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THE RULE OF LAW AND DELEGATED LEGISLATION

The article is devoted to the problem of rule of law and delegated legislation. The author analyzes scientific works of local and foreign scientists, the practical application of the rule of law and delegated legislation in the creation of the legal system of Ukraine.

One of the problems in practical application of the Constitution of Ukraine is the issue of the appropriate level of the optimal value and correlation of interests of individual, society and state; separation and – most importantly – the interaction of public and private law principles of social relations. There should be established a balance of principles and rules of interaction between public and private law. Thus, we can see that the rule of law affects not only the field of public law but also private law.

The problem is relevant both in theoretical and practical terms. The real attitude of people – politicians, judges, lawyers and even the general population – to the law and legal abstractions is not less important than any constitutional recognition of commitment to the rule of law.

It should be noted that the debate between the supporters of a particular approach to the understanding of the rule of law is often extremely dangerous, and usually, it is believed that each of these approaches excludes the others. However, each of them in different ways defines

facets of the same phenomenon, which as the general principle of the legal system consisted of industries fundamentally different in scope and methods of regulation, is not able to identify itself the same way in every case.

Since “the rule of the law” refers to general theoretical category, its interpretation and determination should be primarily performed by the general theoretical jurisprudence. Ukrainian theorists A. Zayets, M. Koziubra, A. Kolodiy, E. Nazarenko, M. Orzih, V. Selivanov, A. Skrypniuk, S. Shevchuk and others have repeatedly published their opinions on this issue.

As you know, the problem of delegated legislation didn't receive general development in the domestic legal literature. This is firstly because of the fact that delegated legislation was temporary in Ukraine and thus, according to scientists, does not require detailed study.

Secondly, the Ukrainian legal doctrine opposes delegated legislation. Based on the principle of separation of power, it considers legislative activity within the exclusive competence of the representative bodies. Appointment of the Executive Branch is the operational implementation of laws adopted by parliament.

The rule of law requires the state to its implementation in law-making and

law enforcement activities, including the laws which contents should be absorbed first, by the ideas of social justice, freedom, equality and so on. One manifestation of the rule of law is that the law is not limited to legislation as one of its forms, but also includes other social reg-

ulators, such as moral norms, traditions, customs, etc., which are legitimized by the society and historically conditioned. All these elements are combined by the quality that meets the ideology of justice, the idea of law, which largely is reflected in the Constitution of Ukraine.

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CHURCH AND STATE RELATIONS: THEORETICAL ASPECT OF THE RIGHT TO FREEDOM OF CONSCIENCE AND RELIGION IN UKRAINE

In light of the existing religious diversity in Ukraine, the critical elements to building a democratic rule of law state would be research and theoretical developments in the field of church and state relations which would respect the interests of all believers of any faith, with a view to ensuring practical and comprehensive protection of rights to freedom of conscience and religion. With this end in view, a lawyer, as a civil servant working in the area of governmental regulation of religious organizations, should have objective knowledge of existing religious diversity in Ukraine. The author is of opinion that it is important to build on the good initiatives in this direction available in our country and to help improve this education, focusing on the objectivity and quality of information on the confessions represented in Ukraine. It is essential that along with earning law degree, civil servants exercising control in the religious sphere, learn the basics of religious

studies relying on impartial and objective material produced by religious scholars. The author believes that in Ukraine legal studies and religious studies will soon naturally unite into one interdisciplinary science called "legal religious studies." This interdisciplinary field has already been tested in Russian universities. According to A.V. Pchelintsev, one of the developers of this scientific field, legal religious studies is necessary due to increased need to provide scientific foundation for the State policy related to enjoyment of freedom of conscience and religion and relations between the State and religious communities. The new approach combining best practices in the field of legal studies and religious studies is replacing the approach whereby in Soviet times lawyers addressed these issues mainly from the perspective of "scientific atheism," without any deep and critical understanding of complex processes of religious practice.