; lack of responsibility for inefficient decision-making and others. To ensure an effective implementation process of planning function in public administration the public planning system should be reformed towards the organic combination of strategy, forecasting, socio-economic development and the state budget, goals and resources. Taking into account these facts, it seems reasonable to adopt an appropriate structuring legal act which shall establish the coherent system of state planning and regulate the procedure for its implementation. It is necessary to conduct further work regarding improvement, and in some areas – creation of new legal and institutional framework of the state planning. The issue definitely requires thorough professional discussion and further researches.

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ON THE ISSUE OF STAFFING OF COURTS OF GENERAL JURISDICTION IN UKRAINE

The article defines the concept "staffing of the judiciary to ensure the operation of courts of general jurisdiction", analyzes the rules of national law, identifies deficiencies of legal regulation in stuffing of courts of general jurisdiction, develops evidence-based recommendations for improving the current legislation of Ukraine.

The author specifies that the stuffing of courts of general jurisdiction is legally regulated activity of all branches of government regarding staffing of the necessary number of courts with professional personnel that meet all the requirements; implementation of effective selection, appointment, training, education, and release of personnel and resolution of other issues of civil service.

It is noted that representatives of all branches of power participate in the process of staffing of courts of general jurisdiction. Difficulty or multiplicity of steps of this approach during the recruitment is entirely justified, because proper and fair implementation of justice requires highly trained and professional staff.

The author argues that for optimization of probation for judges it is appropriate to make amendments to the Basic Law. In particular, it is proposed to rewrite p. 1, Art. 128 of the Constitution of Ukraine as follows: "The first appointment of a professional judge to office for a three-year term is made by the President of Ukraine. All other judges, except judges of the Constitutional Court of Ukraine, are elected by the Verkhovna Rada of Ukraine for permanent terms by the procedure established by law".

Demands on the probation are developed according to the standards of the most developed countries (Italy, Spain, USA, France, Germany) and the recommendations of the European Commission for Democracy through Law (Venice Commission) enshrined in point 130 of opinion CDL-AD (2010) 026 of October 16, 2010, which states: "If probationary periods are considered indispensable, they should not exceed a relatively short period, e.g. of two years".

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LEGAL STATUS OF THE HIGH COUNCIL OF MAGISTRACY AS A BODY OF JUDICIAL SELF-GOVERNMENT OF FRANCE

Ukraine has chosen European integration way. It necessitates the study of legal systems of EU countries and application of their positive experiences, including on the judicial self-government.

France is one of democratic countries, which has a positive experience of the various legal institutions, one of which is the High Council of Magistracy. Therefore, this issue causes an increased interest for detailed investigation of legal aspects of the judicial self-government.

The High Council of Magistracy as a body of judicial self-government is one of the main guarantees of the professional rights of judges, the independence of trial judges and has direct impact on improving the quality of justice and establishment of public confidence in the judiciary.

As you know, in the second half of the twentieth century in France appropriate Ministries of Justice were entrusted with powers of self-government.

Today there is a tendency of devolution of self-government to individual bodies. This body is currently the High Council of Magistracy of France.

The High Council of Magistracy – is a special public authority, the main objective of which is to select candidates for judges and prosecutors, as well as to perform the functions of the disciplinary board of judges. It was established in 1883. High Council of Magistracy is entrusted with constitutional authority. President heads the Council, his deputy is the Minister of Justice who has the right to supersede him in cases prescribed by law (Art. 65 of the Constitution of France).

The current status of the High Council of Magistracy of France is caused by the reform of 1993, which was implemented in the transition period in the French Fifth Republic.

Under the constitutional reform of 1993 and organic (constitutional) law of 1994 the legal status of it experienced significant changes.

Article 65 of the Constitution of France allows participants of process appealing to the High Council of Magistracy, under the terms established by the organic law.

On the basis of analyses of the High Council of Magistracy of France and peculiarities of its operation, it is revealed that currently exist the bodies of judicial government of the European Union, experience of which can be used to reform our national legislation to enhance public confidence in the judiciary, effective protection of professional rights and interests of judges and establishing the fundamental principles of justice.

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THE ANALYSIS OF THE REAL ESTATE DEFINITION AS THE OBJECT OF ADMINISTRATIVE AND LEGAL REGULATION IN UKRAINE

The article studies a legal concept of real estate in the legislative, theoretical and practical aspects of its application. The aim of the paper is to analyze a real estate definition and provide its administrative and legal characteristics.

It was found that the area of administrative and legal regulation of real estate is extremely broad. It consists of using, governance, investment, development, ownership relationships and others. All these kinds of social relations, the object of which is the real estate, can be operated by public administration.

The main text provides the analysis of existing definitions, describes specific elements of their structure that are limited by the activities of state executive bodies. The author gives his own proposal to improve them.

As the result it was clarified that administrative and legal regulation of the real estate in Ukraine is a complex of administrative measures, mechanisms and instruments of ordering legal public relations, the object of which is the realty of Ukraine, by executive bodies. The analysis shows that the features of the real estate as an object of administrative and legal regulation should include: 1) complexity of the fields of legal regulation; 2) state control over processes of emergence, transferring and termination of ownership; 3) normative behavior of the relationship participants; 4) large number of authorities (authorized persons) entitled with right to legal ordering of relationships regarding real estate; 5) imperative legal requirements; 6) administrative character of the relationship between parties.

The author offers his own definition of real estate as the object of administrative and legal regulations establishing that it is statistical and dynamical states of real estate that must be ordered by legal and regulatory measures, mechanisms and instruments established by authorized bodies of executive power. The obtained results give grounds for further scientific research in this area to explore the components of the received notions.

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CLASSIFICATION OF ADMINISTRATIVE SERVICES IN THE FIELD OF INTELLECTUAL PROPERTY

The adoption of the Law of Ukraine "On Administrative Services" is an important step towards further realization of the idea of the state providing services to human. In addition, they had solved a number of theoretical and practical issues of administrative services, which have started occupying one of the leading places in the relationship between citizens and public administration in recent years, including in the field of intellectual property.

Today in the field of intellectual property there are twenty-five administrative services. We have provided our own classification of these services for better understanding of them. We have performed classification, using the following criteria: the object of intellectual property rights; the result of provided administrative services; the reason of provision; the subject of provision and types of payment.

The results of the classification were identified with the following features:

As the object of intellectual property rights, services belong to the sphere of copyright and related rights, patent rights, means of individualization of civil turnover, other (non-traditional) intellectual property rights.

The results of provision of administrative services in the field of intellectual property have their manifestation in the form of patents, certificates, licenses, duplicates and copies, control marks and decision on the registration.

Administrative services in the field of intellectual property can be divided into administrative services, which enable the implementation of legitimate rights and interests of subjects in the field of intellectual property and administrative services that are related to the fulfillment of obligations and requirements of law by subjects of appeals. Administrative services in the field of intellectual property, depending on the subject of treatment can be divided into three groups: services which are received by natural person; services which are addressed to the juridical person; services which can be received by both natural and juridical persons.

Administrative services in the field of intellectual property are divided into free and paid services by the way of payment. Most of the currently existing administrative services in the field of intellectual property are paid.

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SPECIFICITY OF THE SUBJECT OF PROOF AND CIRCUMSTANCES THAT MUST BE ESTABLISHED DURING CLOSING THE CASE CONCERNING THE ADMINISTRATIVE OFFENSE WHEN THE TERM OF THE ARTICLE 38 OF THE CODE OF UKRAINE ON ADMINISTRATIVE OFFENCES HAS EXPIRED

The article is devoted to the scientific research of a practical problem that lies in establishing by the court decision a person's guilt when the term of the Article 38 of the Code of Ukraine on Administrative Offences (CUaAO) is expired. The author analyzes judicial practice and law, searches for the correct legal position in dealing with this kind of cases, shows the specific subject of proof and circumstances that must be established.

The main content of the article explores three different directions of judicial practice regarding closure of the case based on the expiry of terms for imposition of administrative penalties. According to the first one, courts say that a person is guilty on the operative part of decision about closing a case. According to the second area of judicial practice, courts say that a person is guilty and study all circumstances only on motivation part of decision about closing a case. A third approach shows that courts do not assess the evidence for making a decision (even on the motivating part) about a person's guilt or innocence, judges only describe the fact of the committed act that has signs of an administrative offense.

As a result the author gives reasonable scientific arguments to prove that the assessment of evidence by the court focused to person's guilty in committing of an administrative offense during taking a decision about closing a case based on the expiry of terms of the Article 38 of CUaAO, or even a hint on such guilt are unacceptable.

The author argues that it is properly to establish: 1) type of an act that has signs of an administrative offense and a term for imposition of an administrative penalty; 2) time when an offense was found; 3) period that expired since an offense was found to the time of considering a case. The results obtained were the basis for proposals to amend the current legislation. It provides grounds for further scientific research in this direction.

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LEGAL INNOVATIONS IN COURT ADMINISTRATION: INTERNATIONAL LEGAL STANDARDS AND ADAPTATION OF UKRAINIAN LEGISLATION TO THESE LEGAL STANDARDS

The necessity of determining the list of international legal standards as a legal innovation that will be used to improve the legal provision as part of the function of court administration was substantiated. The place of legal innovation in the overall system of legal principles of innovation in court administration was determined. The structure and elemental composition of the legal system of innovation, as well as their comprehensive study were proposed. In the article the state of adaptation of Ukraine in the field of justice and court administration to the relevant international legal standards was established. Suggestions for developing the future of legal sources of national law for effective implementation of legal principles and information management innovations in court administration were provided.

Common international legal standards for the administration of justice and the activities of the judiciary are general in nature and assert the right of every person to a fair trial and equality before the court.

We believe that further research should be aimed at developing specific proposals to adapt national legislation to the special international legal standards, as well as the formation of the Action Plan for the implementation of legal innovation in the legal provision (as part of the functions of court administration), creation of appropriate conditions for fair justice.

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REQUIREMENTS FOR LAW ENFORCEMENT ACTIVITY AS A CRITERION FOR ITS QUALITY

Law enforcement activity is an important area in the state, because it helps to achieve the establishment of formal binding code of conduct on specific subjects in order to create the conditions necessary for the implementation of certain provisions. The feature of relations in the field of administrative law is, firstly, absence of legal definition of some basic concepts and, secondly, lack of uniform sources, which would assign the requirements for the subjects of administrative law. These requirements are scattered in different legal acts governing the legal status and the basic principles of a particular subject of application. This causes the lack of unity in distinguishing certain requirements to be followed at all (any) stages of application of administrative law by its subjects. Most sources of theory of law and administrative law distinguish the requirements of legality, validity and appropriateness of law enforcement activities. Other requirements, which are determined in individual sources of legal theory, including the requirement of fairness, transparency, accuracy, completeness, do not contradict the essence of law enforcement activities. Since these requirements are essentially the main (basic, starting) principles, on which enforcement activities should be based, they can be also supplemented by the principles of administrative activity or ones enshrined as them, which are obligatory for carrying out some activities (e.g., public service, service in bodies of local self-government, activities of the Cabinet of Ministers of Ukraine, activities of central executive bodies, etc.). Examples of the latter are the rule of law, impartiality etc.

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TRANSFORMATION OF RIGHTS AND FREEDOMS OF MAN AND THE CITIZEN IN TERMS OF INFORMATIZATION

Informatization has both positive and negative consequences. On the one hand, conditions and mechanism of information access, processing, implementation and circulation have improved. On the other – the number of information violations has increased, including facts of unlawful collection and use of information, unauthorized access to information resources, illegal copying of information in electronic systems, stealing information from libraries, archives, banks and databases, violation of information processing technologies, application of viruses, destruction and modification of data in information systems, interception of information in technical channels, manipulation of public and individual consciousness and so on.

Retrospective analysis of the formation and development of information rights and freedoms of man and the citizen reveals that, for a long time they were considered in the light of other rights and freedoms. However, now it is possible to observe their isolation from other rights and freedoms, as well as a clear definition of the specific right among different information rights and freedoms, including the right to information and the right of access to information. It should also be noted that this information rights and freedoms develop dynamically, giving "ordinary" rights and freedoms information character.

In view of the foregoing, it seems necessary to distinguish the following main effects of information on the system of rights and freedoms.

1. The emergence and development of information rights and freedoms of man and the citizen.

2. Providing information character of other rights and freedoms (political, economic, civil, environmental, etc.).

3. Permanent development of information and communications technologies contributes to the emergence of new information rights and freedoms; therefore, the list of information rights and freedoms is inexhaustible.

4. Further specification of information rights and freedoms of man and the citizen, particularly distinction within the right to information of the right to access to information and more.

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CONCEPT OF OFFICIAL DISPUTE AS A PARTICULAR PUBLIC DISPUTE

Official dispute is defined as a kind of legal conflict, resulting in confrontation and mutual claims of the parties to the dispute relative to one subject concerning the lawfulness of conduct of the parties in the public office relations, where one of the parties is always a public body (official). This dispute takes the form of appeal to the administrative court with administrative claim.

It is useful to distinguish the following features of official dispute:

a) official dispute is a type of legal conflict;

b) official dispute concerns confrontation of disputing parties regarding one subject;

c) the subject of official dispute is determination of lawfulness of conduct of parties to the dispute in relations to public office;

d) one party to the dispute is always public body;

e) official dispute takes the form of administrative action as a form of appeal to administrative court;

e) it provides settlement procedures established by law.

Given the above, the author states that the attribution of official disputes to the public legal disputes under the jurisdiction of administrative courts is based on both existing legislation and theoretical foundations that allow legislators determining the jurisdiction regarding this category of cases.

In view of the results, the development of the provisions of this study is seen in analysis of the main types of public disputes.

CIVIL AND ECONOMIC LAW AND PROCEDURE

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RELATED CONSEQUENCES OF INVALIDITY OF MARRIAGE

The article deals with the consequences of invalidity of marriage not covered by Articles 45 and 46 of the Family Code of Ukraine. Co-authors studied the question of invalidity of the marriage contract as "related" consequence of invalidity of marriage, which is independent of the good faith or bad faith of the spouses. The authors raise the question of compensation for bona fide spouse of inflicted moral and material damage. The main idea is that the possibility of compensation for damages is not rejected in the principles of family law. Article 18 of the Family Code of Ukraine among the ways to protect the rights and interests of family specifies compensation for pecuniary and non-pecuniary damage. Special attention is paid to the scope of mutual rights and responsibilities of parents and the child born in invalid marriage. The article raises the question of correctness of preserving acquired full civil capacity for bona fide spouse. Co-authors propose to solve the issue of protection of the property right of invalid spouses by the same rules as the separation of property of invalid spouses. It is stated that bona fide spouse must prove detached residence of the testator with another member of invalid marriage in the period and ask to recognize the right of ownership of property acquired during this period.

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CONCEPT AND CHARACTERISTICS OF THE SOURCE OF INCREASED DANGER

The article provides an analysis of existing views regarding the interpretation of the nature of the source of increased danger. It is noted that in the science of civil law there is no common understanding of the source of increased danger regarding what should be considered as this source: the subject or activity – as well as an explanation of what causes a strict liability of the owner of such a source for harm caused by it. Theoretical pendency of these problems creates some difficulties in the enforcement of relevant regulations.

The most typical signs of source of increased danger are: a) the impossibility of complete human control; b) the presence of harmful properties; a) the probability of harm.

Thus, for a comprehensive characteristics sources of increased danger should be considered as an activity that is not separated from the objects of this activity (including it's dangerous properties), but rather, they are joined to form the subject of legal regulation of non-contractual relations of owners of sources of increased danger, connected with harm. Therefore, the notion of sources of increased danger should be viewed as a combination of two elements: 1) material object; and 2) activities of its use –features of which within the existing level of science and technology exclude the possibility of full control by a person and create increased danger to others.

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CURRENT ISSUES OF LEGAL REGULATION FOR SEPARATION OF SPOUSES IN FAMILY LAW OF UKRAINE

The article examines the legal nature of legal separation regime, since, according to Art. 119 of the Family Code of Ukraine, at the request of the spouses or the claim of one of them, the court may decide to establish legal separation regime in case of failure or unwillingness of wife and (or) husband to live together. Separation regime is terminated in case of renewal of family relationships or by court upon application of a spouse.

The author analyzed the historical aspect of its origin and found that the separation originated in 1914, when the Code of Laws of the Russian Empire was supplemented by the law, providing the opportunity to set the separation of the spouses. However, during the Soviet period, this institution was not enshrined in legislation because it contradicted ideological views. Only with the adoption of FC of Ukraine in 2002 this institute of separation received legislative confirmation in this codified act to preserve family relationships.

It was determined that, depending on the level of development of society, separation is considered in the following ways: separation as legal consolidation of separate living of spouses, as there used to be an established duty of wife to accompany her husband everywhere; as a denial of divorce, that is the actual termination of marriage, because of the prohibition of divorce, and therefore impossibility of a new marriage and the emergence of other inconveniences generated by such prohibition; as an alternative to divorce, i.e. their parallel existence. The article shows distinction between institutions of divorce and separation, namely, the use of the same grounds and legal implications.

It is found that the grounds for establishing separation in family law, domestic and foreign jurisprudence is the inability or unwillingness to live together. At the same time “inability” and “unwillingness” of spouses to live together, despite their different semantic nature, legally have one essence – temporary living apart and not maintaining marriage without divorce.

It is established that the legal consequences of establishing separation are: freezing of presumption of paternity if the child is born ten months after the court decision on establishment of such regime and freezing of presumption of joint ownership of property. The author determines directions to improve family law, namely, referring to the need for civil status of facts of establishment and termination of separation and setting a deadline for separation of the spouses.

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ADVERSARIAL PRINCIPLE AND MODELS OF CIVIL PROCEEDINGS

In recent times, one of the most important directions of scientific and legislative activity around the world is to develop a theoretically optimal model of civil justice that would ensure the proper administration of justice. Search for a model that would ensure the proper administration of justice occurs within both Anglo-American and the continental legal systems to establish a due process based on the adversarial principle, which in turn is a major determinant of constructing models of justice. European Convention for the Protection of Human Rights and Fundamental Freedoms in p. 1, Art. 6 refers to the national courts to ensure the right to a fair trial and access to justice. The conclusions made by the authors in the scientific literature concerning civil procedure on the need to create and implement a fair civil justice model based on competitive model are undoubtedly scientifically based and corresponding to the needs of law enforcement and requirements arising from international instruments on human rights. However, these findings are only the problem setting that is very important itself. The solution of the problem of improvement of judicial procedures and the creation of a model of a fair trial is seen in establishing and substantiating proposals to improve legislation, their further legislative consolidation and their approbation in jurisprudence. To do this, in our opinion, it is necessary to investigate the adversarial principle, which is enshrined in the national legislation, since it is a critical determinant that affects the construction of a model of civil procedure. In order to create the optimum formula of the adversarial principle, and as a result, the optimal model of civil procedure, which can be regarded as a model of a fair trial, ensuring the rights of subjects of procedural activities to a fair trial, it is necessary to define the concept of the adversarial principle and analyze its contents.

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ON THE POSSIBILITY OF CANCELLATION OF THE SUPERVISORY BOARD IN JOINT STOCK COMPANIES

The article discusses the prospects of legislative consolidation of forming the supervisory board in joint stock companies and limited liability companies. Particular attention is paid to the possibility of increasing efficiency of the supervisory board by introduction of the institution of independent directors as well as avoiding administrative functions. It is stated that there are economic opportunities to legitimate optional founding of the supervisory board in Ukrainian joint stock companies. There are the following reasons for that: low level of banking capital at the corporate structure; high level of minority of shareholders along with majority of shareholders which control more than 50% of the shares. Also it is stated that it should be granted to limited liability companies form the supreme board.

We offer the following ways to reform the supervisory board: optional foundation of the supervisory board in joint stock companies and limited liability companies; introduction of mandatory quotas of independent members of the supervisory board; reduction of the power of the supervisory board by removing executive power (apart from certain types of transactions stipulated by the statute); provision of disclosure of information regarding supervisory board members, their quantitative and personal composition in the Unified State Register of Legal Entities and Individual Entrepreneurs.

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LEGAL RESULTS IN CASE OF BREAKING THE PAYMENT DUTIES FOR RENTING BY A LEASE

The scientific research work is devoted to investigation of legal results in case of breaking the payment duties for renting by a leasee.

The basis of the research is the legislation concerning application of alternative means of intensive influence by a leaser, i.e. repudiation of a contract or its termination. The first one is determined by a legislator and the opportunity to implement the other one is not objected by higher judicial instances, noticing that existence of the right to repudiation is not a barrier for a leaser to claim a legal action with the demand to terminate a contract in case of payment failure. However, to adjudicate a dispute, debt recovery before or after a legal action has no legal importance as well as it has no legal importance in case of order maintenance in pre-trial dispute adjustment.

The results of extrapolation of court practice to legally determined possibility of a leaser to repudiate a lease contract allow drawing the following conclusion: in order to repudiate a contract it is not legally important if debt recovery occurs over the period between three-month overdue of debt and informing of a leasee about the contract repudiation.

It is grounded that in case of reaching the agreement between the parties about the periods of consideration of a leasee (a quarter of a year, half of a year etc.) as well as on legal results in case of breaking the payment duties for renting by a leasee, a leaser also has the right to claim the termination of a contract in court if there is principal terms breaking by late payment for the rented property.

The author proves that it is advisable to fix the leaser's right to claim the termination of a rent contract in case of payment failure by a leasee amending Part 1, Article 783 of the Civil Code of Ukraine by adding paragraph 5: "a leasee does not pay for renting during a period set by a contract or the law and these actions are considered as principal breach of a rent contract".

The subject of research is regulation of leasee's responsibility for payment failure that may be the reason to terminate a contract by a leaser.

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DOCTRINAL UNDERSTANDING OF THE BRANCH AFFILIATION OF ENFORCEMENT PROCEEDINGS IN UKRAINE

The main criterion for the capacity of the judiciary is full and timely implementation of its decisions. Only given the real execution of the decisions it is possible to say that justice occurred and violated individual rights were restored. In Ukraine currently takes place the process of adaptation of legislation regulating enforcement proceedings to the current requirements.

In the Ukrainian legal science go on debates on the place and role of enforcement proceedings in the law of Ukraine, and discussions on ways to improve legally established procedure of forced execution of court decisions to really restore violated subjective rights. Meanwhile, it is important to study the theoretical foundations and development of proposals to amend the current legislation of Ukraine to improve procedures for the enforcement proceedings.

The purpose of this study is to clarify the nature of the enforcement proceedings, the nature of relationships in the enforcement proceedings and branch affiliation of rules governing these relationships.

Having analyzed the work of scholars, the author concludes that the discussion on the definition of the nature of the enforcement proceedings continues today. In Ukrainian and foreign legal literature, there is no single definition of the place of enforcement proceedings in the law of Ukraine.

Judgments must be enforced effectively, because without this litigation is incomplete, as the final and the main result of any judicial process is the restoration of violated rights, freedoms and interests of individuals.

During the analysis of regulatory sources, the study of the practice of handling complaints against decisions, actions or inactions of the bailiff laid down in the relevant resolutions of the plenum and letters of the High Specialized Court of Ukraine for Civil and Criminal Cases and proceedings of the European Court of Human Rights, the author determines a procedural nature of enforcement proceedings.

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ON THE INTRODUCTION OF ADDITIONAL MECHANISMS OF LICENSING OF TOUR OPERATORS IN UKRAINE IN CASE OF CROSS-BORDER PROVISION OF SERVICES IN SPAIN

This research deals with the analysis of the rules of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand, as well as Ukrainian and European, in particular Spanish, law in terms of economic activity regulation of activities of professional tour operators.

The author concludes that regarding Ukrainian services and service providers there has to be established treatment no less favorable than that provided for in the special commitment.

The paper analyzed the features of licensing of tour operators' activities in case of cross-border supply of services by analyzing rules that ensure regulation of tour operators in Ukraine and Spain. In particular, the author pays attention to the characteristics of financial support, guarantees, documents required for submission to the competent authorities and more.

Thus, the author concludes that in general the Agreement establishes no additional burdensome mechanisms for Ukrainian tour operators in the case of willingness of the latter to implement cross-border supply of services. However, in terms of the licensing tour operators the Agreement entitles country to which the services of Ukrainian tour operators are supplied to require compliance with obligatory mechanisms for tour operators of the Party in the territory of the country (part 3 of Annex XVI-B to the Agreement), even if such mechanisms are additional, burdensome, not provided by law of Ukraine

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HISTORY OF CIVIL LAW CODIFICATION IN S. PAKHMAN'S WORKS

S. Pakhman's attitude to history of civil law codification was determined by dual objectives of jurisprudence: the legislator's orientation and training of professionals for a new legal system. That is why his monography "History of Civil Law Codification" was not only scientific but also the educational book.

S. Pakhman has been considered as one of the ideologists of legal positivism. Positivist theory of law suggested that law and legislation are the same notions, according to inherent features of law such as formality, accuracy, uniqueness of regulation, its distinction from other social regulators. It is the true reason of S. Pakhman's reference to those sources of positive law where mentioned features were fully expressed.

The first volume of his book "History of Civil Law Codification" includes analysis of codified legal acts since ancient times to the beginning of the nineteenth century. In the second volume S. Pakhman reviewed the history of Russian law codification from 1826, and law of national regions of Russia.

The practical significance of research that S. Pakhman carried out should be noted. He was sure that the question about the subject and the system of Civil Code could be satisfactorily resolved only on the basis of instructions, contained in current legislation and in history of national law codification.

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THE COURT'S DECISIONS AND JUDGMENTS: CORRELATION BETWEEN TERMS

In civil procedural law of Ukraine the term "decision" has a double meaning: wide and narrow. As a generalized generic term it refers to all acts adopted by the courts (court's or judicial decision), and as a judicial act that case is decided on the merits (judgment). That is, the judgments are the form of court's decisions. However, in the Ukrainian language, these terms sound almost identical, which creates problems in theory and judicial practice. Such uncertainty in legal terminology is a significant drawback in legislative technique.

Based on historical analysis and current enforcement, author justifies the need to replace the generic term court's decision by the term court's act. Due to the fact that the term "court's decision" is used not only in the Civil Procedure Code of Ukraine, but also in all procedural codes and laws of Ukraine. This change is very complicated in terms of practical implementation, but necessary.

The result of this terminological ambiguity was also used in the Art. 208 of CPC of Ukraine to refer to a concept in two terms: types and forms. According to the author, the term "types" should apply to the judgments. The term "form" should apply to court's acts, which are stacked in the form of judgments, rulings, orders and regulations.

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DOMESTIC LEGISLATION OF EUROPEAN COUNTRIES IN THE FIELD OF LEGAL REGULATION OF WEBSITES

The article is devoted to the legal status of the website as an object of copyright in Europe. In general, European countries can gain the status of states with reasonable regulation of relations that arise out of using the Internet in general and websites among other things.

The above-mentioned issue is mostly resolved in the legal documents of France, where a special HADOPI law was ratified in 2009. Its purpose is to promote compliance with copyright laws, and provide a special procedure to control placement of counterfeit materials on the websites.

Great Britain has a law on copyright and related rights and Digital Economy Act 2010, which regulates relations in the field of digital media broadcasting and establishes a new legal process of appeal hearing concerning legal status of websites.

Strict rules that characterize most of them help to maintain law in the field of Internet law in these countries at a high level. The article also provides the description of legislation on Internet law in Germany and Spain. The conclusion contains the author's recommendations how to improve the existing legislation in Europe regarding issues that arise in legal relations on creation and use of websites. Following such recommendations will help the governments of European states to keep the Internet law in these countries at a high level.

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WAYS OF IMPROVEMENT AND CURRENT CONDITION OF LEGAL REGULATION OF INVESTMENT CONTRACTS IN CONSTRUCTION

The main purpose of the article is to analyze the national legislation regulating social relations in investment activity in the construction industry, procedure of signing and execution of investment contracts in construction, to investigate scientific achievements of scholars in that field, to emphasize specific features of mentioned types of contracts, and to determine ways of improving their legal regulation.

On the basis of conducted research the conclusion is made that features of investment contracts in construction are not regulated at the legislative level, although they are widely used in practice and exist as an independent type of contracts. At the same time, the absence of clear definition of investment contract and its parts in Ukrainian legislative framework often leads to conflicts between members of investment process that have to be resolved in court.

Taking into account the difficulty of economic and legislative framework of investment contracts in construction, we propose to classify them into two types – direct and indirect. Indirect investment contracts in construction are sufficiently regulated by Ukrainian law while direct investment contracts, although realized practically, do not have adequate legal regulation. We propose to include mentioned classification into the chapter "System of Contracts in Construction Industry" of the new Construction Code of Ukraine as a separate section "Investment Contracts in Construction". This section should include the list of all possible indirect contracts in construction and reference to specific regulating laws, as well as detailed description of basis and features of signing and execution of direct contracts taking into account the above mentioned characteristics of this type of contract.

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TOOLS OF THE STATE SUPPORT OF ECONOMIC ACTIVITY IN MANUFACTURING AND TRADE OF MEDICINAL PRODUCTS

In this article the author proves the necessity of state support of economic activity in manufacturing and trade of medicinal products. The measures of such support are determined, in particular, grant of tax deductions, especially VAT. The author focuses on the fact that tax incentives should be applied without exception to all medicinal products that are allowed to use. In addition, the author notes that the list of medicinal products with preferential tax treatment should not be tied to the codes used by customs authorities. The next tool of the state support is simplifications of the permissive system in this sphere of management. Manufacturers of medical devices are currently concerned about the issue of the introduction of new technical regulations and the introduction of transition period. The author believes that it is necessary to recognize the certificates of conformity issued by European Union authorities. The author states that it is necessity to increase the number of agencies that can carry out conformity assessment. Other tools of the state support are introduction of special government programs and grant of tax credits. The order of application of these measures is specified.

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SPECIFICATION OF THE MODEL OF "ANTI-PUBLIC" TRANSACTION

"Anti-public" transaction is the subject of research of many scholars. However, the ambiguity of p. 1-2, Art. 228 of the Civil Code of Ukraine determines the divergence of views on matter, essence and even areas where such transactions can be committed.

Thus, the analysis of models of "anti-public" transaction distinguished by scholars, as well as analysis of p. 1, Art. 228 of CC of Ukraine revealed the following model of "anti-public" transaction:

1) the object of violation is public order;

2) the focus of the transaction on violations specified in p. 1, Art. 228 of the Civil Code of Ukraine as an objective ability to cause some legal consequences (violations).

Thus, "anti-public" transaction is a transaction aimed to violate the state legal regulations, which define the foundations of the form of government, political system and economic security, and infringe on the essential interests of the state and society.

To correct terminology, the author believes that it is appropriate to amend p.1, Art. 228 of the Civil Code of Ukraine as follows: "A transaction shall be considered as such that violates public order where it was aimed at violation of constitutional rights and freedoms of a man and a citizen, destruction, damage of property of a legal person, of the state, the Autonomous Republic of Crimea, territorial community, illegal seizure thereof".

In addition, it is advisable to amend the definition of transaction in p. 1, Art. 202 of CC of Ukraine, replacing the words "action of a person" with "action of participants in civil relations".

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CIVIL LAW FORMS OF FORECLOSURE ON DEBTOR'S INTELLECTUAL PROPERTY RIGHTS AND THEIR LEGAL CONSEQUENCES

The article highlights the issue of possible forms of foreclosure on intellectual property rights. It was found what kinds of legal acts regulate these issues and what kinds of forms exist. Thus, the author identifies the following civil legal forms of foreclosure on intellectual property rights: executive inscriptions by a notary; court judgment; arbitration court judgment; agreement on transfer of intellectual property rights, licensing agreement, compulsory licensing, public auction. The author proposed amendments to Article 1108 of the Civil Code of Ukraine, namely to present paragraph 1 of Article 1108 of the Civil Code of Ukraine as follows: "A person having an exclusive right for permitting the use of the intellectual property (a licensor) may or must assign another person (a licensee) a written authority for the right to use this object in certain limited sphere (license to use an object of the intellectual property right)" in order to make possible application of the use of compulsory license. The necessity of foreclosure on intellectual property rights with help of court decision is explained. A clear procedure for removing obstacles to the emergence of new forms of foreclosure in the event of not fulfilling the main obligation of pledge contract has been concluded, where the subject is intellectual property rights. The necessity of mandatory changes to a wide range of laws regulating tradability of intellectual property rights is discovered and substantiated.

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INFLUENCE OF MANDATORY REGULATIONS ON THE STATUTE OF CONTRACTUAL OBLIGATIONS

The article highlights the nature of the impact of mandatory regulations on the content and scope of the statute of contractual obligations. It is noted that the content of the contractual obligation is determined not only by contractual statute, but also by the general principles of conflict of private law relations, in particular mandatory regulations. Therefore, the legal regulation of contractual obligations exceeds the limits the contractual statute.

The author identifies and analyzes three groups of cases concerning respectively: mandatory rules of contract statute, mandatory regulation of the state of the forum and mandatory provisions of law of third state.

These types of mandatory regulations have different reasons and motives of their application. Thus, the use of mandatory regulations of law, defined as applicable, should be considered as part of the contractual status. The application of mandatory requirements of forum law is determined by the constitutional duty of the court to apply its national law. The ability to use mandatory rules of third countries is a breakthrough in the classic mechanism of conflict regulation. It results in crucial moment in choice of law made by the parties or even set on the basis of objective bindings.

In summary it can be stated that in the definition of contractual statute mandatory rules come to the fore in respect of their own scope of application, content and extent of which is implied by objective, which these legal regulations serve to, without specification of the nature of legal relationships for which they should be applied. Thus, the use of these regulators should be considered as, so to speak, an interference from outside of contractual status.

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THE PROBLEMS OF SPECIALIZATION OF ECONOMIC AND LEGAL REGULATION OF SERVICE AGREEMENTS

The article deals with the analysis of problems of specialization of economic and legal regulation of service agreements. This author identifies the nature of specialization of economic and legal regulation of service agreements, the factors that determine it. The article presents the analysis of shortcomings of the legal regulation of service agreements and provides suggestions regarding directions of further specialization of economic and legal regulation of service agreements.

It is reasonable to conclude that the specialization of economic and legal regulation of service agreements is creation of special legal regimes of particular contracts, mediating the various segments of the services market by differentiation of special economic provisions of law and purely private civil rules of law, establishing the appropriate contractual models in human services, and also by specifying economic provisions of law in this area.

Such legal regimes for rendering of appropriate services should optimally combine private and public interests, and take a proper account of specific character of particular services, that will determine greater or lesser degree of state's regulating influence on business entities in human services.

Gradual intensification of specialization of economic contract law on human services should be performed in the following ways: the systematization of economic and contractual rules, governing the rendering of services and the supplementation of the Economic Code with other types of service agreements; the improvement in the existing regulation of contractual relations in human services by establishing the essential conditions and the peculiarities of drawing and execution of particular types (subtypes) of service agreements; the elaboration and adoption of standard and sample service agreements; the adoption of certain acts of law concerning the regulation of economic activity related to the rendering of particular types of service agreements.

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TO THE ISSUE OF FORMALIZATION OF TERMINATION OF RIGHT TO JOINT SHARED OWNERSHIP ON IMMOVABLE PROPERTY

The issue of formalization of termination of right to joint shared ownership on immovable property plays an important role in transactions of such a property that is the result of at least two reasons. The first is that as rule termination of joint shared ownership on immovable property is related to legal mechanisms of transaction of rights on immovable property from one person to another or to division of such a property into two or more parts between co-owners. The second reason is state registration of real rights on immovable property that is obligatory for parts of appropriate transactions. According to provisions of Law of Ukraine “On State Registration of Corporeal Rights to Real Estate and Their Encumbrances” all real rights on immovable property and their encumbrances arise only with their registration.

State registration is provided by state registers and notaries as special subjects that carry out registration functions. Notaries register real rights on immovable property and their encumbrances only if they arise from notarial actions. The list of notarial actions is enshrined in Article 34 of the Law of Ukraine “On Notariate”. In other way registration actions are provided by state registers.

As a result of analyses of legal mechanisms of termination of a subjective right to joint shared ownership on immovable property we can conclude that there are four the main of them:

1) the alienation of a share in immovable property that is in joint ownership or alienation of the whole property by co-owners in favor of other person;

2) the voluntary division of immovable property that is in joint ownership between co-owners or exudation of the part of such a property to one of co-owners;

3) the division of immovable property that is in joint ownership between co-owners or exudation of the part of such a property to one of co-owners, which is forced or determined by the court decision action;

4) the transaction of all the fullness of rights on immovable property that is in joint ownership from co-owners to other persons by the court decision.

Scientific analyses of special grounds of termination of the rights to joint shared ownership on immovable property shows that formalization of such a termination as rule belongs to arising appropriate rights of co-owners (in case of division of immovable property that is in joint ownership between co-owners or exudation of the part of such a property to one of co-owners) or to transaction part in immovable property that is in joint ownership from co-owner to whom such part belongs in favor of other persons.

That is why formalization of termination of the rights to joint shared ownership on immovable property is a secondary result of appropriate legal actions. The first result is arising of appropriate rights of other persons. Moreover, from the point of view of provisions of registration legislature, the termination of rights to joint shared ownership on immovable property is not formalized as a separate procedure. As a rule, it is a logical result of appropriate legal actions.

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LONGSTANDING OBLIGATIONS AS NATURAL OBLIGATIONS

The article studies intercommunication of the longstanding obligations, limitation of actions and right to defence. Legal consequences of limitation of actions are examined and legal nature of equitable property right of person is analyzed with respect to expiration of limitation of actions.

The research of the concept, legal nature and place of longstanding obligation in civil law system of Ukraine involves identification of the relationship of longstanding obligation to the protection of the law and statute of limitations.

The analysis allows us considering longstanding obligation as a kind of natural obligations, claims to which lack legal protection and voluntary implementation of which is recognized appropriate.

Longstanding obligation turns into full and civil obligation to the restoration of the missed period of limitation in court or at stage of only voluntary execution, i.e. before the restoration of missed limitation period.

The nature of longstanding obligation is not much of a moral obligation or moral duty but rather civil obligation legally weakened by deprivation of enforceability under the canceling condition of voluntary implementation of the obligations and secured by allegedly stated future denial of the claim.

Thus, in terms of doctrinal justification and law enforcement practice, the most justified understanding of longstanding obligation is as civil obligation, although weakened (paralyzed, degenerated, etc.). Longstanding obligation is a specific type of obligation, claims to which lack legal protection and voluntary implementation of which is recognized appropriate and aimed to facilitate the removal of uncertainty of binding legal relations.

CONTENTS

THEORY AND HISTORY OF STATE AND LAW; PHILOSOPHY OF LAW

A. Ovchinnikova
PHILOSOPHICAL INTERPRETATION OF LEGAL CULTURE 4

T. Protsenko, O. Selezniova
POSITIVES AND NEGATIVES OF THE INFORMATION SOCIETY: A VIEW FROM THE STANDPOINT OF PHILOSOPHY 5

A. Zaitseva
MEDIA CULTURE AND LAW: LIMITS AND ASPECTS OF INTERACTION 6

A. Romanova
LAWFUL HUMAN ACTIVITY 7

O. Maksymiuk
SOME AXIOLOGICAL ASPECTS OF THE FUNCTUIONS OF CRIMINAL LIABILITY 8

R. Hurak
ANALYSIS OF THE POLITICAL AND LEGAL DOCTRINES IN THE ANCIENT EAST 10

I. Zelenko
CONCEPTS AND APPROACHES TO CLASSIFICATION OF PRESUMPTIONS 11

I. Polonka
GENESIS OF NATURE OF LEGAL CONDUCT AND PROPOSALS FOR THE CONCEPT 12

I. Yasynovskyi
HISTORICAL ASPECT OF DEVELOPMENT OF THE INSTITUTE OF MEDIATION AND CURRENT TRENDS OF ITS DEVELOPMENT 13

L. Bachynska
THE POSITION OF THE CATHOLIC CHURCH ON BIOETHICAL PROBLEMS OF ABORTION AND EUTHANASIA: PHILOSOPHICAL AND LEGAL THINKING 14

I. Mokin
FEATURES OF NEGATIVE SIDE OF LEGAL LIFE IN UKRAINE IN TIMES OF REVOLUTION OF 1917-1921 15

M. Melnychuk
LEGAL REGULATION OF SANATORIUM AND SPA TREATMENT IN THE USSR IN THE 1920S 16

R. Haliuk
LAW INTERPRETATION BY COURTS OF SPECIAL JURISDICTION AS A FORM OF SYSTEMATIZATION OF UKRAINIAN LAW 17

CONSTITUTIONAL AND MUNICIPAL LAW

I. Drobush
STAROSTA AS A NEW ORGANIZATIONAL FORM OF LOCAL SELF-GOVERNMENT AND ITS PARTICIPATION IN THE IMPLEMENTATION OF SOCIAL FUNCTION 19

I. Shevchuk
FEATURES OF PROTECTION OF HUMAN AND CIVIL RIGHTS BY THE BODIES OF CONSTITUTIONAL JUSTICE IN UKRAINE AND THE REPUBLIC OF POLAND **20**

I. Idesis
PROBLEMS OF ADOPTION AND REGISTRATION OF MUNICIPAL CHARTERS IN UKRAINE **21**

◇◇

ADMINISTRATIVE, FINANCIAL, TAX LAW

◇◇

M. Loshytskyi
THE SUBJECT OF PROTECTION OF POLICING ACTIVITY OF STATE **23**

N. Huberska
THE PROCEDURES OF ACCEPTANCE AND REALIZATION OF THE ADMINISTRATIVE DECISIONS IN THE HIGHER EDUCATION SPHERE **24**

D. Pavlov
LEGAL AND ORGANIZATIONAL PROBLEMS OF MAN-CAUSED (TECHNOLOGICAL) AND NUCLEAR TERRORISM COUNTERACTION AND THEIR SOLUTIONS **25**

I. Paterylo
FOUNDATIONS OF THE FORMATION OF THE CONCEPT OF PUBLIC ADMINISTRATION OF UKRAINE BASED ON EUROPEAN PRINCIPLES **26**

S. Sarana
CONCERNING THE QUESTION OF COMPOSITION OF THE PROCEDURAL TAX REGIME **27**

V. Fesiunin
ON THE ISSUE OF FORMATION OF POSITIVE IMAGE OF THE STATE FISCAL SERVICE OF UKRAINE IN MODERN CONDITIONS **28**

M. Romaniak
PERSONAL SECURITY GUARANTEE OF AN ARMED MILITIA OFFICER: TO THE QUESTION OF LEGAL REGULATION IMPROVEMENT **29**

A. Rustamzade
THE LAW OF UKRAINE “ON THE HIGH COUNCIL OF JUSTICE” AS THE LEGAL FRAMEWORK OF THE HIGH COUNCIL OF JUSTICE AND THE PERSPECTIVES FOR ITS IMPROVEMENT, BASED ON THE RECOMMENDATIONS OF THE COUNCIL OF EUROPE **30**

Y. Voronin
PUBLIC CONTROL IN THE OIL AND GAS SECTOR IN UKRAINE: ISSUES OF LEGAL REGULATION **31**

N. Yaniuk
“AN OFFICIAL” AND “A SERVICE PERSON” IN PUBLIC ADMINISTRATION: PROBLEMS OF DEFINITIONS IN THE LEGISLATION OF UKRAINE **32**

T. Yamnenko
TO THE QUESTION ABOUT THE CONCEPT, SIGNS AND CONSTITUENTS OF NON-STATE FINANCIAL CONTROL **33**

V. Mykulets
INFORMATIONAL AND LEGAL BASIS FOR ROAD TRAFFIC SAFETY: INTERNATIONAL EXPERIENCE 34

R. Haliuk
LAW INTERPRETATION BY COURTS OF SPECIAL JURISDICTION AS A FORM OF SYSTEMATIZATION OF UKRAINIAN LAW 35

O. Mandziuk
LEGAL NATURE OF OPERATION AND DEVELOPMENT OF ANALYTICAL COMMUNITIES IN UKRAINE 36

Y. Hlushko
PROBLEMS IN UNDERSTANDING THE CATEGORY OF "PUBLIC" IN THE CONTEXT OF COMBATING CORRUPTION 37

I. Bielitskyi
PROBLEMS WITH TERMINATION OF TAX OBLIGATION 38

Y. Bilokur
REALIZATION OF PLANNING FUNCTION IN PUBLIC ADMINISTRATION: PROBLEM ASPECTS 39

O. Lahniuk
ON THE ISSUE OF STAFFING OF COURTS OF GENERAL JURISDICTION IN UKRAINE 40

S. Leskiv
LEGAL STATUS OF THE HIGH COUNCIL OF MAGISTRACY AS A BODY OF JUDICIAL SELF-GOVERNMENT OF FRANCE 41

M. Mishustin
THE ANALYSIS OF THE REAL ESTATE DEFINITION AS THE OBJECT OF ADMINISTRATIVE AND LEGAL REGULATION IN UKRAINE 42

A. Saienko
CLASSIFICATION OF ADMINISTRATIVE SERVICES IN THE FIELD OF INTELLECTUAL PROPERTY 43

K. Tokarieva
SPECIFICITY OF THE SUBJECT OF PROOF AND CIRCUMSTANCES THAT MUST BE ESTABLISHED DURING CLOSING THE CASE CONCERNING THE ADMINISTRATIVE OFFENSE WHEN THE TERM OF THE ARTICLE 38 OF THE CODE OF UKRAINE ON ADMINISTRATIVE OFFENCES HAS EXPIRED 44

S. Bieliavska
LEGAL INNOVATIONS IN COURT ADMINISTRATION: INTERNATIONAL LEGAL STANDARDS AND ADAPTATION OF UKRAINIAN LEGISLATION TO THESE LEGAL STANDARDS 45

O. Hubanov
REQUIREMENTS FOR LAW ENFORCEMENT ACTIVITY AS A CRITERION FOR ITS QUALITY 46

A. Kaftia
TRANSFORMATION OF RIGHTS AND FREEDOMS OF MAN AND THE CITIZEN IN TERMS OF INFORMATIZATION 47

O. Movchun
CONCEPT OF OFFICIAL DISPUTE AS A PARTICULAR PUBLIC DISPUTE 48

CIVIL AND ECONOMIC LAW AND PROCEDURE

V. Hopanchuk, T. Voitenko
RELATED CONSEQUENCES OF INVALIDITY OF MARRIAGE 50

K. Manuilova
CONCEPT AND CHARACTERISTICS OF THE SOURCE OF INCREASED DANGER 51

V. Tsymbaliuk
CURRENT ISSUES OF LEGAL REGULATION FOR SEPARATION OF SPOUSES IN FAMILY LAW OF UKRAINE 52

V. Mamnytskyi
ADVERSARIAL PRINCIPLE AND MODELS OF CIVIL PROCEEDINGS 53

I. Lukach
ON THE POSSIBILITY OF CANCELLATION OF THE SUPERVISORY BOARD IN JOINT STOCK COMPANIES 54

I. Kalaur
LEGAL RESULTS IN CASE OF BREAKING THE PAYMENT DUTIES FOR RENTING BY A LEASE 55

V. Prytuliak
DOCTRINAL UNDERSTANDING OF THE BRANCH AFFILIATION OF ENFORCEMENT PROCEEDINGS IN UKRAINE 56

O. Protsiuk
ON THE INTRODUCTION OF ADDITIONAL MECHANISMS OF LICENSING OF TOUR OPERATORS IN UKRAINE IN CASE OF CROSS-BORDER PROVISION OF SERVICES IN SPAIN 57

R. Abukhin
HISTORY OF CIVIL LAW CODIFICATION IN S. PAKHMAN'S WORKS 58

I. Kolotilova
THE COURT'S DECISIONS AND JUDGMENTS: CORRELATION BETWEEN TERMS 59

V. Filinovych
DOMESTIC LEGISLATION OF EUROPEAN COUNTRIES IN THE FIELD OF LEGAL REGULATION OF WEBSITES 60

Y. Komar
WAYS OF IMPROVEMENT AND CURRENT CONDITION OF LEGAL REGULATION OF INVESTMENT CONTRACTS IN CONSTRUCTION 61

Y. Korotych
TOOLS OF THE STATE SUPPORT OF ECONOMIC ACTIVITY IN MANUFACTURING AND TRADE OF MEDICINAL PRODUCTS 62

L. Lichman
SPECIFICATION OF THE MODEL OF "ANTI-PUBLIC" TRANSACTION 63

O. Trofymenko
CIVIL LAW FORMS OF FORECLOSURE ON DEBTOR'S INTELLECTUAL PROPERTY RIGHTS AND THEIR LEGAL CONSEQUENCES 64

O. Bort
INFLUENCE OF MANDATORY REGULATIONS ON THE STATUTE OF CONTRACTUAL OBLIGATIONS..65

O. Holina
THE PROBLEMS OF SPECIALIZATION OF ECONOMIC AND LEGAL REGULATION OF SERVICE AGREEMENTS...66

A. Lozovyi
TO THE ISSUE OF FORMALIZATION OF TERMINATION OF RIGHT TO JOINT SHARED OWNERSHIP ON IMMOVABLE PROPERTY..67

N. Maidanyk
LONGSTANDING OBLIGATIONS AS NATURAL OBLIGATIONS..69

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