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THEORY AND HISTORY OF STATE AND LAW

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SPECIAL COURTS' JURISDICTION IN THE SYSTEM OF THE CITY MANAGEMENT IN RUSSIAN EMPIRE IN THE LATE XVIII

At the end of the XVIII century the Russian Supreme power authorized group amenability of the population in the cities for the purpose of strengthening of law-enforcement system and development of peripheral territories of the empire.

Efforts of the Russian Supreme power in the first half of the XVIII century of keeping peripheral territories as a part of the empire, of developing trade and economic relations and strengthening political links with neighboring nations caused emergence of isolated groups of the population in some cities. These population groups were vested with the rights of self-government and electoral administration, including special amenability. Multiethnic communities of citizens and visitors in Nezhin, Orenburg and Astrakhan enjoyed exclusive status. In the last third of the XVIII century the absolute monarchy developed a system of bodies of class governing and justicein the process of administrative, judicial and class reforms, promoting the empowerment of imperial law-enforcement system. The government also supported the principle of legal pluralism sought in the course of state development, allowing to effectively regulate the public relations, to provide social and political stability and conditions for demographic and economic development of territories. The legislator formalized the right to self-organization and special amenability for inhabitants of the cities counting over 500 families, with dedicated administration of small estates of weaponsmith Tula, Tatar traders in Kazan and Seitovsky posad, and also the diasporas in the southern provinces of the Russian Empire and dedicated into social classes of «Armenians», «Greeks», «Tatars». Activity of the courts of ethnic classes was under the supervision of provincial administration and the courts of law guaranteeing observance of norms of imperial, foreign and common law, protection of «lawful» interests of citizens, immigrants and temporary visitors tothe empire. Pavel I recognized the rights and privileges of ethnic classes, weakening the integration of immigrants. While the Tula armorers were locked in the military organizationin 1797, the multiethnic communities in Astrakhan received their new bodies of electoral management – the Armenian court and the Tatar council. The monarch founded another magistrate with the exclusive status for Balkan immigrants in Odessa, having included the Russian merchants and commoners, inferior in number to immigrants.

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AXIOLOGICAL DEONTOLOGICAL APPROACH AS A BASIS FOR RESEARCH

This paper investigated:

1) the concept of axiological approach;

2) types of values approach;

3) axiological approach to the methodology of law;

4) deontological varieties axiological approach to the methodology of jurisprudence.

Axiological (value) approach is reflected in legal ethics lawyer in understanding the importance of law and legal culture, the social utility of the activity in the legal field. Application value approach in the study of legal ethics is extremely important. He brings morality and value orientations in the minds of young professionals that are needed in the legal profession, encourages him to comply strictly with the law and regulations prevailing internal high moral convictions.

Axiological (value) approach in the study of ethics – is a common research strategy that defines consideration deontological norms in the light of its compliance with certain values, which can be ensured by law and its basis.

Review of research within the deontological value approach is due to the two most important factors. Firstly, the value-based approach to deontological rules has the foundation of a philosophy of values. From understanding the nature of values depends on the definition of value and content deontological norms. Secondly, that type of thinking directly affects the interpretation of the relationship between values and deontological norms, recognizing its value to individuals and society.

Effect of axiological approach deontological study is as follows:

1) during the study deontological norms drawn attention to the fact that it is moral, value bases specified in a particular norm and that they are all present;

2) bringing the legislation into conformity with the optimal values that should have every lawyer or at least try.

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THE GENERAL THEORETICAL CHARACTERISTIC OF THE INTEGRATIVE APPROACH TO THE TYPOLOGY OF THE STATE

Two approaches to the typology of the state – formational and civilizational – are dominated in modern legal science. The results of the analysis of their main principles showed that both approaches had shortcomings.

Thus, the criteria of the formational approach are not sufficient to reflect the peculiarities of the influence of cultural factors on the development of the state and law. Socio-cultural aspects of functions of the society can explain a number of differences among the states of the same socio-economic formation.

The main drawbacks of the civilizational approach are, first of all, the lack of uniform understanding of its basic category «civilization»; it causes polyvariance of civilizational concepts. As a result, there is a methodological problem, because the object of typology is not exactly defined. In addition, the analysis of the criteria of the civilizational approach showed that they did not reproduce the essence of typolized phenomenon – state.

Such negative points lead to the necessity of the formation of the integrative approach that would concentrate positive sides of formational and civilizational approaches.

Criteria of the formational approach reveal the peculiarities of state power, which is the essence of the state. Taking into account the requirements for typology criteria, the integrative approach must also reflect the essence of the state. The formational approach provides a clear definition of the main features and components of its base category «socio-economic formation», which is system and logically determined.

The backgrounds of the formational approach reflect the peculiarities of the economic state of the country and reveal the natural relationships of economic relations and type of the state. Certainly, the economy has a significant influence on the state and law at nearly all stages of the social development. However, this is not the only factor of the state development, because the state is a system of interconnected elements (political, economic, social and cultural) that affect it.

The civilizational approach explores the state from the standpoint of the socio-cultural factor and gives more opportunities for the study of the nature of its influence on the formation and development of the state and law. Unlike the formational theory that substantiates the determination of the state by means of economic factors, the civilizational concept proves the existence of the same general determination by means of spiritual factors.

Therefore, the integrative approach should be built on the basis of the unity of the positive sides of the formational and civilizational approaches, where the position of the first is the main and the second is additional. The criteria of the integrative approach should reflect the

elements of the state: state power, economy and culture. The most optimal formation of such types of the state as eastern, slaveholding, feudal, capitalist, socialist is based on these grounds. Meanwhile, you should carry out differentiation based on socio-cultural factors within each type; this will give an opportunity to reveal special features of states of the same type.

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CULTURE AS AN OBJECT OF CULTURAL FUNCTION OF THE MODERN STATE

On the modern stage of a society development, culture is seen as a driving force for socio-economic progress; as a stimulant that determines and provides new standards of living; as a mean of forming and setting of a unique national cause; as a way of strengthening national spirit. One of the major challenges in modern national development is support and development of national culture.

Each function of the state, being purposive and particular, sets out activity in its certain sphere of public life, displays activities of state organs, issues they deal with, etc.

Overall, spiritual and moral sphere of community stands as an object of cultural function:

1) aggregation of material and spiritual valuables of society that by its constantly multiplication, appear as an object of support and a control agent of state;

2) artistic (folk) creation;

3) «**ethnic (national)** culture» as an object of state administration is aligned to inner- national and international functioning of the system of values and cultural norms, their creation, selection, accumulation and retransmitting;

4) object that represents an outstanding unique valuable, and in respect of which the state obliged to protect, popularise and hand it down as a legacy to next generations;

5) aggregation of separate spheres: library, club, museum businesses, spheres of information, publishing business, television and broadcast, cinematography, cultural legacy preservation, etc., activity of theatrical and archived establishments;

6) spiritual and cultural values that represent cultural achievement of individual and society, securing their creation, preservation, distribution and adoption;

7) art, cultural services to population; tour activity, cinematograph, television and broadcast; publishing business, polygraphy and bookselling business; objects of history and culture, cultural tourism.

As an object of cultural function of state, culture is an integral complex process, the main orienting point of which is an individ-

ual, his absolute spiritual (moral and intellectual) development and perfection.

The phenomenon of culture is viewed by scholars to be in creative activity of people and accumulation of material and spiritual valuables, elaborated by human kind through the history; and also in mutual relations folded in the process of distributing of cultural acquisitions.

International documents handle culture as an aggregation of high-profile signs, spiritual and material, intellectual and emotional characterising society or social group.

Culture is one of the major elements of human activity that interweaves all spheres of human life – from a financial production and simple necessities to the most majestic and unfathomable displays of human spirit.

We believe that it is appropriate to offer our own definition of culture as an object of cultural function of the state. Culture is a process of creation, preservation, accumulation, reproductions and amplification of material and spiritual values, in which the essence of a person reveals itself to the full, displaying person's greatest aspirations, ideals, and, by its extension, one single cultural space is being formed.

In summary, we should emphasise that public relations in the field of culture constitutes the subject of cultural functions of state, and being regulated, administered, and subjected to different finds of state activity. Culture as a phenomenon and a result of the existence of human, human kind constitutes an object of cultural functions of state.

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REGULATORY LEGAL ASPECT OF PROVIDING DEFENSE OF CHILD'S RIGHTS IN UKRAINE

Much attention is paid to the situation of children in Ukraine, their social and legal protection as well as the conditions for physical, intellectual and spiritual development, full life future. Ukraine, like most countries in the world, taking care of the interests and rights of the young generation, allowing for the normal development of children in the current conditions and identifying ways to overcome the existing problems associated with the negative effects of the transition in the economy.

Children are a special socio-demographic groups aged from birth to 18 years, which has its own specific needs, interests and rights, but does not have sufficient capacity to defend and protect the public. Legally child is an independent legal personality, including her cover the full range of civil, political, economic, social and cultural rights.

Ukraine for a short period of time its existence has advanced significantly as a way of improving the regulatory

framework designed to ensure compliance with the Convention on the Rights of the Child, and in the cause and ensure these rights in practice. However, this should not stop and will continue to strengthen its efforts to improve the situation of children overcome the negative effects of poverty and that unfortunately still exist in our country.

Thus, public awareness of children's rights has changed markedly during the last twenty years, the system of protection: now the child obtains more independent status of the entity; children are recognized as the most vulnerable social groups.

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TRANSFORMATION OF THE PHENOMENON OF STATE AUTHORITY IN GLOBAL CHANGES

Article is devoted to clarification of essence of change of role and place of government in globalization space. The attention is focused in modern transformational society there are radical changes, not to notice which is impossible. The government from a phenomenon of the legal compulsory arbitrator passes to a rank of a minor link in the relations «society – subject of management». Dominants are occupied by the international globalized subjects of power, but to speak about loss by the government of absolute positions, according to the author prematurely. It is proved that replaceable characteristics of a state and imperious phenomenon have the double nature: caused by external processes (transformation of a role of the state, political, legal, economic and multicultural globalization) and internal transformations of the government realization mechanism.

The attention is concentrated on problem aspects of participation of people and the individual in state and imperious activity. The personality as object in the mechanism of the state and imperious relations, her social nature is pointed to change. The personality as the subject of state imperious and legal relations ceases to feel pressure of totalitarian uncontrollable imperious elite.

Globalization changes caused by a wide concept of the public phenomena first of all in this article it is connected with changes in the sphere of globalization of political and legal existence. The attention to interaction and interrelation of political, legal and economic processes of public existence and their value for change of the state and imperious mechanism is paid.

In article absolute possibility of existence of the uniform world community, that is such community of the social relations which cannot be integrated into national public policy or be defined by it is categorically denied.

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ABOUT THE QUESTION OF INFORMATIVE-COGNITIVE (QUANTUM) UNDERSTANDING OF LAW AND CRITERIA OF ITS TYPOLOGY

The article describes the scientific views on the essence of law, and the scientific approaches to the typology of law. On the basis of these general views of scientists on the nature of law the author proposes a new approach to the understanding of law – informative-cognitive, and according to it, identifies the criteria for allocation of types of its understanding. According to the author understanding of the law is a dual cognitive mechanism which is, on the one hand, a means of understanding the meaning of law, imprinted in the memory of the individual (patterns), and on the other – a way to fill it with meaning by mastering a system of «I» of the subject of external information (knowledge). Consequently, the author defines the understanding of law as reflection in the human mind through the lens of mental construction «law» (the legal pattern) of the phenomenon that is beneficial to the needs of the existence and development of the subject. As a result, a certain pattern of law understanding mechanism emerges: 1) the person is aware of certain quantum phenomena by setting their meaning (context), and 2) reflects in his mind through the pattern, referred to as the «law» that indicates the information structure, which is a sequence of characters of these phenomena; 3) The constitution of the «I»-image (concept) of the individual on the basis of the legal pattern (legal «I»), and 4) the objectification of the legal «I» in the language as a legal context. This understanding of the law is called cognitive information.

Thus, the informative-cognitive understanding of law actually means a specific kind of reflection of certain phenomena in mind when the pattern «law» is used to identify the phenomena as legal.

All the variety of theories of understanding of law the author classified into three groups according to the type of energy and focus in the formation of law – introvert, extrovert and integrative. Extrovert type of law understanding is manifested in the construction of law by the flows of social or divine energy. Introvert type of law understanding involves a process of immersion in the world of Eidos of law, in the world of thought and imagination, as well as the comprehension of legal experience of consciousness. In other words, the creation of law is based on psychic energy. In addition, the introvert approach to the understanding of law involves the comprehension of the archetypal manifestations of the collective unconscious and the underlying legal patterns of the individual, affecting the external process of the law-formation. Integrative type of law understanding is a bridge connecting the extrovert and introvert models of understanding of the law. In other words, integrative approach implies the existence of an intrinsic connection between the internal and external process-

es of formation law as a whole, which is the transformation of psychic energy into the social, as well as social energy in the psychic. Therefore, since the introvert model of understanding of law involves finding the source of law-making mechanism in the inner world of man, his sense of justice, the representatives of the extrovert model, however, consider the law only in a social context.

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PECULIARITIES OF THE INTERNATIONAL AND NATIONAL LAW LEGAL SOURCES MECHANISM OF CO-OPERATION IN THE LEGAL SYSTEMS OF COMMON TYPE

New scientific task, which consists of revealing the basic parameters and peculiaritiesof the International and National Law legal sources mechanism of co-operation is solved in this article. Such kind of mechanism provides the coordinated functioning of standard and legal instructions in the legal systems of Common Type (Law).

The lightening of peculiarities of the International and National Law legal sources mechanism of co-operation in the legal systems of Common Type (Law) is based on an example of the United Kingdom of Great Britain and Northern Ireland, Canada, the Commonwealth of Australia, the United States of America legal systems.

The results of this research allow to make following conclusions:

1. The peculiarities of the modern Common Law legal sources are the following ones:

- the judicial precedents are the basics of the system of the modern Common Law legal sources;
- there are a lot of laws (acts, statutes) and consolidated acts in their system;
- the character of precedent law sources has been changed;
- the usage of legal custom and the doctrine of law is minimised;
- the specific gravity of the international treaties (agreements) has grown;
- the spheres of legal regulation has expanded and the spheres of precedent regulation has narrowed;
- there is a growth of precedents' role in the standard and legal instructions' specification and interpretation;
- an assimilation of standard and legal instructions under the international standards' influence takes it place;
- the diversification of the legal sources system takes it place.

2. Legal sources mechanism of co-operation in the legal systems of Common Type (Law) is a method of the purposeful providing of standard and legal instructions' co-ordination within the borders of the system with the purpose of effective regulation of public

relations. Its main parameters should include the following items:

1) co-operation principles;

2) normative spheres of the legal adjusting and their limits should be expressly certain and fixed;

3) specific gravity of legal facilities;

4) subjects, which provide co-operation;

5) collision mechanism.

3. Special attention in this article is paid to a deep analysis of the international treaties' models of incorporation into the national legal systems. The automatic model of international treaties' (agreements') incorporation is widely used in the United States of America. Other Common Law countries use the Westminster model of international treaties' (agreements') incorporation.

4. The author focuses her attention on a need to fix up in the constitutions and constitutional acts or in the specially adopted for these purposes laws of the Common Law countries the mechanism of the national Common Law legal sources with the International Law legal sources co-operation inside the borders of a legal system. The author insists on the idea that the basic parameters of such kind of mechanism should be taken into the consideration. It's recommended to name those special laws in the following way: «On the legal sources' system».

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ABOUT UNDERSTANDING AND DEFINITION OF «SOURCES OF LAW» NOTION

Under conditions of the present day European integration and globalization, the legislators are facing a vital necessity for search of the most general and universal definitions of basic legal notions and categories, in order to formulate single approaches to their understanding and usage. The legal theorists aim efforts at improvement of the conceptual and categorical framework of their science that as before shall contain the so called polysemantic, difficult to understand and inexact notions. One of them is the term «sources of law».

The problem of determine the «sources of law» notion still remains essential. The reason for this is that there are no single approaches to the interpretation of the meaning of this term, the separation of which is not always followed by formulation of its definition. At the same time we observe the trend to investigate the «sources of law» notion alongside with the «form of law» notion. There is an established peculiar «tradition» to define the sources of law through the exterior form of law by their refinement within the brackets by the «form» notion, or vice versa (for example, «sources (forms) of law», or «forms (sources) of law»). Other researchers

equate the «sources of law» with the «form of law» pointing out to their synonymy. Only few researchers propose independent definitions of the «sources of law» notions.

In this respect we propose to define the sources of law as ***outwardly expressed in certain forms ideological and material origins of law that reflect its value under specific historical conditions***.

This definition represents four equal interpretations of the «sources of law» notion: 1) material (objective); 2) ideological (subjective); 3) formal (exterior forms of law), and 4) historical (the memorial of law), the separation of which enables to single out in the sources of law system material sources of law, ideological sources of law, formal sources of law and the sources of legal knowledge.

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LEGAL NATURE OF SENSE JUSTICE

The article analyzes the scientific and theoretical research in the field of sense of justice.

Conceptual foundations of sense of justice were introduced by legal scholars, philosophers, psychologists, sociologists and educators still in Soviet times. Despite the fact that this phase is characterized by the prevalence of aspects of the ideological content with emphasis on awareness of mandatory legal norms, they have not lost their scientific and theoretical importance.

Modern legal science pays considerable attention to the issue of sense of justice. Indicates that the distinctive feature of sense of justice is to regulate people's behavior, proposing certain requirements and regulations, which objectively require legislative recognition.

There is a detailed study of sense of justice, which reflects the level of awareness relative to the legal life of society, determines its position, designed to comply with legal requirements and to develop in accordance with them its own behavior caused by legal convictions.

Therefore, the specific nature of sense of justice requires the establishment of certain mandatory scope of behavior and should be based on explaining the purpose and meaning of legal guidelines thus promoting awareness of the role of social relevance, feasibility and necessity of compliance. The leading idea in shaping sense of justice must be 'legal idea' that is, the internal consistency of its essence, recognition of law by such social value, which is given a prominent place in the hierarchy of social values. Performance by the individual the requirements of legal norms must be based on the belief in their general validity and fairness.

There is a conclusion which make that sense of justice is an important constituent of the legal culture emerging as unity of knowledge, firm conviction, and conscious activity.

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COURT PRACTICE AS SOURCE OF WESTERN LAW

The only source of law was recognized normative act in the legal system of previous years. According to modern Western lawyers, none of the forms of law (legislation, common law, contract law, doctrinal law, judicial law) cannot claim to be the only practical and fair. Each of these forms has its advantages and disadvantages. The state already exists in different jurisdictions, each jurisdiction where the related law of other jurisdictions.

Today characteristic basis of Western law - is legislation which empowers lawyers to refer to natural and legal reasoning in making decisions of the case. That is, for example, art. 7 of Austrian Civil Code, art. 6 of Spanish Civil Code, art. 1 of Swiss Civil Code. The last says: «If the law and custom are absent, the judge must decide the case on the grounds: a rule which he had brought, if the legislator was, going after tradition and jurisprudence».

Turning to the rules of the Swedish judges, we find that some judges have broad powers in the application of the law. As a rule, for example, says: «The law, which is unuseful stop to be a law».

Constitutional principles of Western countries have the doctrine of natural law at their basis. That is why Western countries have extensive case law invalidating laws claimed on the fundamental rights of citizens enshrined in the Constitution.

Any judge (it is done in similar position in the USA) is able to declare the law disputed with the Constitution and refuse to use it in Japan and many countries in Latin America. Of course, the Supreme Court controls such decisions. The constitutionality of laws entrusted to specially created for this purpose, the constitutional courts: a state of affairs in Germany, Austria, Italy, Turkey, Monaco and others. If an ordinary court has doubts as to the constitutionality of the law, he is able to close the case and file a request with the Constitutional Court.

It is theoretically possible Court rejection of law application as unconstitutional in Sweden, Denmark, Norway. But practice does not give examples of recognition of the law as unconstitutional.

Analysis of court law has great theoretical and practical significance for the research in contemporary Ukrainian law. This analysis leads to practical reform of Ukrainian law institutions, achievement of national law progress and bringing it closer to the civilized world and European legal standards.

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REGULATION OF FUNCTIONING OF LEGAL CLINICS IN UKRAINE AND RUSSIA: COMPARATIVE LEGAL ANALYSIS

Over the last decade legal clinic at the Ukrainian universities preparing specialists in legal sphere are fairly recognized as «subjects of legal aid» in the context of Law of Ukraine «On legal aid». However legal clinics that have essence of unique university unit are not mentioned in legal provisions defining the list of subjects of primary and secondary legal aid.

Nowadays in Verkhovna Rada of Ukraine there is considered the draft of Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine» (concerning the status of legal clinics as providers of primary and secondary legal help for free) under registration number 0926, dated December, 12, 2012. The draft was prepared by Verkhovna Rada of Ukraine by deputies Sergiy Kivalov, Yuriy Miroshnichenko and Pavlo Melnyk.

Thereby the research is relevant due to the experience of Russian Federation, where in November 21, 2011 Federal Law «On free legal help in Russian Federation», that regulates legal clinics status, was adopted and has already become an integral part of non-governmental assistance. Therefore legal clinics in Russia have the opportunities for development not only as an actor in the educational process, but also act as a participant in non-governmental legal help system and to be an adequate subject of legal education of society.

At the same time legal clinics in Ukraine (and the legal clinics community in general) are at the difficult path of their legal recognition as subjects of providing primary and secondary legal help pro bono. Thus the experience of Russian colleagues stimulates hope for effective issue resolution in Ukrainian parliament.

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GENERAL THEORETICAL ASPECTS OF THE LEGAL PERSONALITY OF A CITY IN UKRAINE

The researches of the multifaceted manifestations of a city as a cultural phenomenon give the reasons to claim the existence of its various status characteristics. Therefore, the purpose of the paper is the exploration and determination of the general theoretical aspects of the legal status of a city in Ukrainian law, using the developments of researchers of a city in various social spheres of knowledge and jurisprudence.

A city is the social, cultural, political and legal phenomenon, which can be defined as the legal person and as a bearer of the legal personality (economic, constitutional, civil, land, municipal etc.). Moreover, being the legal person means not only realizing the rights and duties but also participating in the legal relations. That is why, cities as the participants of legal interactions, which are involved into legal communications, can be represented as legal personalities.

The author proposes to distinguish general, special and exceptional legal status of a city. The general legal status is the status which presupposes that the city is the urban community which is designed to solve some common problems and to ensure the vital activity and the rights of the urban population. The special legal status characterizes the cities that have the particularities of the spatial, economic, military or administrative nature. The exceptional legal status implies that the city is characterized by the particular individual features (for example, capital-cities).

Researching the city as the phenomenon from the standpoint of general theoretical jurisprudence leads to the formation of the theory of the urban law and the urban legal system. This makes up consider of the cities to be the autonomous legal persons, which realize their legal personality not only in municipal, commercial and constitutional law, but also by creating their special system of legal norms and institutions, which are grounded on the specific urban legal consciousness and urban legal culture.

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LEGAL PRINCIPLES OF MIGRANT POLICY OF MYKOLA I IN RELATION TO THE ORTHODOX SECTARIANS OF THE UKRAINIAN PROVINCES OF THE RUSSIAN EMPIRE

The article is devoted the analysis of legal principles of migrant policy of Mykola I in relation to the orthodox sectarians of the Ukrainian provinces of the Russian empire.

An author establishes, that a liberal governmental course in relation to the orthodox sectarians of the first fourth of XIX century with ascension to power of new representative of dynasty Romanovikh changes on repressive. For Oleksandr I by the decrees of emperor the favourable terms of migration were created for such believers in locality to down the river the Melitopol district of the Tavriysk province to Milk. Transmigrating dukhoboriv to Tavriya, a government put for a purpose to separate believers from other orthodox christians and to put dissidents on the «way of truth».

In the years of reign of Mykola I the actuality was in next times purchased by the problem of choice of optimum governmental course in relation to orthodox sectarians. As a result of migrant policy of Mykola I, the representatives of molokan, dukhobors, skoptsy found oneself on Transcaucasian . At first to the migrants it was enough unsimply: unmastered edge, unusual climate, illnesses, permanent raids of Tatars and Kurds. But contemporaries testified that they had been industrious enough, responsible, economy.

Analysing the problem of legal principles of migrant policy of Mykola I in relation to the supporters of orthodox sectarianism of the Ukrainian provinces of the Russian empire, it follows to establish such. In the second fourth of XIX century the government of the Russian empire continues to insulate sectarians from other orthodox population, making reality of frankly the repressive vector of public policy. The epicentre of migration of believers is become on changing the Tavriysk province by Transcaucasia territories.

The greatest after legal force normatively legal acts which determined the vector of confessional policy in relation to sectarians were decrees and commands of emperor. Directly regulated the process of migration of «rule», «instranctions»«, that developed Committee of ministers and became firmly established an autocrat. Reference to Transcaucasia became the basic type of punishment for found out sectarians.

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RUSSIAN STAGE OF J. BENTHAM'S OEUVRE

J. Bentham focused his thoughts on improving different areas of law, legislation, prison system, etc. In 1789 he began to learn the practical philosophy. The views SH.-L. Montesquieu, C. Beccaria, C. Helvetius were convinced J. Bentham's about the importance of the principle of good. In 1784, J. Bentham received an invitation from G. Potemkin visit Russia. It is in this journey in 1787 by J. Bentham were written two famous works, the first of which – «Defense of usury». He concluded that any person who has attained the age of mental maturity and have common sense, cannot prevent an agreement, to borrow some money. Nobody can deny to give people money borrowed on terms they same host.

The second work was called «Panopticon or The inspection house» and described ideal prison. It was a cylindrical building in which the camera out latticed or transparent door of the courtyard, in the middle of which stood a tower. In it sat a supervisor who had the opportunity to observe all prisoners immediately. The prisoners did not see the supervisor and did not know exactly at what point they were being watched. Therefore, they have the impression of permanent control. These works suggest that J. Bentham sought rationality in any area.

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SOCIAL RESPONSIBILITY OF COURT AS A PREREQUISITE OF LEGAL RESPONSIBILITY OF A JUDGE

The author analyses the problem of social responsibility of a judge for the due exercise of justice. It is emphasized that compliance with laws during administration of justice is not only legal but also a moral duty of a judge, which is required by judicial ethics. The code of professional judicial ethics, accepted by the Vth convention of judges of Ukraine of Octobers, 24, 2002, contains the row of recommendations about the proper conduct of judges that engulf both official and out-of-office conduct and serves the criteria of estimation of activity or inactivity of judge in case of feasance by him illegal acts.

Author proves that quality of feasance of justice in the state is represented in the level of citizens` trust to the department judicial, which is measured through sociological researches. The analysis of modern Ukrainian realities of the last years testifies to diminishing of citizens` trust the domestic judicial system. By the data of sociological researches in 2010 fully trusted courts 9,4% citizens, in 2012 – less than 3%.

On the basis of study of public events of the last years an author probes the actions of protest, which accompanied the row of difficult criminal cases. Expansion of electronic MASS-MEDIA and social networks assist growth of scales of similar protests during which citizens offer dissatisfaction advancement of pre-trial investigation or judicial consideration of certain criminal case.

Moral and legal duty of judge is independent, unpreconceived and timely consideration of cases that are in his realization, corresponds public requirements on just justice. In modern terms necessity for satisfaction of social justice was extraordinarily intensifyed. The mass attempts of civil pressure on court trench upon judicial independence of judges, negatively affect on interests of participants of trial.

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HISTORICAL BACKGROUND OF THE ROMAN IMPERIAL LAW FORMATION OF THE CHURCH

The article is devoted to the characteristics of the social and political transformations that took place in the Roman Empire in IV century as the historical background for the formation of Roman imperial law of the church.

Since the middle of the IV century, the relationship of church and state in Eastern and Western Empire acquired a different nature. This existed primarily social and political conditions. Strong imperial power in the East led to the subordinate status of bishops and churches in general, even to usurp power to the emperors in the same church. In the West, at the same time resulted in a significant weakening of state power. Under these conditions, increasing independence biskupatu, especially increasing the power and authority of the Roman bishop.

The Church in the West, with its rigid system management, control and regulate the lives of believers, with its new rights in social and economic spheres acquired general public importance. In terms of political instability Church taken on over government functions, competing with the government and its temporary representatives.

There were also ideological and psychological conditions differing circumstances of the church in the East and West. In particular, the Hellenistic East, where the prevailing centralization, des-

potism, foreign unfreedom, the main focus in determining the principles of the church was given to identifying the internal, spiritual, theological-dogmatic content. The question of the sovereignty of the church in such circumstances retreated into the background. West, following the Roman tradition of pragmatic, the most concerned in practical relations and corporate design. The church, as opposed to weakening of state structures was becoming stronger.

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THE CONCEPT OF DEVELOPMENT OF THE SOVIET STATE IN THE VIEWS OF THE TOP PARTY LEADERSHIP (ON THE EVE OF THE USSR FORMATION)

This article argues that at the initial stage of creation of the USSR at the top party leadership, there was no unified approach to solving the problem of the development of the Soviet state. This question is the key to the formation of Soviet statehood.

A method of historicism was used in the article. It allowed considering the specific situations, phenomenon and processes in the context of Soviet period. The method of dialectical analysis, which also was used, based on the principles of unity and struggle of opposites within a historical epoch as a system of social relations. The use of such methods has helped the author to avoid bias and one-dimensionality in a scientific analysis of the studied subject matter.

The analysis of sources and literature determined that questions of development of the USSR in the beginning of existence of the Union state were principal in the discussions of the party leadership. Different approaches to solving them often contributed to the emergence of conflicts between state leaders, which greatly influenced the formation of the state system of the USSR.

On the example of the relationships of V. Lenin and I. Stalin revealed principles and approaches of the representatives of the party leadership to the issue of development of the USSR in the period of formation of the Soviet state. Conflicts and compromises in party leadership on this issue became one of the determining in the evolution of forms of development of the Soviet statehood.

Theoretical theses, which were formulated in the article, can be used in research, legal and law enforcement, educational process at higher education institutions with legal profile, and at improving the skills of practitioners and scientific-pedagogical staff in the field of jurisprudence.

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THE LEGAL IMMUNITIES IN THE LEGISLATION, WHICH ACTED ON THE UKRAINIAN LANDS WITHIN THE RUSSIAN EMPIRE

The subject of the article is to analyze the formation of legal immunity in the legislation in force in the Ukrainian lands within the Russian Empire, because it orients to history of the formation of the legal system of the most of the territory of modern Ukrainian state and makes it possible to determine the prospects of the genesis and modern situation of the law on legal immunities.

During the study used historical, dogmatic and comparative legal methods to analyze the historical aspect of the genesis and definition of normative principles of consolidation and application of legal immunities under the law of the imperial period.

Confirmed that, as evidenced by the historical study of law, there is a direct relationship between the characteristics of law in general, and legal immunities in particular, and the sovereignty of the territories Ukrainian lands.

Analyzed a number of laws and regulations of that period (such as, «Ceremonial for foreign envoys at All-Russian Imperial court» of 3 April 1744 year, «Charter criminal proceeding» in 1864, «Rights under which the Little Russian people are suing « dated 1743 year, etc.).

It is concluded that at the level of the Ukrainian law in Russian law have proliferated jurisdictional immunities, however, in contrast to the Ukrainian law, such immunity is not extended to foreigners, and in some segments of the population of the Russian state. The Russian law is not as widespread as in Ukrainian, but used individual immunities. In addition, the historical analysis of the formation of the institute legal immunities in the Ukrainian lands shows consolidation in the right authentic legal immunities as regulatory requirements that have general and public nature, whereas the loss of sovereignty signs legal immunities become signs of «unwritten rules», the use of which is justified by expediency, not socially recognized the need, reflected in legal installation.

The obtained results can be used in further research in the theory and history of law and individual sectoral regulation on the definition of legal immunity.

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THEORETICAL-CRIMINOLOGICAL DESCRIPTION OF FACTORS CAUSES DOMESTIC VIOLENCE

Domestic violence is one of the most painful social phenomena of the twentieth century. The study of this phenomenon began in the 60s of last century. The problem of domestic violence began to be explored and covered in Ukraine in the early twentieth century. In foreign practice common notion of «domestic violence» includes activity against the spouse, minor, disabled and families. There are physical, sexual, psychological, and economic violence in the family. An analysis of statistics crisis centers, the most common causes of violence caused by the individual man and the story of his life, can be attributed to the following reasons: parental scenario in which the father beats a mother, a man was often beaten by his father and mother in childhood, drinking parents, psychopathy and other reasons. Women reasons related to adverse life situation in the parental family also act as risk factors. In addition, they can include such behavior and personality of modern women: high psychological dependence of women from men, economic dependence, the presence of physical defects of women.

For marital relationship characterized by the following signs that lead to violence: conflict and constant quarrels in the family, the struggle for power and dominance in the family, low socio-economic status of the family, verbal aggression in the relationship of marriage.

The analyzed material showed that in one case both husband and wife can act as an active, provocative side of family conflict, in the second – their own acts or omissions (due to social, psychological or biological reasons) to facilitate the commission of offenses in relation to his person.

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FEATURES OF THE LEGAL CONTENT OF EDUCATIONAL RELATIONSHIP

Modern world is moving from industrial society to society based on knowledge. Innovative society needs adequate science and educational system. In turn creating, improving and further development of legal regulation in educational sector remains one of the most pressing problems of legal policy.

There are various educational relationships governed by applicable law in educational sector. The content of legal education is a combination of subjective rights and duties. The combination of subjective rights and legal duties within educational relationships is specific, unlike typical pattern of legal relations.

Every member of educational relationships carries both rights and duties. Moreover, process of enjoying educational rights provides fulfillment of legal duties. For example, the right for choice of educational institution and educational program means the duty of a student to follow educational plan, attend classes, pass exams etc. Otherwise he/she doesn't achieve desirable intention, which is qualitative education.

As a result, the authorized member of educational relationships is an obligated person at the same time. Enjoying rights, members of educational relationships act within the existing legal provisions. Legal duty is a statutory need for a certain behavior of teachers and educational institutions for students.

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FEATURES OF THE SYSTEM OF LAW IN THE ROMAN – GERMANIC LEGAL FAMILY

The main feature of the Romano-Germanic law is its organic relationship with the Roman law. It is caused by the reception of Roman law, which made all nations Romano-Germanic legal family. In the Romano-Germanic legal family out for active elements that are closely interrelated, including: law as a system of mandatory rules, which are expressed in the law and other sources of law, legal ideology, which is the active side of justice, judicial (legal) practice. An important part of the Romano-Germanic law family law is the rule of law, the foundation of which is the standard classical Roman law, its creation was carried out by removing the single rule of a number of typical precedents that indirectly not only isolation from specific cases, but also made it possible to separate their application in practice. General principles of law in the Roman-Germanic legal family, due to the peculiarities of its historical formation, establish eligibility criteria for positive values of a society of law, thereby limiting the action of a recognized law of moral criteria. As part of the Romano-Germanic legal system, and thus the required elements of the legal system, institutions are rights which vary from industry right up the subject of legal regulation.

CONSTITUTIONAL AND MUNICIPAL LAW

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METHODOLOGICAL APPROACHES TO THE CREATION OF CONTEMPORARY COPYRIGHT INTERNET- LEGISLATION IN COUNCIL OF EUROPE'S DOCUMENTS

The article is devoted to the analysis of the methodological approaches in creation of contemporary copyright internet- legislation and providing the fundamental constitutional right of freedom of expression and communication in the Council of Europe's documents.

The position of Council of Europe concerning creation of copyright internet-legislation should be considered due to the fact that national laws in this field cause the negative reaction of society, which regards them as violation of constitutional right to freedom of expression and access to information. The author reveals the main provisions of Convention on Cybercrime and «Declaration on Human Rights and the Rule of Law in the Information Society» about achieving a balance between the rights of creators and the social interests regarding the use of information and cultural values. It is emphasized that this is the first European documents that ensure respect for human rights in the era of Internet and High technologies. These documents define the legal boundaries of state activities under new conditions and create a basis for updating the Convention for the Protection of Human Rights and Fundamental Freedoms) and help to develop a balanced approach for relation between intellectual property rights and informational needs both the person and society in general. Their study, promotion and accounting will enable improvements in constitutional law and the law practice of the state bodies in the new realities of the information society.

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PECULIARITIES OF LEGAL REGULATION OF THE STATUS OF PARLIAMENTARIANS UKRAINE IN THE CONTEXT OF NATIONAL AND INTERNATIONAL EXPERIENCE

In the article on the grounds of achievements of constitutional law, analysis of wide rang of normative-legal act and appropriate practice of state construction there was done comparative-legal research in the status of the parliament deputies in the context of state-forming processes in Ukraine and other countries.

Considerable attention has been paid to reference of constitutional-law status of a parliament member, there are proposals which are being expressed as for the ways to perfect legislation of the present circle of relations. There are also regarded professional demands to the parliament member.

The modern problems of representative office of members of parliament are analyzed in the article. Considerable attention is devoted basic progress of representative mandate of deputies of parliament trends, as a separate type of mandate in a constitutional right. Also in the article the comparative legal analysis of the basic principles of restrictions on moonlighting parliamentary powers to any other activities other than teaching, research and creative activity. It is proposed to amend the Ukrainian legislation, in particular in relation to selectivity and requirements are not incompatible, to the legal status of people's deputies of Ukraine meet international democratic standards of the legal status of parliamentarians.

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LEGAL BASIS OF THE FUNCTIONING OF PARLIAMENTS OF UKRAINE AND SWEDEN: COMPARATIVE ANALYSIS

The article highlights the legal principles and the formation of representative bodies of state power – the parliaments of Ukraine and Sweden by analyzing the constitutional and legal norms. The source base study – the Constitution of Ukraine on June 28, 1996, the Constitution of Sweden (Swedish kingdom) on February 27, 1974.

Consider the similarities and differences of both parliaments status under national law. For comparison, we define its criteria: formal status Parliament (to secure it in the Constitution), the number of members, legal qualifications, the order of their election, term of office. Always very similar features of national legislation is a clear definition of the legal status of parliament in constitutional and legal norms, the presence of one chamber in its structure, the principles of free, direct, secret elections. Distinctive is the number of MPs (450 – to Ukraine, 349 – Sweden), tenure (4 and 5 years in Sweden and Ukraine respectively).

As we see in our country have partial consolidation requirements in the Constitution of the People's Deputies of Ukraine (along with banquet been intended to define requirements incompatibility) between the constitutional and legal norms of the Swedish Constitution does not define such qualifications. Swedish Basic Law contains legal norms for the election process, while the Constitution of Ukraine is detailed regulations contained in the electoral law. For the Riksdag election in the territory of the state is divided into electoral districts. Mandates are Riksdag 310 seats allocated to constituencies and equalizing 39 seats.

Feature powers the Swedish parliament, in our opinion, are: intense legislative activity (because the country has a rule like «all explaining, expanding, supplementing the law is accepted only by law», it helped reduce the number of regulations) broad delegation of its powers (excluding tax field) strengthening the powers of the Riksdag in various chapters of the Swedish Constitution: Chapter 4 «Working Riksdag,» Chapter 8 «The laws and other provisions», Chapter 9, «Financial power», Chapter 12, «Control authority».

That similar features of national legislation is a clear definition of the legal status of parliament in constitutional and legal norms, the presence of one chamber in its structure, the principles of free, direct, secret elections. Distinctive is the number of MPs (450 – to Ukraine, 349 – Sweden), tenure (4 and 5 years in Sweden and Ukraine, respectively) barrier (4 years and 5% for Sweden and Ukraine respectively). The Constitution of Ukraine partially secured claims to MPs, meanwhile provides blanket. The reference to determine the requirements of incompatibility, and constitutional and legal norms Sweden does not define

such qualifications. Difference is also in the electoral system (in Sweden – proportional in Ukraine – mixed).

National legislation of Ukraine may be the experience of constitutional and legal regulation of the Parliament of Sweden – Riksdag – in the areas of its activities:

- legal regulation of relations with parliament the government (it is important to improve the principle of checks and balances in the Ukrainian version);
- detailed regulation of issues that are regulated by law acts as the highest legal force and those who are determined solely acts of government;
- Riksdag function at a single collective body – Constitutional Committee – to oversee the activities of the government.

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THEORETICAL AND PRACTICAL ASPECTS OF REALIZATION OF THE SUBJECTIVE POLITICAL RIGHTS AND FREEDOMS OF CITIZENS IN DNIPROPETROVSK CITY

The article is sanctified to guaranteeing of political rights and freedoms in Dnepropetrovsk city, which is founded, on democracy of the social and political mode of the state on the whole. Certain descriptions of basic political rights and freedoms of citizen in Dnepropetrovsk city are shown in the article.

It is determined that together with Ukraine, guarantees must provide all public organs of power, and also organs of local self-government of Dnepropetrovsk. They are under an obligation to provide political rights and freedoms of citizen within the limits of the plenary powers all possible methods and facilities. By serious obstacles in realization of political rights and freedoms Dnepropetrovsk are blanks, contradictions and instability of the Dnepropetrovsk legislation, off-grade work of legislature, bureaucratic beginning, corruption in activity judicial and law-enforcement bodies, absence of the special organs in relation to the protection of rights and freedoms. Institutes are from the protection of political rights and freedoms that today exist in Dnepropetrovsk, are insufficient, operate frequently ineffective and are deformed. And that is why there was a problem of realization of equitable political rights and freedoms of citizens in Dnepropetrovsk city. The inhabitants of Dnepropetrovsk city carry out civil legislative initiative by bringing to guidance of city of petition with suggestion about an acceptance, change or abolition of position about presentation of petitions.

Realization is right civil legislative initiative comes true in accordance with the order of realization of civil legislative initiative, that determines the order of presentation and consideration of petitions on questions the partial change of legislation of Dnepropetrovsk city.

Thus, normalizations of situation with political rights and freedoms in Dnepropetrovsk would promote such measures from perfection of guarantees of their realization, as taking into account reformation of management organs their subordination to the people, openness and sensitiveness to the necessities of population, being informed of society about their activity; alteration of activity of law enforcement authorities, in particular, forming of independent and just court; and unimpeded overcoming of blanks in the legislation of Dnepropetrovsk city.

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CONSTITUTIONAL AND LEGAL STANDARD AS AN EXPRESSION OF NORMATIVE CONSTITUTIONAL LAW

Considered normative content of constitutional law in Ukraine by definition constitutional and legal norms as a fundamental element of constitutional law. Concepts and basic properties of this legal phenomenon both in domestic and in foreign jurisprudence are cosidered. Determined that the normative analysis of contemporary constitutional law through disclosure normative content of modern constitutional law.

Thus, the result of the general theoretical study found that the constitutional and legal provision – formally specified, mandatory rules of conduct established or authorized by the Ukrainian nation or state or local government entities rule of conduct aimed at regulating the constitutional and legal relations, which are the subject of constitutional law, and provides all the sanctions provided for by this law and that is the reflection of normative constitutional law of Ukraine as a whole.

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THE PROBLEMS OF PROTECTING THE RIGHTS AND INTERESTS OF STUDENTS IN HIGHER EDUCATION INSTITUTIONS

Enshrined in the Constitution of Ukraine and International Law regulations the right to higher education is guaranteed by both the state and the international community. Accession to higher education is the initial stage of realization this right. The Law «About Education» enshrined constitutional principles of higher education, including: accessibility, equality, humanism, democracy, continuity and variety, independence of education from political parties, civic and religious organizations, the combination of government and public authorities in education. In particular, the political safeguards should include the right to choose the language of instruction, of course taking into account the capacity of higher education institutions.

The mechanism of the right to higher education, and the implementation of other human rights and freedoms in the field of higher education recommended. But due to the constant transformation of higher education with a view to improving there are some reservations about the legislation governing the educational processes and capabilities to support him. It is like nothing else tends to constant change, which leads to the accumulation of unresolved conflicts and the emergence of a number of issues related to the implementation of the right to higher education. Rightly pointed P. Muromtsev «that no theory, no history of law should not be subjected to the description text of the law. Sociological history of law is intended to show the origin and development of law in its concrete reality».

Legal guarantee of the constitutional right to higher education is enshrined legal procedure for admission to higher education. Important role in ensuring the right to higher education plays: first, the state, through its authorized management bodies in the field of education, and higher education as a public institution that announced the recruitment of students to study.

However, to date, the following problems in the organization of admission to higher education institutions related to:

• imperfection of the system of external evaluation, which gradually loses its transparency;

• the lack of uniform standards during their creative competitions and entrance examinations;

• manipulations take place around the admission to study the expense individuals and legal entities, the need for improvement of the Unified State electronic database on education

• the necessity regulation of the procedure since the Masters;

• poor protection of students to be able to appeal the results since.

The right to higher education is especially important because higher education is in high demand. It is under these conditions plays an important role legislative solution to the problems related to the accessibility of university education.

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THE SUPREMACY OF THE CONSTITUTION OF UKRAINE AND THE CONSTITUTIONALIZATION OF THE LEGAL SYSTEM: THE DIALECTIC INTERACTION

Being a complex and multifaceted phenomenon that accumulates the most diverse set of institutions, policies and regulations, the legal system of Ukraine leads to numerous destinations, routes and trends of development and improvement. Among the major trends, covering all aspects of process development and improvement of the legal system, especially to highlight is the process of constitutionalization. Constitutionalization essence is that the Constitution establishes a normative model first and most important legal structure of social relations, thereby determines the systemic, structural, functional and other relationships between public institutions (the elements of the legal system by which ensured the rule of law. Constitutionalization legal system - is quite complex, objective, multidimensional and dynamic process of compliance with the Constitution not only text, but also the sense of norms, principles, institutions, law enforcement interpretation of that regulation provides unity and stability of the economic development of Ukraine.

The Constitution serves as the foundation of the entire legal system of Ukraine establishes the basic principles of all law, the procedure for establishing legal norms, which would be the area of law they belong, and has a peculiar constituent character. In the face of the Basic Law written the rule of law enshrined in its text form of the Constitution. The principle of supremacy of the Constitution intended to show the place of the Basic Law in the legal system of the country, in the hierarchy of legal acts as its main ingredients. It is aimed at forming and active public perception of the implementation and upholding the constitutional rights and freedoms. Active attitude towards the Constitution and the rights enshrined in it contribute to the development of constitutional patriotism in the country. That is why our country task of social transformation was and is to guarantee the stability of constitutional development. However, the supremacy of the Constitution is characterized not only by its position in the hierarchy of legal acts. Speaking as a legal basis for the development of all branches of law, the current Constitution regulates and provides for the creation of legal norms and regulations that provide for political, cultural and socio-economic changes in society. How stable is the development and evolution of the constitutional reform as political and social spheres of life becomes a complete character. Update the modern civil, criminal, labor laws must be consistent with the principles and provisions of the Constitution of Ukraine.

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TYPES OF CONSTITUTIONAL LIABILITY PARLIAMENTARIANS

In article investigated classification for more detailed penetration in essence of constitutional liability. There are propose allocate collective and individual constutational law liability.

Constitutional law liability has next subjects: parliament, deputies factions and committees of Verhokvna Rada.

Individual constitutional law liability has parliamentarians, parliament Speaker, deputies Speaker, chairman of committees, deputies of chairman or speaker and secretarians of committees and chairman of plenary session of Verkhovna Rada.

This classification explain a norms in Constitution of Ukraine. Regulations of Verkhovna Rada, the law of Ukraine «About status of parliamentarian deputy in Ukraine» and judgment Constitutional Court of Ukraine.

Sanctions of Constitutional law liability for parliament are: 1) dismissal of Verkhovna Rada 2) cancel law that was accepted.

Constitutional liability for committees of Verkhovna Rada, deputies factions and deputies group are not provided in legislation.

Sanctions of constitutional liability for parliamentarians is dissolution or early termination of powers if has a place a judgment of court for violation of the requirements of incompatibility.

The subjects of constitutional liability can be others chairmans in Verkhovna Rada of Ukraine. Also they have constitutional law and realization their constitutional duties.

Therefore, the system is no single source that can be regulate constitutional law liability.

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COMPOSITION, FORMATION AND TERMINATION OF AUTHORITY GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY

Stability of any civilized state of the world and its social and economic development depends on the effective functioning of the higher body of executive

power. The government as the higher body of executive power is the most significant institution of political system of society, activity of which is directly tied to everyday life of citizens. The course of integration to European Union selected by Ukraine testifies importance of investigating the main regularities and tendencies for development of higher bodies of executive power in European countries which have durable experience of democratic processes.

It should be mentioned that currently in the science of constitutional law the matter of constitutional and legislative status of the governments of the countries- EU members is investigated insufficiently. Some matters which are investigated in the given article were the subject of investigation of such lawyers-scholars as Urias Yu., Okunkova L., Khabriieva T., Yegorova M., Yalbulhanova A., Topornina B., Khesse K. and others.

The article is dedicated to the analysis of government of Federal Republic of Germany (further on FRG), order of its forming and terminating its authorities.

While writing these article peculiarities of government of Germany, the role of Federal president and parliament in electing and appointing for the position of Federal chancellor and forming personal composition of cabinet were concerned. Besides during this investigation an author paid attention to the analysis of political parties in forming personal composition of government and coalition agreements. Besides when investigating the selected topic in this scientific investigation attention was paid to terminating authorities by government of FRG in this scientific investigation.

During scientific investigating of experience of constitutional building Germany an author determined the main conditions of government functioning from which the following is provided: 1) balance in division of powers, high level of democratization (which is displayed in the system of people's representation, efficient party system, able to function government) and transparency in functioning of state bodies; 2) participation of Federal president in the process of nominating and appointing candidacy to the position of Federal chancellor and transparency of such a process; 3) approval of personal composition of the government by Federal president and according to the proposal of Federal chancellor; 4) direct participation of Bundestag in appointing for the position of Federal chancellor and influence of parliament to forming the personal composition of government; 5) availability of alternative mechanism for creating the government of minority on the basis of presumption of trust; 6) availability of mutual authorities and instruments of control for Bundestag and the government, which is displayed in parliamentary responsibility of Federal government and order of terminating their authorities.

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PROBLEMS OF CONSTITUTIONAL RECOGNITION OF THE PUBLIC HEARINGS INSTITUTE AS A FORM OF DIRECT EXERCISE OF SOVEREIGN POWER OF THE PEOPLE OF UKRAINE

In modern conditions in Ukraine is constitutional and legal reform. Constitutional Assembly June 21, 2013 in plenary session adopted the concept of amending the Constitution of Ukraine. In this regard, an important scientific objective is to nominate and support appropriate proposals taking into account the achievements of modern constitutionalism forms of exercise to improve their people's sovereign power, which should be included in the constitutional text.

Challenges forms of exercise of power by the people studied by such scientists as Yu.H. Barabash, P.F. Martynenko, V.Y. Tatsiy, O.Y. Todyka, Y.M. Todyka, V.L. Fedorenko ets. However, the proposal for the allocation of public hearings as a particular form of exercise of power by the people is not justified through. Consequently, the proposal is justified by the author for the first time in domestic science of constitutional law.

The article aims reasoning necessary constitutional recognition of the Institute of public hearings in the constitutional law of Ukraine and formulate relevant proposals.

To build a constitutional state in Ukraine, whose main task is the broad participation of the people in the exercise of power and control. The current state can be effective only if national policies reflect the views and beliefs of people, citizens. Therefore, at present Ukraine needs not only the constitutional procedure of democratic elections, but the real responsibility of government to the people and responsible citizens in their own state.

The development of social relations that occur on people's participation in public affairs lead to the emergence of the Institute of Public Hearings.

At the present stage of state in Ukraine a form of direct exercise of power by the people can become public hearings that will enable the public to participate in the management of state and social affairs.

In modern constitutional law are the two groups of scientific approaches to the definition of public hearings: the first group of scientists (O.E. Kutafin, V.I. Fadyeyev, V.I. Vasilyev, V.V. Komarova, M.P. Bespalova, M.V. Hvostunov) considers public hearing within a local government institution, the second group (S.A. Avakyan, S.S. Zenin, E.S. Shuhrina, M.O. Ocheretynna) define public hearings independent institutions of direct democracy as a form of dialogue between the authorities of the population».

Ukrainian legislation does not formulated a definition of «public hearings», although the legislator uses this term in

sectoral legislation. In particular, the Law of Ukraine «On Environmental Protection» in Art. 6 states that «the central and local executive bodies and local authorities in the development of environmental programs involve the public in their training by publishing draft environmental study programs for their citizens, preparing public comments and suggestions on proposed projects, public hearings on environmental programs».

Public consultations are held in the form of public discussions (direct form), and Public Opinion Research (indirect form).

In addition, public hearings in the form of public hearings held at the local government level.

We believe that direct expression of the will of the people, under present conditions must be clearly construct a system of legal institute of public hearings. First of all, you need by using legal mechanisms to ensure the rule of constitutional norms of industry standards legislation. Sectoral legislation that specifies the provisions contained in the constitutional and legal provisions, should proceed from the principles of their construction and expansion of constitutional law. An important aspect is the quality of functioning of public hearings within the constitutional and legal framework. In this regard, Article 69 of the Constitution of Ukraine shall be provided between forms of direct democracy the public hearing. In addition, it is necessary to fix by law the citizens as subjects initiating public hearings to give them the right to participate in the preparation and the right to participate in decision outcome of the hearing. We believe that the adoption is permissible legal act - the Law of Ukraine «On public hearings in Ukraine».

ADMINISTRATIVE, FINANCIAL, TAX LAW

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THE ROLE OF DEPARTMENTAL LAWMAKING IN ADMINISTRATIVE AND LEGAL GUARANTEEING OF STATE LAW ENFORCEMENT FUNCTION REALIZATION

The subject of the research is departmental lawmaking in the sphere of state law enforcement function realization and its theoretical and methodological ground.

Determination of the entity and main features of departmental lawmaking in the sphere of state law enforcement function realization, analysis of the main stages of departmental legal acts development, characteristics of the basic principles, which observance allows creating necessary conditions for state law enforcement function realization is the issue of the article.

The necessity of attaining research end in spite of numerous researches is stipulated by the fact that some aspects of state law enforcement function realization is not enough researched. It means that it's necessary to study the nature of departmental lawmaking, clarification of its role in the administrative and legal mechanism of state law enforcement function realization, determination of departmental lawmaking subjects.

The actuality of the article is the fact that the importance of departmental legal acts is analyzed, which application allows creating essential conditions for effective activity of authorized subjects concerning state law enforcement function realization.

Definition of «departmental lawmaking in the sphere of state law enforcement function realization» is given. The basic features of departmental lawmaking in the sphere of state law enforcement function realization are formulated. The author emphasizes that observance of departmental lawmaking principles (legality, foundation, branch orientation, professionalism, planning and prediction, scientific nature, usage of advanced experience) allows creating the necessary conditions for the state law enforcement function realization, directing activity of relevant executive power on rendering of qualitative social services to the population, creating appropriate conditions for efficient protection of human rights and liberties.

Practical sense of the article is the fact that received results can be used to improve the mechanism of state law enforcement function realization, to refine departmental legal acts, which regulate activity of law enforcement agencies.

The author concluded that efficiency of the administrative and legal mechanism of state law enforcement function realization directly depends on quality of departmental legal acts.

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CORRUPTION AS SOCIAL, PSYCHOLOGICAL AND MORAL PHENOMENON

Corruption is not just social but also psychological and moral phenomenon. Because it does not exist apart from the people, their behavior, activity. Corruption is a way of thinking which causes the way of life. In countries where bribery and other corrupt practices are relatively rare, corruption in the public consciousness is associated with a great evil for the state and its citizens and has a significant impact on public life. The immediate subject of corruption, as a special kind of public relations can be a government official of any rank, politician or public functionary or other organizations. Persons who benefit from his actions may include individuals, domestic or foreign companies, political and social organizations, intelligence agencies of foreign countries and so on. In many countries with such regimes are given legal regulations on Corruption. This rulemaking activity often makes itself felt long bureaucratic tradition – by issuing regulations without actual mechanism for achieving the declared objectives, create visibility activity, simulate socially important state function. «The fight against corruption» often results in punishment, with the political and economic clans who are rivals, or in one of the activities of legitimation oligarchy guiding their policies. Group egoism squeezes strategy to protect national interests. And this is not unusual, it is quite common course of action for the progressive moral and economic crisis. Suffice it to recall the experience of some African countries. Exorbitant profits illegally obtained make it possible to present many post-communist powers that material not only to themselves and their children, but also ensure the implementation of most exquisite pleasure their «future generations» – heirs countless private wealth generated by current through the sale of your home country. None of these obstacles through which corrupt mafia circles are not willing to cross, there are no social norms, they did not dare to break. The international community also cannot help but be aware of serious dangers associated with the further criminalization of a number of politically unstable regions of the world, too communist.

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INFLUENCE OF GLOBALIZATION ON FORMING OF MIGRATORY STREAMS

At the current stage of development of world civilization, society has been undergoing a transformation in all spheres of human life, in which the comprehensive integration of information and communication revolution creates objective prerequisites for the association and for its separation. The end of XX – beginning of XXI century discovered the fundamental trend of social development of mankind, known as globalization. However, one of the paradoxes of globalization in the modern world has increased border controls and visa regulations in removing borders in the economy, information and cultural spaces. Virtuality «equal opportunities» living in states with very different levels of economic development creates the reality of mass migration. Migration of population transfer can occur within a particular country, and go beyond it. First of all, they are caused or basic needs of migrants sustain its existence, or their attempts to reach the level advocated method «consumer society».

The main trends of contemporary international migration are: the globalization of international migration, qualitative changes in global migration flows, defining the role of economic and especially labor migration and a significant increase in illegal immigration, increasing the scale and geographical expansion of forced migration, emerging intentions role of international migration in the demographic development of the developed countries, feminization of international migration; dual nature of migration policy at national, regional and global international levels.

Among the important factors of globalization migration corresponding institutional theory of migration, it is also important to note the expansion of international criminal activities related to trafficking. This channel provokes the intensification of flows of illegal migrants. Often, such a business is organized by type of enterprise «full cycle», from making false documents and illegal transportation of aliens across the border to provide them with housing and illegal activities. Global revenues from this business are estimated at nearly $ 10 billion per year.

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RULES OF ADMINISTRATIVE LAW IN THE RESISTANCE MECHANISM OF HUMAN DISCRIMINATION

A fundamental element of the mechanism of administrative and legal regulation of discrimination demonstration in Ukraine is the administrative regulation.

The norms of administrative law contained in laws, decrees of the President of Ukraine, Cabinet of Ministers of Ukraine, decrees, orders and instructions of the state executive power, and many other acts. In the system of legal regulation of administrative rules of law is at the heart, for they will invariably lead to a lack of lifelessness of the whole system functioning administrative law.

One of the most important measures that States can take to counter hate crimes, is the legislation that would provide for the effective punishment of such crimes and to take account of their specific nature and degree of social danger.

In Ukraine, the main document containing the anti-discrimination rules, is the Constitution of Ukraine. Article 24 of the Basic Law is enshrined equality of all citizens regardless of race, color, political, religious or other beliefs, sex, ethnic or social origin, property status, place of residence, language and other characteristics.

To realize the art. 24 of the Constitution of Ukraine adopted the Law «On Principles of Prevention and non-discrimination in Ukraine», which defines the concept and types of discrimination actions that are not considered discrimination, anti-discrimination is introduced for examination of draft laws of Ukraine and other normative-legal acts.

In connection with the adoption of the Law, in order to implement some of its provisions, the Cabinet of Ministers of Ukraine approved the «Order of the executive bodies of expertise of anti-discrimination laws and regulations».

In order to implement the constitutional principle of equality regardless of gender, in January 2013 an amendment to the Law of Ukraine «On Advertising» to prohibit vacancy announcements indicate the age of the candidates, to offer a job only women or only men (except where the work can be done Only a person of a particular sex).

Despite the concrete steps of the state in the sphere of prevention of discrimination at all levels of the absence of a clear and precise qualification of certain actions as discrimination is the cause of irresponsibility. Thus, discrimination in Ukraine practically is not punished (and this, in turn, stimulates further discrimination).

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LEGAL BASIS FOR TRAINING, RETRAINING AND ADVANCED TRAINING OF PUBLIC SERVANTS

The article highlights the fact that the professional development of civil servants is one of the most important (priority) areas in the system of public administration and human resources policy. With the administrative reform and radical reform of public administration in Ukraine requirement for professional development of civil servants and additional vocational education is particularly important.

Lists the regulations (20), which determine the direction and scope of activities of training, retraining and advanced training of public servants is the basis of legal regulation in this area.

The purpose of training, retraining and training of civil servants is defined, which is to ensure that their high level of professionalism, the ability to more effectively and efficiently perform tasks and functions of the state in their practice , the main challenges are outlined and the principles of organization and functioning of the system of training, retraining and training of civil servants are described.

Information about institutions engaged in the specialty «State Service» and «State Government» is given. It searches for answers to the question, «What things teach civil servants?»

Suggestions for improving the system of training, retraining and advanced training of public servants are proposed.

The level of feasibility Civil Service Development Program for 2005-2010 is characterized. The aspects of resolving the issue of training is noted, retraining and advanced training of employees of state agencies, local governments, state enterprises, etc., incorporated in the Concept of the State Target Program of the Civil Service until 2016 year.

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PRE-TRIAL COURT HEARING AS A PREPARATORY STAGE PROCEEDING: GENERAL CHARACTERISTICS

Preparatory proceedings in the administrative process is one of the most important stages that aims to take measures for comprehensive, objective consideration and resolution of the case in one hearing within a reasonable time and determine the possibility of settlement before trial.

Taking in the consideration the breadth of the tasks, the phase of preparatory proceedings is divided into two stages: preparing the case for trial and pre-trial hearing. Pre-trial hearing has a special purpose, which is to clarify the possible settlement of the dispute before the trial.

As with any stage within a phase, pre-trial hearing begins and ends by making the act. Pre-trial hearing begins with the decision on appointment the pre-trial hearing and ends with ruling on the appointment of a case to the trial.

Preliminary hearing may be conducted not in each administrative case, but only in cases where the judge considers it as appropriate.

One of the major reasons for the appointment of the pre-trial hearing is to identify possibilities to settle the dispute at the preparatory stage of the proceedings.

Pre-trial hearing is that phase of the preparatory proceedings at which, as a rule, the parties first clarify the legal position of each other. This could encourage a settlement of the dispute before the trial.

Considering this, if pre-trial hearing is appointed, presence of the parties should be considered by the court required. Pre-trial hearing appointed by the court if there are grounds for it and has specifically established aim, achievement of which is impossible without the participation of the parties. Therefore, if the court has appointed a pre-trial hearing, participation of the parties is required.

It is important that participants of the administrative case understand the objectives of pre-trial hearing and its importance for the realization of their procedural rights. Because a further proceedings of administrative case will depend on effectiveness of the pre-trial hearing.

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PROBLEM OF ENSURE OPENNESS BY STATE DATABASE OF STATE BANKS RATING IN UKRAINE AND THE PERSPECTIVE FOR ITS DECISION

The article considers a critical analysis of the provision of the current legislation of Ukraine in the implementation of the state rating of banks. On the basis of the analysis techniques of state and non-state rating forms of banks was shown a lack of objectivity estimates assigned by rating agencies. In the study of issues relating to the provision by the State Deposit Guarantee, the attention was drawn to the fact that the crisis in the global and domestic economy, the effects of which are particularly negative impact on the performance of banks in Ukraine over the past three years, for the state turned to considerable expense to refinance banks for the sake of maintain their liquidity. The necessity of limiting the number of financial institutions and strengthening the state's role in monitoring the effectiveness of their work, which would create additional opportunities for an objective assessment of their performance, as these results will inevitably affect many other areas of public life, and, in addition, can lead serious consequences for the financial system. Were presents a data, reflecting the balance between different forms of ownership and foreign capital in the authorized capital of Ukrainian banks, and in this respect justified the conclusion that there are serious obstacles to the provision of public open data rating banks in a predominance of private capital in the banking and financial system of Ukraine. Identify and analyze the reasons for the lack of interest of the National Bank of Ukraine in enhancing the role of the state system of rating banks and openness of its data. It is formulated proposals to amend the existing legislation on advertising as a way to solve this problem.

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BORDER GUARD COOPERATION – COMPONENT OF BORDER SECURITY

The state border is the most important political and legal institution of any state. Providing reliable protection of its effect on maintaining the integrity of the state.

In this study border cooperationis of great scientific and practical importance. His analysis will identify key trends for the future development and improvement of joint activities in this direction.

The importance of research do with adopted of the Concept of the State Border Service of Ukraine development up to 2015 approved by Presidential Decree of 19.06.06., of the Concept of the integrated border management of 27.10.10., aimed at creating a modern European-border service. One of the expected results of the implementation of the concept is to improve cooperation with law enforcement, unification effort subjects integrated border management. Because proper coordination of joint activities of competent state bodies affects the level of security and openness of the border.

The article is about cooperation of the executive border as on the elements of integrated system of security. The neoteric integrated processes of border management formed the basis of article, taking into consideration the perspective of reforming the border agency. Current state of legislative realization of the Concept of the State Border Service of Ukraine development up to 2015 directing efforts of subjects of integrated border management has been analyzed.

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SOME ADMINISTRATIVELY-LEGAL AND ORGANIZATIONAL PROBLEMS OF ECOLOGICAL CONTROL ON THE STATE BOUNDARY OF UKRAINE

The article is devoted to consideration of problems of ecological control on the state boundary of Ukraine and search of ways of their permission. It is marked that the control is one of major methods of providing of legality and discipline

in state administration, in particular, in the management by the guard of natural environment. His effective realization is the guarantee of observance of different rules, norms and instructions directed on providing of ecological safety of country. The special place occupies the ecological control on a state boundary. If not to warn violation of the proper ecological rules at crossing of objects of ecological control through the state boundary of Ukraine, their harmful influence can have wide territorial distribution. Conducting of such control is laid on State ecological inspection of Ukraine and his functional and territorial organs, which the departments of ecological control and radiation safety on a state boundary behave.

An author, on the basis of norms of current administrative legislation and practice of his application by the organs of ecological control of the Kharkov region, exposed failings in the legal adjusting and practical organization of their activity, made concrete suggestions on bringing of amendments and supplements in normatively-legal acts regulating work of subdivisions of ecological control and radiation safety on a state boundary, and also in the legislation about administrative offences it is Suggested also to carry out the row of measures of organizational character, which substantially will promote efficiency of ecological control on the state boundary of Ukraine.

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ABOUT SOME COLLISIONS OF CURRENT LEGISLATION ABOUT CONSIDERATION OF APPEALS OF CITIZENS

It registers in the article, that in a modern period of democratization of Ukrainian society by the effective mean of defense of rights for citizens, providing of legality and discipline in all spheres and industries of state administration, there are the appeals of citizens, among which special seat is taken by complaints about illegal actions (inactivity) and decisions of state organs, organs of local self-government, enterprises, establishments, organizations, associations of citizens, public and official servants. At the same time, the order of defense by the citizens of the broken right by the serve of complaints is regulated by a few laws, in particular, by Law «About the appeals of citizens», by Code of the administrative legal proceeding of Ukraine, Code of Ukraine about administrative offences, by the Custom code of Ukraine. As the order of appeal is set by a few acts of legislation, to the citizens and public servants of enterprises and organizations and even the representatives of their legal services are not simple to find out,

where to make a complaint – in a higher organ (to the higher public servant) or in a court and in what court – in general or specialized administrative and what legal document it is necessary to make – complaint or administrative lawsuit. In fact the state of administratively-judicial legislation, in particular, in relation to the appeal of decisions in to businesses about administrative offences such, that the norms of basic legislative acts which regulate these relations contain numerous references on each other: Code of the administrative legal proceeding of Ukraine – on Code of Ukraine about administrative offences, and that, in same queue, – on Code of the administrative legal proceeding. And that is why there are problems with determination of jurisdiction of these appeals. In the article is specified on concrete collisions which exist between the judicial norms of legislation about administrative offences and legislation about the administrative legal proceeding, which variously determine the order of appeal of decisions in administrative businesses. An author makes proper concrete suggestions on perfection of norms of administrative judicial legislation, directed on their removal.

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STATE POLICY IN THE AREA OF COUNTERACTION ILLEGAL CIRCULATION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

The goal of this article is analyze and define the main principles of state policy in the area of counteraction illegal circulation of narcotic drugs and psychotropic substances.

Taking into account existing statements of scientific regarding the notion of the state policy, under the state policy author considers actions of authority bearer which are based on the valid regulatory acts and purposes of which are coordinated. Such actions shall be aimed on realization of state functions in all spheres of social development with the purpose of serving the interests of society.

In consideration of the above mentioned state policy in the area of counteraction illegal circulation of narcotic drugs and psychotropic substances considers as actions of authority bearer which are based on the valid regulatory acts and purposes of which are coordinated. Such actions shall be aimed on counteraction illegal circulation of narcotic drugs and psychotropic substances with the purpose of defense citizens' interests, society and state in general.

The main tasks of state policy in the area of counteraction illegal circulation of narcotic drugs and psychotropic substances are:

- defense of citizens' interests, society and state in general;

- establish the control of production, spread and use of narcotic drugs and psychotropic substances;
- establish such system of authorities which would ensure a proper realization of policy in the area of counteraction illegal circulation of narcotic drugs and psychotropic substances and other.

In order to properly serve the citizens' interests, society and state appropriate implementation of all mechanisms of state policy in the specified spheres is necessary. Among such mechanisms special attention is paid to establish such system of authorities in the area of counteraction illegal circulation of narcotic drugs and psychotropic substances which could meet the European standards. Moreover in order to avoid the origination such negative phenomena as corruption, breach of laws, and neglect of functions organisational, material and technical support is important.

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SOME QUESTIONS IN COURT PROCEEDINGS OF ADMINISTRATIVE OFFENCES CONCERNED DRIVING TRANSPORT

The article focuses on an important issue – theoretical study of the nature of judicial review in cases of the administrative violations for driving. Author, based on analysis of the practice of administrative law and order for the proceedings in cases of administrative offenses specific to legal relations in the field of driving, determines the characteristics of judicial review in cases of administrative offenses for driving.

Actuality of research theme is explained that consideration of cases about administrative offences shows by itself the basic stage of realization in cases about them, leading role here is a trial, because the court get the most difficult cases.

Regulating proceedings in cases of administrative offenses by a number of acts, most of which the Code of Ukraine on Administrative Offences. However, by law there is no statutory definition of proceedings on administrative violations.

Analysis of existing scientific definitions enables us to conclude that their essence is to discharge certain of proceedings authorized subjects in applying administrative responsibility.

There are three stages of the trial: the preparation of the case, trial, adoption of the resolution of the case. About judicial review of administrative violations are associated with the control of a vehicle is a major step in the process and is a settlement of the complex interconnectedness of the rule of law court action in cases and decisions.

The issue of judicial review cases about administrative offenses related to driving requires further improvement through changes in legislation.

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DEVELOPMENT OF THE INSTITUTION OF ADMINISTRATIVE LIABILITY OF LEGAL ENTITIES ON THE TERRITORY OF UKRAINE

This article analyzes the ways of the historical development of the institution of administrative liability of legal persons, including in the sphere of nature. Assessment is carried out of the legal regulation of the Institute of Ukrainian legislation and ways to further regulation.

Legal research in the field of administrative liability of legal entities carried out by such researches as V. Andryeytsev, J. Bachrach, D. Lukyanets, J. Shemshuchenko and others.

A detailed analysis of the stages of historical development of the institution of administrative liability of legal entities, including in the sphere of nature and the effective legislation of Ukraine must conclude that all this reflects not a lack of administrative liability of legal entities, but rather the fact that the institution of administrative liability of legal person is in the making. Of course, it is not completely shape and contains many contradictions and gaps, however, deny its existence there is no reason. We believe that a new phase of development of the institution of administrative liability of legal entities begin with the adoption of a new Code of Ukraine on Administrative Offences. This Code on Administrative Offences will be a new stage of development of all sectors of the domestic administrative law or changes to existing code in the part that will involve the liability of legal entities.

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

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

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

Also, the author provided the necessary recommendations to improve administrative and legal regulation of concessions in the national economy of Ukraine.

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CODIFICATION ASPECT OF DEVELOPMENT OF THE THEORY NORMS OF ADMINISTRATIVE LAW: REFERENCE POINT ON INTEGRATION OF SCIENTIFIC EXPERIENCE

Today codification of norms of administrative law of Ukraine is necessary, during the modern period it was of particular importance. It is caused by revival of interest to administrative law as a whole, considerably lost in connection with transition to market economy. At the beginning of reforms it seemed that for the permanent economic growth of the Ukrainian state enough only there will be a providing full economic freedom to subjects of legal relations and establishment of the transparent principles of self-control of their behavior. Business started reaching even a complete negation of requirement for any levers of the state administrative activity in different spheres of development of the Ukrainian society.

Negative consequences of such reformatory approaches didn't force themselves to expect long. And only recently the created distortion started improving. There was an understanding of that mechanisms of free economic activity and the state regulation have to be in interaction and cause each other. In the legal sphere it was shown in revaluation of value of norms of administrative law as social regulators and recognition of need of carrying out their codification.

Scientific legal researches are characterized by different conceptual approaches which in this or that degree open essence, the contents and results of such phenomenon as codification. Also it should be noted that each of scientific positions deserves careful studying because opens additional, earlier unexplored sides of the analyzed phenomenon. Representatives of administrative legal science have to consider and try this fact all valuable and useful from available doctrinal experience to transfer to the sphere of realization of norms of administrative law. This task can be solved if in integrated look essence, contents and result of codification to shine and submit from three positions:

1) forms of systematization of the administrative legislation;

2) special version of creation of norms of administrative law;

3) legislative process.

System display of scientific offers in noted direction will allow to understand more deeply social appointment and interdependence of codification and modern administrative law of Ukraine, to improve realization of norms of the last.

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SOME ASPECTS OF THE FORMATION AND DEVELOPMENT OF PUBLIC CONTROL OVER THE SOVIET GOVERNANCE IN THE 20-S OF 20TH CENTURY

An attempt to analyze statutory acts and scientific literature which characterize the main trends of formation and development of public control after the Soviet state administration in 20-s of XX century is made. The author analyzes the main forms of public control during different historical periods of formation of Soviet statehood.

Recently, in the scientific literature are actively discussed prospects of development of social control in Ukraine. This is extremely urgent issues from a scientific point of view and important – with practical, because of the level and intensity of its solutions depend largely on progress in the establishment of civil society in Ukraine. Analysis of regulations dealing with the organization and implementation of social control, as well as projects related legal acts suggests that social control in our country is still in its infancy. He has already acquired certain organizational forms, but sometimes these forms are still unfilled relevant content. Given that, in our view, the task of jurisprudence is to find the causes that prevent the further progressive development of the institution, but cannot do without the study of the historical features of the formation of this institution in the territory of the Ukrainian state. The solution of this problem, in fact, is the subject of this article.

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ADMINISTRATIVE-LEGAL STATUS OF CITIZENS OF UKRAINE ABROAD

The article analyzes the discussion the scientific positions of domestic researchers concerning administrative-legal status of a person tries to identify the main elements of the administrative and legal status of citizens of Ukraine abroad and to carry out the classification of the citizens of Ukraine

who reside on the territory of foreign States.

The analysis of the demonstration of scientific generalizations of domestic researchers concerning the legal status of the individual, in particular in the context of the achievements of this problem, administrative and legal science. The attempt to determine the content of the administrative-legal status of a citizen of Ukraine, who is outside the country of his nationality, which is a complex of his rights and obligations stipulated by the norms of administrative law, the implementation of which is provided certain guarantees.

Argues that the legal status of citizens of Ukraine abroad is defined by: 1) law of the state of their stay; 2) the laws of Ukraine; 3) the norms of international agreements; 4) General and special principles of international law; 5) international custom. Ukrainian citizens abroad state of their stay is granted a certain amount of rights in accordance with their laws and treaties.

To define the key elements of the administrative and legal status of citizens of Ukraine abroad, given their classification in accordance with certain criteria, among which are: 1) the purpose of stay on the territory of a foreign state; 2) the stay in the territory of a foreign state and (3) documents giving the right to departure from Ukraine, proving of a citizen of Ukraine while staying abroad and have an effect on the rights, duties and guarantees.

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QUALITY OF HEALTH CARE: ADMINISTRATIVE AND LEGAL DIMENSION

Medical activities and right at the beginning of the XXI century developing rapidly, but they rarely overlap. The reasons for this state of affairs are a lot of, we note only that this situation negatively affects both the protection of patients' rights, and the development of medical industry.

First of all, it should be noted that the present legislation, declaring everyone's right to health and medical care, does not contain any provisions that would guarantee their quality. Mostly seems to be related to the complexity of this formulation of the concept (quality / low quality), inadequate financing of health care and the imperfection of organizational and legal support to these processes.

As the quality of health services is a hot topic, there are many understandings of the concept. In our view, all items should be divided into three groups:

1) research;
2) the formal and legal;
3) International.

We believe that under the appropriate quality care to understand comparison of patient expectations and medical staff

actually the results of treatment, which is based on consideration of material and technical equipment of medical institutions, training of medical staff and the patient's condition.

In conclusion, we note that under the system of quality health care services is the sum of organic and functional components, a clear interaction ensures minimization of substandard and dangerous medical services as well as quality control of these services.

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SEPARATE QUESTIONS ARE IN RELATION TO COMPARISON OF LEGISLATION UKRAINE AND EU IN THE SPHERE OF MARKING OF BUILDING PRODUCTS

Gradual integration of economy of Ukraine, in general, and building sphere in particular, comes true due to expansion of amount and volume of economic connections with the foreign states. The inalienable condition of all these processes is introduction in the national legislation of requirements of international standards.

It is related to the objective and subjective factors, such as : а) Ukraine quickly moves up in direction of EU, that is why the use of European the system of marking of building wares will allow rather to move up in the marked direction; the б) use of long-term works, experience and ideas of development of legislation of EU, in this sphere creates soil for creation of more effective Ukrainian legislation in a building sphere; в) it must the Ukrainian subjects of menage, that work with the internal building market of EU, more effectively use potential and possibilities of this market.

Marking of products the sign of accordance is to the certificates of that a person that carried out marking or was accountable for her has documentary confirmation, that products answer the requirements, set in normative documents that spread to this products.

At the use of marking of building products in the system of state mechanism and determination of ways of his reformation, it follows to take into account the national features of the legal system of our state, and it will allow to elect the most acceptable to Ukraine variants and formulate suggestions in relation to perfection of scientific soil for forming of home legislation.

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PUBLIC ADMINISTRATION IN ADMINISTRATIVE AND LEGAL REGULATIONS OF FLIGHTS' SAFETY

Civil aviation and flight safety is an integral part of the transport industry and is essential for the economy of Ukraine. But air transport is one of the most vulnerable sites and can be a significant threat to the population. To characterize the system of administrative and legal regulations of safety is very important determine the structure of the system, by which we mean the organization of the individual elements, subsystems with their relationship. The structure of the system is determined by the distribution of functions and tasks of the whole system between its elements.

Public administration in the field of administrative and legal regulation of safety in Ukraine can be considered as a complex administrative system.

Among the subjects of the administrative and legal framework of civil aviation security are the subjects and objects of government in this area, which, to avoid confusion, we call the rulers and the ruled subjects, keeping in mind that this division for complex administrative system is relative: in certain respects the same subject of administrative and legal security of civil aviation will be performing a manager, it is manageable.

Functions for public administration in the field of administrative and legal regulation of safety state takes over their bodies (mainly agencies), their officers and certain other organizations. However, one must recognize that the state, through its agencies are not the only subject of public administration flight safety in Ukraine. You can talk about the whole system of business management that should be considered within the broader subjects of civil aviation safety in Ukraine. The heterogeneity of these systems will be dependent upon a heterogeneous relations in this area, which, depending on the method of public administration can be classified into vertical (subordinate) and horizontal (coordinating).

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PROBLEMS OF LEGAL REGULATION OF FINANCIAL POLICY

Legal conflicts, defects, rule-making errors constantly inspires cientists to find ways to resolve conflicts, develop proposals. It is important that the general course of development, strategic objectives, national idea are common property of the people, local communities, political parties, union sand government with an opportunity for everyone to fully realize themselves. In the Law of Ukraine “About state social standards and state social guarantees” specified that co-ordination of activity of executive and organs of local self-government bodies in relation to application of state social standards and norms of the financial providing of grant of state social guarantees is carried out by the specially authorized central executive bodies that is responsible for realization of public policy in the field of finances and social defence (Article 22). No position in the Ministry of Finance of Ukraine, nor the position of Ministry of Income nor the position of the Ministry of Economic Development and Trade of Ukraine did not use the term «public policy in the field of finance» (private law, public law). The Law of Ukraine «About central executive bodies» do not contain at all the term «standard», but determined that ministries provides haping and implementing public policy in one or more areas, other central executive bodies perform certain functions for the implementation of public policy. In view of ensuring fiscal discipline and the need for legal clarity to the definition of the executive authority, with certain specially authorized central body of executive power – the Ministry of Finance of Ukraine is responsible for the implementation of financial policy to unify (optimize) the terminology for the use of the term «public policy in the field of finance». In this context, given the powers of the Cabine to Ministers of Ukraineon Article 116 of the Constitution, it is useful in the preparation of the programme of Cabinet of Ministers of Ukraine and amendments to the Law of Ukraine « About state social standards and state social guarantees» to use asset forth by the Constitution of Ukraine, the term «financial policy» that include «fiscal policy» instead of «policy in the field off inance» to fund social benefits.

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THE LEGAL STATUS OF THE CENTRE OF ADMINISTRATIVE SERVICES

On the basis of the law and the opinions of the scholars in the field of administrative law explores the legal status of the Centre of administrative services, emphasized that with the help of the state should be an effective and diverse system of Centers for the provision of administrative services and also noted that today there is no single, uniform approach to the concept of legal, administrative and legal status, the researchers whose views we investigated in this research work have their own thoughts on the matter, which certainly contain a «grain of truth». The article describes one of the most pressing issues of administrative law: separation of conceptual bases for the formation of the main provisions of the legal status of the Centre of administrative services in Ukraine.

This knowledge is valuable for both the theory and practice of law, because it allows you to explore and analyze the different approaches of scientists to define the legal and administrative – legal status in contemporary jurisprudence, examine in detail the definition of the legal and administrative – legal status; compare the approach to the definition in the works various scientists to determine the progress made in the further development of the legal status of the Centre of administrative services . Relevance of the topic is chosen to continue and create an effective and diverse system of Centers of administrative services. Analyzed a number of researchers to determine the structure and difinitions of the administrative legal status of Centre of administrative services, investigated interrelation concepts of legal status and legal extended position, also the competence of legal status and made a decision about the need to introduce draft laws on the list of administrative services and pay for their provision, and also to make amendments to the Code of Administrative Offences in connection with the adoption of the law of administrative services.

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CAMERAL SCIENCE AND ITS INFLUENCE ON THE DEVELOPMENT OF NATIONAL SCIENCE FINANCE LAW IN XIX CENTURY

In domestic science forming a separate branch financial and legal knowledge took place on the basis of recurrence and interdependence of theory and practice. In this regard, proved particularly popular position cameral science – science for public economy, which during the XVII-XVIII centuries has become widespread in Western Europe, primarily – in the German states. Being a product of German administrative science and practice cameral science widely spread in Western scientists (mostly – German) and the system of university education empire. This is common in law and economics science of Russian empire of the nineteenth century was natural character and was due to several reasons. Inclusion cameral science in university courses in Russia, which has historically formed a huge volume and spatial distribution of state-owned economy, consistent with primarily financial interests. The bulk of the revenues to the state budget amounted to funds received from the operation of monetary regalia, salt mines, the mining business, forests and so on. To improve the management of this property and obtain new revenues should be involved in the management of a large number of educated, trained bureaucratic personnel. In addition to their training, there is another, equally important objective of the university – the formation of the national Teaching Corps for all branches of the educational system. Create new universities require a large number of teachers to fill vacant chairs. Invited in the first third of the nineteenth century German scholars cameral science, teaching native students exchange economy, financial and police law, contributed to the creation of national corps of teachers and made a significant contribution to the teaching of cameral and financial discipline in the national university system and financial development of legal thought in general.

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CONTROL FUNCTIONS OF STATE BODIES IN THE SPHERE OF TURNOVER OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Control, like any activity, has a certain legal structure, organizational and legal mechanism of realization of state control consists of a certain number of elements. Furthermore, it should be noted that the content of the control activities related to narcotic drugs, psychotropic substances and precursors is revealed through the content and nature of the functions that are implemented in the process of such activity, so it is useful to review such element as a function.

The functions of state control in the sphere of turnover of narcotic drugs, psychotropic substances and precursors is due to the achievement of the purposes and are subject to the solution of specific problems of the main types of external manifestations of the activity of state bodies in this sphere, which are connected with their controlling influence on the activity connected with turnover of narcotic drugs, psychotropic substances and precursors subject to state control.

Narcotic drugs, psychotropic substances and precursors is removed from the free circulation or significantly restricted in it over them established international legal control and domestic, and there is no other means can not be applied to these drugs and substances and precursors without specifying it in the List of narcotic drugs, psychotropic substances and precursors. The above list is grouped in lists of narcotic drugs, psychotropic substances and precursors of narcotic drugs and psychotropic substances in schedules I-IV, in accordance with the legislation of Ukraine and international agreements of Ukraine.

Control over the implementation of economic entities of the legislation requirements in the sphere of turnover of narcotic drugs, psychotropic substances and precursors assigned to the State service of Ukraine on drugs control, Ministry of health of Ukraine, Ministry of Internal Affairs of Ukraine, security service of Ukraine, State customs service and other authorities within their powers. Peculiarity of the analyzed treatment is subjectivity control agencies in this sphere. These bodies are characterized by a target orientation of one or another function.

So, considering the above, the implementation of control activities of the state bodies in the sphere of turnover of narcotic drugs, psychotropic substances and precursors implemented the following it functions: enforcement, expert, law enforcement, preventive, institutional, statistical, preventive, information, regulation, prediction, coordination, scheduling, etc.

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JUDICIAL AUTHORITIES AS A PRIMORDIAL UNDERSTANDING OF ADMINISTRATIVE JUSTICE

Exploring issues of administrative justice, it is necessary to pay attention to the objects of scientific inquiry, which serve as the fundamental principle and its origins. With all the liability can be argued that administrative justice one of these events is the judiciary. The issue of the relationship (priorities) of a person and the state is an important object of legal science. Especially in the field of public law, which, in turn, is subject to administrative justice.

Speaking of the judiciary as a source of perception of administrative justice, we cannot indicate its close relationship with the concept of self-government. The latter is one of the key principles of democratic development. And it actually provides administrative justice act of one of the «belts» of democracy – exercise judicial control over the actions or inaction of the authorities.

Today it is possible to distinguish the following problems of the judiciary as a fundamental principle of administrative justice understanding of purpose:

- firstly, it's low public confidence in the courts, the judiciary, judges;

- secondly, this is outstanding issues delineation of competences between different types of proceedings (in particular, between the administrative and economic) that does not contribute to solving the problem as practical issues and ensure unity of jurisprudence;

- thirdly, a non-completion at the national level judicial reform, which inhibits the development of both the judiciary in general and administrative justice in particular.

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EDUCATION AS AN OBJECT OF THE ADMINISTRATIVE-LEGAL REGULATION

The article reveals the point of the education concept. It indicates that the education in Ukraine is performed in accordance with the Constitution of Ukraine and laws of Ukraine («On Education», «On Preschool Education», «On General Secondary Education», «On Vocational Education», «On Higher Education») and other regulatory regulations.

The analysis of the legislation of Ukraine, which regulates social relations in education, allows us to state that in Ukraine in the legal field there is no single approach to the definition of «education.» Perhaps the problem in definition of «education» is in the rulemaking activity caused by the fact that in science there is no single approach to this definition as well.

Based on the author's analyzes the article describes the understanding of the concept of «education»: education – a purposeful process of obtaining systematic knowledge and skills for the full development of mental and physical abilities by qualified professionals.

As for the place and role of the administrative law in education regulating in Ukraine, it is necessary to note that without the administrative regulation the obtaining of the education is practically impossible because it is a process closely related to the relationship between the state – citizen, that is simply, to the administrative-legal relations.

An important factor on which the administrative regulation of education in Ukraine is based that is carried out by the state, is principles underlying the process of obtaining the education by individual. In general, these principles can be divided into general, established by law and necessary and essential in the process of education, for example – democracy, humanism, mutual respect among nations, and the special, which include most of the administrative and legal principles: continuity between state and citizens in the process of education, voluntary and at the same time mandatory education.

So, considering the education as an object of administrative regulation it should be noted that the regulation of education an important place is occupied by the rules of administrative law, as an administrative law – is a branch of law by which citizens exercise to meet their needs in all spheres of public life.

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