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THEORY AND HISTORY OF STATE AND LAW; PHILOSOPHY OF LAW

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HANS KELSEN ABOUT THE LEGAL POSITIVISM

The article presents the main periods of the evolution of Hans Kelsen's (1881–1973) understanding of the legal positivism. The features of his interpretation of the critical legal positivism in his main early work „Hauptprobleme der Staatsrechtslehre entwickelt aus der Lehre vom Rechtssatze" (Tuebingen 1911) are given in the beginning, e.g. his critical analysis of the positions of his teachers at the Heidelberg University (Georg Jellinek and Gerhard Anschuetz).

Further analyses consider Hans Kelsen's understanding of the legal positivism in his early German works „Reichsgesetz und Landesgesetz nach österreichischer Verfassung" (1914), „Rechtswissenschaft als Norm– oder als Kulturwissenschaft. Eine methodenkritische Untersuchung" (1916) and „Allgemeine Staatslehre" (1925).

The features of Hans Kelsen's interpretation of the philosophical positivism and the legal positivism in his works „Die philosophischen Grundlagen der Naturrechtslehre und des Rechtspositivismus" (1928) and „Reine Rechtslehre. Einleitung in die rechtswissenschaftliche Problematik" (1934) are pointed out further.

In conclusion, Hans Kelsen's understanding of the legal positivism in his later German article „Was ist juristischer Positivismus?" (1965) is analyzed, e.g. his critics on the positions of such famous philosophers of law and jurists as John Austin, Adolf Merkel, Gustav Radbruch, Wolfgang Friedmann.

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IMPLEMENTATION OF THE RIGHT OF PALESTINIAN PEOPLE TO SELF-DETERMINATION IN 1947-1948

On September 3, 1947 the United Nations Special Committee on Palestine submitted to the UN General Assembly a report which proposed two plans for the Palestinian case:

1. Plan offered by the majority of UNSCOP provided the partition of Palestine into two independent states: Arab and Jewish, with the transformation of the City of Jerusalem in a special unit, with a special international regime for managing the UN. Independent Arab and Jewish states, as well as Jerusalem, were supposed to unite the so-called "economic union".

2. UNSCOP minority recommended the establishment of federal state in Palestine, bringing together Arab and Jewish population, with its capital in Jerusalem. The first proposal formed the basis of UN General Assembly resolution on 29 November 1947, which confirmed the partition of Palestine into two independent states.

According to the UN General Assembly Resolution, the partition of Palestine was supposed to create a Jewish state (an area of 14.1 thousand km2 or 56% of the Palestinian territories with a population of 509,780 Arabs, including Bedouin tribes which roamed this area, and 499,020 Jews) and Arab state (of 11.1 thousand km2, 43% of the territory of Palestine, with a population of 749,000 Arabs and 9,520 Jews), as well as an international zone of Jerusalem neighborhood (1% of the population consisting of 105,540 Arabs and 99 690 Jews). However, with the occupation of Palestinian territories by Israel the plan was never implemented. Thus, the Palestinian Arab population received no right to self-determination; it was substituted for international concern about the return of "Arab refugees."

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REGULATION OF COASTAL SHIPPING IN THE BLACK SEA AND AZOV SEA DURING THE LATE XVIII – FIRST HALF OF THE XIX CENTURY

The article is devoted to the study of the problems of legal regulation of coastal shipping in the Black Sea and Azov Sea basins in the end of XVIII – first half of XIX centuries. The work indicates that due to different circumstances this issue was almost unconsidered up to the end of the 1820s, which had a negative impact on the economy of the whole region, slowing the growth of trade, settlements, development of all merchant shipping. A very significant portion of coastal fleet, serving the Northern coast of the Black Sea and Azov Sea, consisted of the foreign vessels, mainly Turkish. Only by the middle of the XIX century, it became able, though not to full extent, to refuse participation of foreign vessels in local shipping industry. By the same period basic guidelines for the activities of the coastal fleet were developed. A regulatory framework for coastal shipping in the Black and Azov seas was laid down in decrees: on 10 October 1821 "On approval of the regulations on the opening of the Kerch port and the staffs of Quarantine and Customs districts," 4 August, 1827 "On issuance for the building of the coastal trade vessels on the Azov Sea, instead of previously defined 2000 rubles, 4000 rubles per person in a form of loan," 11 June, 1828 "On refusal to levy in benefit for the municipal income the last and other taxes from ships raising less than ten lasts [a last = 200 cubic feet]," 12 February 1830 "Supplementary regulation on the trade shipbuilding and seafaring," 4 July 1830 "On establishment in Kherson the merchant yard with administration provided with staff," 24 September, 1835, "On the issuance of the loans, secured by reliable guarantees from the fund of the Black Sea shipbuilding promotion," 6 July 1837 "On loans for the construction of coastal trade vessels for navigation on the Azov Sea," "On measures on strengthening of the capital, intended for shipbuilding for the construction of the Black Sea merchant ships."

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PRACTICAL JURISPRUDENCE SCHOOL IN NEZHIN

This paper analyzes the formation and development of practical jurisprudence in Law Liceum of Duke Bezborodko (1840–1875). It was determined that the lyceum was utilitarian law school to train legal practitioners, judges, investigators, notaries and other judiciary. However, the foundation of a thorough study of law was laid in Gymnasium of High Sciences of Duke Bezborodko in 1820. It was determined that the lyceum gave encyclopedic knowledge of legal disciplines which was close to the university course. There were studied Intrinsic rights and Law of society, Law of the state, Roman law and its history, Russia's civil and criminal law with Justice and History of law.

The essence of education in Law Lyceum was practical and reflected the main goal of the institution – to prepare practitioners with the necessary knowledge and sufficient skills in specific narrow areas of legal practice. In this regard, all teaching was reduced to a thorough study of the law, rather than law science as a phenomenon. According to this, the curriculum and the distribution of subjects were formed to learn the Laws of the Russian Empire. In the lyceum there were four law departments: of Encyclopedia of Law and State Laws, of the Laws of Treasury Management, of Civil Laws, and of Criminal Laws and Procedures, which were lectured by well-known professors M. Bunge, P. Danevskyy, V. Nezabytovskyy, I. Patlayevskyy, M. Yasnopolskyy, I. Maksimovich etc.

In the article it was defined that the Duke Bezborodko's Law Lyceum gave students the appropriate level of knowledge and produced more than 800 professionals. Utilitarian training institutions met the needs of the state and provided young people with the right to engage in appropriate positions, i.e. future employment.

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HISTORY OF DEVELOPMENT OF POSSIBILITY AND REALITY CONCEPTS IN LEGAL PHILOSOPHY

Problems of the categories of possibility and reality were analyzed by G. Hegel, K. Marx, F. Engels, I. Illyin, D.A. Kerimov and others in their works.

G. Hegel while determining the subject of legal philosophy – idea of law, its definition and implementation – involves the question of correlation between possibility and reality.

According to Hegel, everything that is real is intelligent and everything that is unintelligent is unreal, unauthentic and random. Nevertheless, the philosopher distinguished reality and simple existence that includes those random and unintelligent phenomena. Taking into consideration this statement, it has to be noted that existing system of law must be viewed from the point of view of its cognition and implementation.

F. Engels also noted one of the correlation aspects of possibility and reality concepts. When talking about the role of variability and diversity of correlating elements in the developing system, special attention was paid to importance of ability to distinguish real possibilities and abstract ones not only for particular events but also for the whole condition of the system including the condition of stable balance, harmony, and unity.

I. Illyin has also proposed an interesting aspect of correlation between these categories. He related the category of possibility to such notions as legal rights and legal authority.

D.A. Kerimov gave definitions of legal possibility and reality, considered correlation between possibility and reality in legal field, and pointed out the need of presence of certain conditions that would facilitate transformation of possibility into reality.

To our mind, all above conceptions have analyzed objective content of legal norms and objective view on the implementation process. However, another perspective of the process of legal possibilities implementation exists. It is related to the nature of intersubjective relations. Investigation of this issue is an outlook for further considerations in this field.

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LEGAL CONSCIOUSNESS AS A BASIS OF MULTI-SOURCE NATURE OF LAW (ACCULTURAL ASPECT)

Approach to understanding the law from the standpoint of the theory of communicative action, supported by Jurgen Habermas, describes the historical development of Western legal systems. In the course of this development area of law is constantly expanding, and the regulation of social relations becomes more detailed. This is pointed out in sources of law which later became the basis of social institutions closely related to morality and those which form an integral part of the life of the world. Law as a result of social interaction is formed by society and regulates social relations.

It can be argued that there is a legal communication between sociological legal consciousness and jurisprudence as a source of law, because the dynamic development of the legal system requires additional legal regulations which exist in the real relationship and most effectively influence the regulation of social relations. Judicial practice should be understood as a combination of an abstract legal norm and specific circumstances. Precedent is the best way to ensure the dynamics of law. Judicial precedent practice is forming during the process of activity of the courts of second instance, and in some crucial cases, requiring fundamental decisions of cases – courts of first instance. With that, the Supreme Court of the country in some cases can act as a court of first instance.

Sociological legal consciousness is the basis of jurisprudence and judicial precedent as a source of law. Historical legal consciousness creates legal custom as a source of law. Natural law concept reflects general principles of law and supports law doctrine and forms the basis of all concepts of legal consciousness. Romano-Germanic legal systems are based on integrative thinking, which combines different types of legal acts as a source of law creation. Accultural processes occur in view of the level of legal consciousness and dominant concepts in certain jurisdictions.

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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 regulators, 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.

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LEGAL STATUS AND JURISDICTION OF THE JURY IN BUKOVYNA WITHIN INTERWAR ROMANIA (1918-1938)

In November-December 1918 Romania occupied Bukovyna and it was later confirmed by Saint-Germaine (September, 1919) and Sevres (August, 1920) Peace Treaties. One of the priority tasks for the Romanian Authority was to extend its judiciary over the annexed territory; therefore, on December, 19, 1918 according to the royal decree, the legislation of Romania on the judiciary was distributed in Bukovyna that provided for the formation of five-level judicial system consisting of justices' courts, tribunals, appeals chambers, the jury and the Higher Court of Cassation and Justice.

Under Art.105 of the Constitution of Romania, 1923 the jurisdiction of the jury extended to the cases of political crimes and crimes in the field of the press. On June, 25, 1924 a new law on the judiciary of Romania was adopted but it did not change radically the existing judicial system of that time.

The jury in Bukovyna under the Romanian interwar legislation consisted of two parts: the chamber (three representatives of the judiciary, among which the head had to be an advisor of Appeals Chamber) and the jury (there were 12 of them and under the regulations of 1936 there were 9 of them). The task of the jury was to decide the fact of guilt or innocence and the task of the chamber was to conduct litigation and pronounce a final sentence based on the verdict of the jury.

The candidate for the position of the jury had to be a citizen of Romania, aged at least 25, have the full political and civil capacity and be able to read and write. The property qualification was also established – the annual income not less than 1500 lei. The alternative of this qualification was to work as a teacher or to be a retired military man. The persons who were suspected of a criminal case, defendant or convicted as well as the persons who were 60 or whose main type of activity was a physical work could not be jurors.

In February, 1938 the Romanian King Carol II abolished the democratic constitution of 1923 and issued a new totalitarian pro-fascist constitution that eliminated the jury.

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LEGAL CULTURE IN UKRAINE: CONCEPTS, ITS STATUS AND PROSPECTS

This research article based on legal culture focuses attention on the myriad ways in which law exists within society generally, the study of legal consciousness traces the ways in which law is experienced and interpreted by specific individuals as they engage, avoid or resist the law and legal meanings. This empirical attention to popular understandings of law reformulates some of the theoretical debates in the study of legal culture.

Many comparatists are using the concepts of "legal culture" and "legal tradition" as synonyms. However, Patrick Glenn has claimed that "legal culture" should be used as an epistemological tool in comparative study of law. According to him, the epistemological main function of "legal culture" has been to exist as a means of differentiation and to provide a conceptual tool that can be used to describe differences between things that are labelled as "culture." Glenn has claimed that when we speak of 'culture' we speak of a country as a homogenous legal fiction. According to this view, the concept of "legal culture" is a conflictual concept whereas the concept of "legal tradition" is epistemologically more tolerant. Glenn's criticism of "legal culture" is analysed critically in this article. The author claims that there is, in fact, no important difference between these concepts in epistemological sense. This article doubts that mere conceptual usage of "legal culture" would contain automatically an epistemology of conflict.

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MODIFICATION OF THE DOCTRINE OF LEGAL RELATIONS: EARLY SOVIET STAGE

The doctrine of legal relations is extremely important. Complex of scientific views on doctrinal vision of this social and legal phenomenon has created a relatively autonomous institute in legal theory. Obviously, it was necessary to determine the stages of formation and development of the doctrine of the relationship and their modifications depending on legal consciousness.

Formation and first scientific works which explored relations from a position of legal theory began in the mid-nineteenth century. Scientific researches of the time were carried simultaneously with studies in European countries. Pluralism of opinions considering approaches to legal consciousness allowed scientists to explore the relationship comprehensively, without any ideological constraints. However, the beginning of the twentieth century was marked by social and political changes which surely strongly influenced and radically modernized law, jurisprudence, and law enforcement.

Pioneers of Soviet understanding of relations as a legal category in some way were concerned not with the right as a natural regulator of social relations but the right as a part of the class struggle and, of course, the right was to be on the side of the "ruling" class – the proletariat and peasants – to serve their interests and protect their welfare from other influences.

The foregoing makes it possible to make a number of conclusions, namely, the doctrine of the relationship continued to grow, though, based not on the European principles, but on new "revolutionary," "proletarian," "socialist" ones. This caused considerable damage in the development of society and the state. In addition, as shown by historical experience, "communist experiment" failed. New, as it was determined, right was actually artificial, unnatural, as being contrary to the essence of law. Right from the superstructure became the basis of social relations; law became a mechanism of state terror against the person. Emergence, change or termination of relations could be carried out merely with the consent and support of the "working class." In general law and legal theory in particular, began the dictate of normativism, which even today can be seen in legal science.

CONSTITUTIONAL AND MUNICIPAL LAW

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CONTENT AND FUNCTIONS OF EQUAL PROTECTION OF THE LAW AND COURT FOR ALL THE PARTICIPANTS IN A TRIAL AS THE CONSTITUTIONAL PRINCIPLE OF THE UKRAINIAN JUDICIAL SYSTEM

The constitutional principle of equal protection of the law and court for all the participants in a trial is one of the main distributions of justice guideline in Ukraine. Determination of its content and functions is an inalienable part of legal doctrine which influences the practice and finally can lead to proper use of rights and duties by citizens and as for court it can lead to making law enforcement.

Taking into consideration achievements of philosophy, the content of equal protection of the law and court for all the participants in a trial should be determined in two ways.

Firstly, the content of equal protection of the law and court for all the participants in a trial consists of three legally and etymologically separated categories which mould the forth one:

1. equality;
2. equal protection of the law;
3. equal protection of the court;
4. equal protection of the law and court.

Secondly, possibility of the principle's content determination of equal protection of the law and court for all the participants in a trial is foreseen in internal normative legal acts through ascertaining the factors which manifest inequality: gender, age, race etc. Having analyzed legal rules statement, we come to the conclusion that they can be: age; gender; race; the color of the skin; language; religion; political or other convictions; national origin (ethnic origin); social origin; property status; birth; commitments; other signs (genetic peculiarities, appearance; accent; disease etc.).

Taking into consideration the opinions, we confirm that equal protection of the law and court for all the participants in a trial as the constitutional principle of the judicial system, properly as equality itself, should be regarded as a combination of the right and the duty, enforcement vector, general directive and security of human rights and freedoms.

Functions of equal protection of the law and court for all the participants in a trial principle as the constitutional principle of the judicial system are determined by the place and the role of this principle within the social relations regulation system.

So far as equal protection of the law and court for all the participants in a trial is embodied in legal rules, the first and foremost law functions inherent for it are: common social and special legal.

Regarding equal protection of the law and court for all the participants in a trial as a philosophical legal category, referring to the philosophical perception and educational influence of the principle, its most important functions should be distinguished as follows: world outlooking, reflective-informational, axiological and educational.

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THE RIGHT TO A COMPETENT COURT AND SUPREMACY OF THE CONSTITUTION

Continuation of judicial reform is essential for the development of the national legal system of Ukraine. An integral part of this reform is the proper support of the judiciary. In this context, the government aims to fulfill positive obligations to ensure activity of legal and independent courts.

The purpose of this article is a comprehensive study of the content of the right to a competent court based on the doctrine of constitutionalism, in particular, the supremacy of the constitution.

Legal competent court is a necessary basis for a trial by a competent court, which on the basis of the rule of law and according to the defined procedure resolves disputes concerning the law. Right to trial means the right of a person to apply to court, the right to try his case and to court judgment. Besides that, a person must be entitled to implement this right without any obstacles or complications. The ability of individuals to freely obtain judicial protection is the essence of the concept of access to justice.

The term "competent court" means a composition of the court staff, who must comply with the rule of law. This requirement is determined to ensure that the proceedings are carried by impartial court staff and to provide institute of judge disqualification in case of existence of reasonable doubts about the independence and impartiality thereof. Composition of the court may be single-man or collective, which may depend on the type of dispute and its complexity. An important issue is the determination of the court composition, because the judge can not hear the case considering his family and friends. Inadmissibility of manipulating the composition of the court and putting pressure on the court in other ways is crucially important. The right of the party to claim objection of a judge, who may be partial, serves this purpose. Ability to propose an objection is important in the formation of the panel of judges, which includes jurors.

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A PLACE AND ROLE OF CIVIL ASSOCIATIONS IN THE POLITICAL SYSTEM OF THE MODERN DEMOCRATIC STATE

Actuality of the investigated topic is conditioned by effective modernization of the legal system of Ukraine which can be attained only providing sufficient level of development of institutes of civil society, in particular, civil associations' general will which allows attaining greater efficiency in many areas of social life.

The purpose of the article is to investigate the phenomenon of civil associations, and also to determine their location and role in the political system of the modern democratic state.

It should be emphasized, that for the last ten years the role of civil associations in Ukraine grows gradually. In the process of public modernization and state reformation they promote the solution of certain range of tasks and functions of the state.

It is marked that strengthening of civil associations' role in Ukraine is an objective law caused by need of collective creative work, development of initiative, skills, and determining index of formation and development of civil society. Confirmation of this fact is the normative consolidation, provision and guaranteeing of the right to freedom of association.

A conclusion states that the importance of problem of place and role of civil associations is defined, on one side, by the degree of protection of rights and freedoms of man and citizen, on the other side – by legitimacy of state power. Civil associations are the guarantors of inviolability, realization and protection of the rights of man and citizen; it is the mean of organization of members of society and their realization of their interests; it acts as an effective institution of democratic control over functioning of public authorities and degree of the state intervention in public relations; it enables citizens to directly influence the process of acceptance of important for society decisions.

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SETTING THE LIMITS OF IMPLEMENTATION OF JUDICIAL FUNCTIONS OF THE STATE AND STABILITY OF PUBLIC RELATIONS

The article discusses in general terms the problematic issues regarding limits of implementation of the judicial functions of the state and its correlation with the stability of public relations.

Setting the limits of the judicial function of the state helps ensure the stability of social order. This paper examines the factors that influence the judicial function of the state, including corruption, legal status of the judiciary. Author investigates interdependence of efficiency and stability of the judiciary law. If the judiciary loses trust of the society, the number of conflicts and contradictions reviewed by non-judicial system increases. Moreover, the researcher proves that if the court does not provide justice, the parties to the conflict may resort to self-power activities in order to find justice. When a state loses its function of justice, there are risks of social unrest and even armed confrontations between various social groups.

In the process of establishment of legal state and civil society, judiciary should play a mediating role in the relationship between the different subjects of society and the state. The author shows that the judicial function is inherent not only to the state but also the society as a whole. The limits of the implementation of judicial function of the state depend on the legal status of the subjects of the judiciary and other subjects of judicial relations. In general, the judiciary can not neglect the purpose of justice – to achieve justice during the proceedings. Justice serves as a limit for the judicial functions of the state and society. Neither the state nor the judiciary nor society should cross the specified line, because it provides instability of public relations and threatens national security.

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VECHE AS ONE OF THE CIVIL SOCIETY INSTITUTIONS OF MODERN UKRAINE

The article is devoted to the research of the Veche as an institution of civil society of modern Ukraine, which promotes the democratization process of Ukrainian present society and which allows to improve relations between the government and the people.

Current political events that shook Ukrainian society have demonstrated the evolution of democratic institutions and the rise of the political awareness of Ukrainian citizens. Such a burst of civic activity confirms the need for further development of civil society.

Further development of the democratization of Ukrainian civil society depends on the improvement of relations between the state and society, the government and citizens. That is why in Ukraine, after several centuries of oblivion, the institution of the Veche begins to be used by citizens to influence the public authorities.

The current Veche is also the public meeting, where the people of Ukraine (the only source of power in Ukraine – art. 5 of the Constitution of Ukraine) express their position and try to build a dialogue with the authorities. This council as an institution of civil society must actively participate in creating the way to solve the most "painful" and important problems. Thus, in this way the potential of civil society is involved into solving the political problems.

However, the Veche has no legal basis nowadays. The current Ukrainian legislation does not contain such a phenomenon of the political Ukrainian life. That is why today, in my opinion, we need to change the law in the direction of establishing the legal status of the Veche as an institution of civil society in Ukraine.

During the reformation of the Constitution of Ukraine by providing the mechanism of power decentralization and empowerment of local government, it would be appropriate to add the article about the Veche.

Of course the final content of articles must be agreed with the general concept of constitutional reform in Ukraine, but it is undeniable that it has to contain a section about the Veche. After all, the present has proven the viability of the Veche.

ADMINISTRATIVE, FINANCIAL, TAX LAW

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COMPETENCE OF THE CABINET OF MINISTERS OF UKRAINE IN THE DEFENSE FIELD

State administration in the field of defense as a constituent element of the state administration of the administrative-political sphere has a quite traceable specific features that are stipulated by the proximity to the military sphere.

The analyses of the current legislation of Ukraine allow asserting that from all state power bodies the broadest competence concerning realization of the state administration in the field of defense have the Cabinet of Ministers of Ukraine.

In the process of characterizing the competence of government in the mentioned field it should be noted that interesting and important from the point of view of the state administration theory and legislative practice is the issue of correlation between terms "functions" and "competence" because the Law of Ukraine "On Defense" mix those terms.

While analyzing the competence and functions of the Cabinet of Ministers of Ukraine it becomes quite clear that in realization of the state administration in the field of defense the government plays the most crucial role that at the same time can be a negative factor for the effective administration, because in case of granting such competence to any state power body in the definite field there always occur a threat of concentration and using that power in the interests of definite persons or group of persons. Attributing to the competence of the Cabinet of Ministers of Ukraine, inter alia, regulation of the economic activity in the Armed Forces of Ukraine, to our mind, needs a review with argumentation of granting the state executive power body with such competence.

In further legislative works in this field it should be noted that in modern conditions role of other state power bodies is extremely important, especially the Verkhovna Rada of Ukraine and the President of Ukraine as elements of supporting the balance and guaranteeing the interests of the state and society that should be ensured in the proper legislative way.

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THE STATUS OF THE SUBJECTS OF ADMINISTRATIVE AND LEGAL REGULATION ON THE FORMATION OF LAND MARKET IN UKRAINE

At present the state faces the issue of improvement of the status of subjects of administrative and legal regulation of the free land market in the context of improving the understanding of the authority as a government entity.

In the legal literature the term legal status (from Lat. "status") is usually understood as established by the norms of law provision of subjects, a set of rights and obligations.

The category "administrative and legal status" is not only multivalued but also multielement. It consists of the following main elements: goals and objectives, competence, authority, responsibility, formation and procedure of their activities, and others.

The status of subjects of administrative and legal regulation of the opening of the land market in Ukraine should also contain certain components, which allow them to perform the tasks established by legislation. Such structural components by analogy should also include jurisdiction and powers of the authority, which become its functions and allow to provide: internal organization of the activities of public bodies in the field of the opening of the land market turnover; regulatory effect on the activity of subordinated legal entities; implementation of accordance of subordinated entities; implementation of the entire spectrum of state powers by authorities.

The combination of these powers, functions that allow public authorities to carry out administrative and legal regulation of the process of opening a free land market in Ukraine, forms their administrative and legal status.

System of subjects in the field of administration of the land market turnover in Ukraine is quite an extended structure. They act within the powers defined by the existing laws of Ukraine and function as a single interconnected mechanism.

The system of authorities with general jurisdiction include: the President of Ukraine, the Parliament of Ukraine, the Parliament of the Autonomous Republic of Crimea, the Cabinet of Ministers of Ukraine, the Council of Ministers of the Autonomous Republic of Crimea, local governments and local executive bodies. The system of authorities with special competence in this area include: the Ministry of Agrarian Policy and Food of Ukraine and the State Agency of Land Resources of Ukraine.

The powers of subjects of administrative and legal regulation of formation of land market in Ukraine are determined by the Constitution and laws of Ukraine. Recent years, there is a transition to method of "exhaustive list," that means that legislation sets a clear list of powers and only in rare cases establishes the

possibility of giving the subject additional powers, but strictly within the law.

Therefore, the status of subjects of administrative and legal regulation of the free land market in Ukraine is a combination of their rights (competence) and duties (responsibilities), goals, objectives, and functions of their activities, the responsibility for violation of the requirements; it is specified in the norms of the current legislation of Ukraine; guaranteed by the state, which delegates its functions to the subject of authority in a particular area and is systemic.

In view of the European integration process, there is a need for rethinking the essence of the legal status of this group of subjects on the basis of theoretical developments and practices taking measures to open a free land market in Ukraine.

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LEGAL REGULATION OF ONLINE MEDIA IN UKRAINE: ADMINISTRATIVE AND LEGAL PRINCIPLES OF FUNCTIONING

While working on the Internet, web media should take care of the data received and sent, particularly information of a confidential nature, so that it is reliable and not available to outside users. Internet is not just a network, but a network of networks, each of which can have its personal legal, ethical and political norms.

Today, the printed media are at risk when making reference to the network articles. After all, if information they published is false, no links to online publication as the source of original information relieve responsibility from the newspaper or broadcasting company. Even though online media owners have the right to officially register their newspapers, as well as printed ones, they do not do that because they do not want to voluntarily take on a threat of court processes as well as their "off-line" counterparts. The reluctance of most online media to develop an aligned position to regulate their activities is an additional obstacle to the solution of the problem.

However, online media may still obey the laws which regulate the activity of the press. It is necessary just to encourage them to self-adjust to the requirements put forward to the traditional media. Instead, for some reason, the state refuses to solve the problem this way and offers to create a host of limitations for providers, to adopt a special law on the matter, demonstrating clearly which problems arise in the few registered online media. The draft law "On State Information Policy", which passed its first reading in Parliament in June 2009, states

that „the vast majority of printed nationwide media, a significant number of media of regional and local circulation have electronic versions of their publications on the Internet. Broadcasters also transmit their programs via the Internet.” In March 2010, the project was withdrawn.

In contrast to online sources, the legal status of Internet sites of “off-line” media is legally regulated. Thus, according to the article 1 of the Law “On Printed Mass Media (Press) in Ukraine” publications “may include the other media (disks, floppy disks, audio– and videotapes, etc.), which distribution is legal under the current legislation of Ukraine”. Advanced interpretation of this article allows considering Internet as another media.

Thus, regulation of printed media is governed by several laws of Ukraine, while the legal regulation of online media to is not considered by any specific act. This is the reason of the constant spread of false information and information of unauthorized nature, and those who spread this information usually do not carry any responsibility. Therefore, it is necessary to carry out the legal definition and consolidation of online media on a legislative level.

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PROVISION OF RIGHTS AND FREEDOMS OF CITIZENS BY THE INTERNAL AFFAIRS AUTHORITIES IN CASE OF THE USE OF MEASURES OF ADMINISTRATIVE COMPULSION

The inalienable constituent of law-enforcement activity is a legal compulsion as a method of state administration of the society. Exactly development of law and order in society guarantees the real and complete provision of rights and freedoms of man and the citizen. The inalienable constituent of state mechanism of providing realization of these functions is the activity of internal affairs authorities, functioning of which should comply with social, political and legal standards which exist in the society and state.

One of important directions of government activity of sovereign and independent Ukraine is law-enforcement activity, directed on the provision of principle of supremacy of right in our society. The tasks of law-enforcement activity consist in protection of social system declared in the Constitution of Ukraine, economic and political systems, rights and legal interests of citizens, enterprises, establishments, organizations, subjects of all proprietary forms, economic and territorial integrity of Ukraine.

A fight against criminality and claim of law and order are considered as an extraordinarily actual national task of crucial political importance, major component part of multilevel activity of public authorities, and above all – internal affairs authorities.

A state compulsion is an extreme measure which is used as objectively necessary one. Its realization influences formation of the psychical mode of citizens, their world view, assists in formation of habits, lawful behavior.

A compulsion indeed takes place wherein one authorized subject by its actions overcomes will of another subject, subordinates it to requirements of law. This means that a necessary condition for determination of a certain measure as a compulsion is a presence of certain counteraction, resistance from the subject, which a compulsion is applied to.

One of types of state compulsion is an administrative one which occupies a considerable place in the arsenal of the means of compulsion. The analysis of practical activity of militia testifies that this means is used by its workers widely enough, and in a number of cases it is the only mean of arrangement of public relations, solution of conflict situations. In connection with the stated information, activity of militia in relation to application of measures of compulsion has an important value and that is why needs permanent perfection and increase of its efficiency.

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ORGANIZATIONAL AND LEGAL GROUNDWORK FOR STATE FOREST MANAGEMENT OF UKRAINE

The article is devoted to the effectiveness of the state forest management for the further use of this concept in the scientific literature.

Support of the protection and rational use of forest resources is necessary and important part secured in Art. 16 of the Constitution of Ukraine state's obligation to support environmental safety and to maintain the ecological balance in Ukraine. Nowadays the state forest management has several disadvantages caused by both systemic political crisis, the apparent delay of administrative and legal reforms and insufficient involvement of municipalities, public institutions and the private sector.

The author concludes that the management and control over the use of lands for forestry purposes is understood as the activities of the representative and executive bodies in the area of land and forest relations in order to ensure effective and rational use of lands for forestry purposes by all entities.

Considering dynamic development of forestry in Ukraine, environmental and economic situation in the conservation, protection, and restoration of forests is difficult. In particular, the system of land forestry is characterized, firstly, by the duplication of government`s functions on various levels, and secondly, by the blurring of responsibilities between various government agencies, thirdly, by the combination of functions of public administration, protection, monitoring, labor and forest management. It is necessary to revise certain provisions of the forest management laws and conduct more researches in the field of organizational and legal groundwork for the public forest management in Ukraine.

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ABOUT THE PLACE OF COERCIVE ENFORCEMENT OF JUDGMENTS IN THE LEGISLATIVE SYSTEM OF UKRAINE

Factual execution of court and other judicial bodies' decisions is an evidence of effective activities of public administration parties – state executive officers and the whole system of State Enforcement Service of Ukraine. Nowadays both scientists and state executive officers have no stable legal position or foundation regarding the place of coercive enforcement of judgments in the legislative system of Ukraine. The system of coercive enforcement of judgments is factually divided into general and special parts which include both norms of substantive and procedural law. Coercive enforcement of judgments specifically possesses an administrative and procedural character, but not substantive and procedural. The subject of legal regulation for coercive enforcement of judgments is miscellaneous social relations which emerge at the time of coercive execution of related executive acts. Such relations together serve the purpose of coercive enforcement of judgments. This criterion is a consolidated factor of the enforcement. The ways of legal regulation of coercive enforcement of judgments are imperative and dispositional methods. Legal relations rather apply special permission as a type of administrative and legal regulation.

Coercive enforcement of judgments can be identified as a subfield of administrative law of Ukraine which has administrative and procedural contents, aimed at the coercive realization of protective and recreative functions on the part of the legal authority – a state officer who is to execute the decision according to the law of Ukraine. Coercive enforcement of judgments as a subfield of the administrative law of Ukraine includes general and special part which consists of a number of institutions. Coercive enforcement of judgments has a common subject, methods and ways for legal regulations with the administrative law, and differs from a specific goal as part of the administrative law, aimed at the coercive execution of the decisions of court. Thus, coercive enforcement of judgments cannot be either an institution or inter-branch institution of law of Ukraine as it includes a number of institutions but exists within the administrative law and is absorbed by it.

Thus, coercive enforcement of judgments is a subfield of the administrative law which consists of a system of miscellaneous, connected institutions of enforcement of judgments with a subject, methods and ways of legal regulation immanent for administrative law and intended for the execution of the relevant decisions of court.

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ON THE CONCEPT OF RISK IN THE ADMINISTRATIVE ENFORCEMENT

In today's world of "increased dangers of being" risk is the basic concept of the social, legal and economic governance. Depending on the object or subject of the impact, risk can acquire structural, systemic or target orientation. This is primarily dependant on many sides and aspects of modern life. Development of management and accelerating scientific and technological progress actualized the issue of risks in all areas of human activity: scientific, economic, social, cultural etc. Today there is an urgent need to emphasize the increasing role of risk in the legal field. This process is the result of the increasing role of law in contemporary social and political life. Risk is becoming on a par with such categories as "choice," "future," "conflict," "development," "contradiction," "fear," "crisis," "accident," defining it as the main element of person and an integral part of modern existence of human, state and society.

The main objective of the study of risks is to increase the level of protection from negative results of human activities. A variety of active areas of human existence raises a variety of risks. The more areas of life and activity humanity has, the greater the risk it gets.

The diversity of opinions about the nature of risk is determined by a large number of approaches to the determination of this concept and results of its manifestation in real time. Risk has many definitions, which are not only unlike each other, but sometimes even contradict each other. This is determined by the lack of information regarding the use of this concept in decision-making in everyday life.

The main objective of the chapter is receiving the summarized or universal definition of risk as a phenomenon of modern society and defining its role during the periods of existence of the civilization. Fulfillment of this task will result in the definition of risk in the sense applied regardless of the situation.

The risk of enforcement, including administrative one, is connected directly with the situation of its inception and terms of its termination.

There are many concepts and definitions of administrative enforcement because of the large number of aspects of this concept applied in the legal literature.

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DIVISION OF ADMINISTRATIVE AND COMMERCIAL RELATIONS IN BUILDING ACTIVITY

Legal relations in building activity are complicated, because they contain different aspects and branches of law (civil and commercial which belong to private law; administrative which belongs to public law). The division of public and private legal relations in the building activity is important for correct application of legal provisions, protection of rights and interests and different scholar researches.

Scholars propose different criteria for division of public and private relations, such as the subjects of the relations, legal status of building relation participants, the content of legal relations and the type of legal rights protection. After researching and analyzing the peculiarities of building relations, author comes to the conclusion that such division should be suggested according to such criteria as legal status of building relation participants and the content of legal relations. The essence of legal status of building relations participants is implemented in either civil capability or administrative function of one of the parties toward another one (for example, small building contract represents private relations while the conducting of the revision represents administrative ones). The content of the relations is also an evaluative criterion, but it can be defined as the legal essence of social relations in the building activity, for example approval activity etc.

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TO THE COMPREHENSION OF THE ESSENCE AND CONTENT OF SUCH CATEGORY AS "PUBLIC ADMINISTRATION"

Development of Ukrainian administrative law is characterized not only by the development and adoption of legal acts, but also by the introduction of new categories (concepts) to legal activities. This tendency is quite reasonable because, as K. Belsky rightly emphasized, now it is extremely important to raise the issue of administrative and legal terminology on more solid scientific basis, to carry general inventory of all terminology, clear it of superfluous words and take care of the system of terms capable to mark the new reality in public administration accurately and correctly.

Modern administrative and legal literature under the term of public administration understands a series of bodies and institutions which implement public authority by enforcing the law, regulations and other statutory instruments on behalf of public. According to V.K. Kolpakov, public administration as a legal category has two dimensions: functional and structural. According to the functional approach it is an activity of the structural entities to fulfill the functions aimed at implementing the public interest. According to the structural approach, public administration is a set of bodies formed for implementation (realization) of public authority.

Thus, making a general conclusion from the above, it is important to emphasize that the category of public administration is a complex system which combines a large number of actors involved in the implementation of the Constitution and laws of Ukraine, as well as the acts of the President of Ukraine which aim to meet the public interest.

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STAFFING OF THE NATIONAL GUARD OF UKRAINE (ADMINISTRATIVE AND LEGAL ASPECTS)

The article discusses nature and content of administrative and legal regulatory of staffing of the National Guard of Ukraine. The article states that in process of reforming of military formation which operates within the Ministry of Internal Affairs of Ukraine, new requirements are put forward for training of comprehensively developed highly professional soldiers who are psychologically and professionally ready for service in both everyday and special conditions. Thus, only specialists with high moral and psychological qualities can perform complex tasks.

It is proved that staffing of the National Guard of Ukraine shall include such areas as personnel record keeping, moral and psychological support, social and educational work, prevention of corruption and other violations of discipline and law, as well as training of personnel.

Administrative and legal regulation of staffing of the National Guard of Ukraine aims to provide a stable, permanent and adequate functioning of mind and psyche of personnel, functioning of units in rapidly changing environment, associated with preparation and execution of certain tasks, especially in emergency situations of different origin. Provided that, top-priority of staffing service for National Guard of Ukraine must be: creation, improvement and maintenance of professional psychological orientation of personnel; development of professional observation, memory, thinking, ability of workers and military men to take into account psychological aspects in performance of certain tasks; proper training, retraining and advanced training of personnel for proper performance of tasks and functions of the National Guard of Ukraine; prevention of offenses (including corruption) committed by soldiers and officers of military units.

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CERTAIN ASPECTS OF ADMINISTRATIVE BASES OF INTERACTIONS BETWEEN EXECUTIVE AUTHORITIES IN THE AREA OF EDUCATION, HIGHER MARITIME EDUCATIONAL INSTITUTIONS AND EMPLOYERS IN REGARD TO INCREASING THE LEVEL OF TRAINING OF MARITIME SPECIALISTS

Modern system of specialists' training is directed to the need of creating the effective mechanism of young specialists training in accordance with employer's requirements.

At the scientific level the study of such a problem is considered at the pedagogical aspect without participation of the management body in the area of education.

Thus, administrative basis of interaction between executive authorities in the area of education, educational institution and employer regarding increasing the training level of maritime specialist actually remains scientifically unstudied.

Because of active changes of international demands to the training of maritime specialists, domestic maritime education was forced to perform internationalization and modernization, which became the substantial peculiarity of the whole educational system of Ukraine.

Educational institutions which train maritime specialists are forced to independently respond to changes in maritime specialists' training requirements, in accordance with international standards, which, in some extent, counter the key norms of the Law of Ukraine "On Education" – for managing education, the system of state managing organs and also the system of organs of social self-government are created.

However, legislation entitled educational institutions with the ability to independently correct the content of education in the following vectors: taking part in forming the standard of education; filling the variable part of educational and qualification characteristics; developing the standards of the higher education of educational institutions; providing extra educational services.

The given variants of administrative regulation allow influencing the process of forming the contents of education on the basis of demands of the labor market.

In such conditions, providing the educational institution with wider range of rights and increasing the variable part of the content of educational and qualification characteristics becomes more actual. In its turn, this will give the possibility to modernize the content of education in accordance with the requirements of the National Strategy of Development of Education in Ukraine for the period till 2021.

In addition to this, it happens to be quite reasonable to improve the system

of making prognosis to meet the needs of the employer. It is necessary to establish at the legislative level the obligatory practice of making triple-sided agreements: «cadet – higher educational institution – employer» for students.

In maritime educational institutions exists the practice of voluntary concluding such agreements on the basis of agreements of cooperation. In this aspect, the key issue is the systematization of these requirements and remarks by the educational institution as well as working out the unique system of the competence approach to education.

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STATE REGISTRATION SERVICE OF UKRAINE AND NATIONAL AGENCY OF PUBLIC REGISTRY OF GEORGIA: EXPERIENCE OF FUNCTIONING

It should be noted that the State Registration Service of Ukraine was established in 2010. Since the establishment of this body a considerable work was carried out, but today there is a necessity to improve its operation. Analysis of foreign experience of registration bodies is one of the possible options for answering the questions about the functioning of the State Registration Service of Ukraine.

It is known that Georgia is characterized by its progressive reforms in different areas of public administration. The area of the state registration is not the exception. One of the major reforms that must be taken over Georgia and realized in Ukraine is the provision of services for citizens in united registration centers by using the system of electronic registers. The terms must be strictly regulated in order to eliminate the subjective factor and the desire to take a bribe.

There was also an interesting practice of the House of Justice in Tbilisi because of the implementation of a unique opportunity to receive services through a system "Just Drive" at the end of 2013. Currently it is possible to get the documents that have legal significance (in particular, birth certificate) without an attendance of the institution, moreover, without leaving the car. The mentioned practice would be sufficiently appropriate and effective in our country, because it greatly minimizes both the costs of time and the costs of materials, labor and other resources.

Summarizing the above, we can conclude that the effective governance is unimaginable without inno-

vation. The analysis of the functioning of the State Registration Service of Ukraine and the National Agency of Public Registry of Georgia, that was conducted within the research, has allowed to distinguish the priority ways of the improvement of the activity of the State Registration Service of Ukraine that requires further scientific developments.

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REFORMING LEGISLATION ON LOCAL PUBLIC ADMINISTRATION AND LOCAL SELF-GOVERNMENT: THE ANALYSIS OF NORMS

In developing a coherent set of administrative reforms in Ukraine, which is essentially a search for a new, high quality best model of correlation and interaction of social and state institutions, local self-government is objectively given a prominent position.

Significant achievement for the democratization of society since Ukraine's independence is secured at the constitutional level status of local self-government: Article 7 of the Constitution of Ukraine stipulates that Ukraine recognizes and guarantees local self-governing. Section XI of the Constitution also concerns issues of local government. On the basis of constitutional provisions, the Law "On Local Self-Government in Ukraine" and the ratification of the European Charter of Local Self-Government considerably approaches this sector of legislation to European standards.

However, Ukraine has started the process of reform of local self-government and authority's territorial organization. Main problems which hinder the development and strengthening of local self-governance in Ukraine are:

• lack of clear division of roles and responsibilities between local self-government and local executive authorities;

• lack of the possibility of autonomy for local self-government in decision-making;

• ambiguity of the legal definition of its status.

At the present stage of development of Ukraine as a democratic state, social and law reform of local self-government is an absolute requirement of modern time.

CIVIL AND ECONOMIC LAW AND PROCEDURE

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CONCERNING THE DEFINITION OF THE CONCEPT "ECONOMIC SECURITY"

The article is devoted to the problem of interpretation of the concept "economic security."

Nowadays the problem of providing economic security is a subject of close attention and studying. It received a special attention in connection with constantly growing degrees of economical openness, their close integration in world economic processes.

Currently there are no suitable approaches to definition and interpretation of concept "economic security." There are various approaches to the definition of the studied concepts in the context of its role and place in the determination of any country`s national security in the world.

The main approaches concerning the interpretation of the category "economic security" and the connection of investigated concept with concepts "national security" and "national interest" are analyzed in the article.

Moreover, authors' viewpoints are investigated and analyzed by dividing them into specific groups based on attitudes, beliefs, and judgments.

Due to various scientific treatments research of the category "economic security" allows to conclude that for now there is no only consent concerning the decision in a uniform denominator of this problem in the scientific environment.

The interpretation of studied concept from the point of view of classical economic approaches offered by the international economic communities is also taken into account.

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SOME ISSUES ON CORRELATION BETWEEN ADJUDICATION OF DISPUTES UNDER THE CIVIL LAW BY ARBITRATION COURT AND TRIBUNAL

The article is devoted to the topical problem of correlation between disputes settlement under the civil law by arbitration court and tribunal.

The author analyzes the approaches to the definition of justice, developed in literature, as well as the main approaches concerning attribution of the arbitration court activity on consideration of civil disputes both to justice and to the jurisdictional activity, other than justice. The problem of such correlation determination is conditioned not only by the need of theoretical dissociation of these two categories as it is the source of practical problems of the law-making and law-enforcement. Such inconsistencies are especially notable in the light of decisions of the European Court of Human Rights in the context of review of the arbitration court's decisions, as by the decisions of the judicial institution, the arbitral court fully falls under the term "court" within the meaning of Art. 6 of the European Convention on Human Rights and Fundamental Freedoms concerning the right to a fair treatment by an independent and impartial court determined by the law.

According to the result of the research the author does not identify the arbitration as the administration of justice, for which Ukraine has legal basis. However, taking into consideration the decision of the European Court of Human Rights and approximation of the Ukrainian legislation to the legislation of the European Union, the further shift of emphasis in understanding of the arbitration court as the body that administers the justice, though not incorporated into the state court system, is possible.

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THE CORRELATION OF TERMS "TERMINATED CONTRACT" AND "VOID CONTRACT" IN JUDICIAL PRACTICE

The article deals with the research of contradiction between practical application of "terminated contract" and "void contract" according to current legislation.

The cases considering terms of the void contract and the wrong conclusions regarding the terminated contract frequently appear in The Unified State Register.

Obviously, considering such cases the court doesn't focus on the grounds of legal action – the grounds for contract termination are legitimate actions of two parties which want to stop contractual relationship; the grounds for legal actions considering void contract are the unconformity of the contract with the law and moral foundations of society.

Application by court of the consequences of the terminated contract in the cases considering the void contract happens quite often. However, in our opinion, the inconsistency of legislator and specificity of certain legal relationships which are manifested in the replacement of law consequences between terminated contract and void contract is the reason of the above problem.

Thus, in our opinion, the dissociation of judicial practice considering terminated contracts from judicial practice considering void contracts by The Resolution of the Supreme Court of Ukraine about features of the contract termination (features of terminated contracts according to the types of contracts) and making analysis of the special legislation on compliance with norms of the Civil Code in order to detect the contradiction is the right solution of problem.

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GUARANTEE AS A MEANS OF PROVISION FOR FULFILLMENT OF ECONOMIC OBLIGATIONS: ISSUES OF LEGISLATIVE DEFINITION AND PRACTICE OF APPLICATION

The article focuses on the research of a guarantee as a means of provision for fulfillment of economic obligations. On the basis of the analysis of legal and doctrinal approaches to the understanding of the state guarantee there has been suggested a definition of guarantee with delimitation of its properties and specific characteristics. In an economic field guarantee is a written one-side obligation of indemnitor, accepted in relation to some person (beneficiary) under a commission of other person (principal) ensuring by the last one the performance of obligations to a beneficiary.

Bank guarantee and state guarantee should be marked out among guarantees as means of provision for fulfillment of economic obligations.

Close attention has been paid to the matters arising as a result of performance of guarantee liabilities. The economic and legal nature of state guarantee has been substantiated. Foreign state guarantee experience, including that of Germany, France, and the USA has been analyzed.

Suggestions for the improvement of the national legislation aimed at legal regimentation of a guarantee as a means of provision for fulfillment of economic obligations in Ukraine have been laid down.

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THE DYNAMICS OF THE ARBITRATION METHOD OF RESOLVING DISPUTES IN UKRAINE: ACHIEVEMENTS AND PROSPECTS

The arbitration method of dispute resolution as an alternative method, is gaining popularity. In theory, arbitration courts are designed to complement the institutions of civil rights. Arbitration has its advantages: promptness of court hearing, absence of unnecessary bureaucracy and casuistic difficulties, accessibility and simplicity, which makes it possible even for a person without legal training to orientate in the process, free choice of language, and the main advantage is the choice of referees, whom the parties can trust.

During the existence of an independent Ukraine arbitration had proved itself positive. However, there were errors and malversations in this area. The domestic scientific community actively discusses the place of the arbitral tribunal in the national legal system, and most importantly – the efficiency of the institution. Finding ways to improve legislation in the way of arbitration disputes continues. Ukrainian legislation in this area was subjected to the repeated modifications including limitations of arbitration, process improvement etc.

Ukrainian society continues looking for ways to improve the operation of arbitration. Now the question is to popularize arbitration as an alternative method of protecting individual rights. Legal consciousness of business, including the method of resolving disputes, is able to show the civilized world feasibility and safety of investment in our economy, and the possibility of a safe and civilized cooperation between economic subjects on the territory of Ukraine.

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FEATURES OF THE INSURANCE OF FREIGHT FORWARDING ACTIVITY

The scientific article is devoted to the determination of the current level of scientific research results regarding the features of the freight forwarding activity insurance, as well as features of the application of freight forwarder's liability insurance or insurance of cargo as a direct object of the freight forwarding activity.

According to the current civil law, insurance during the freight forwarding activity can be used in the forms of property insurance and liability insurance. In this case, liability insurance can be seen as a means of enforcement of obligations given its accessory character in relation to the contract of freight forwarding, including the possibility of termination of the principal obligation by providing insurance benefits and the main purpose to protect the interests of creditor, who can be presented by a transport forwarder himself as well as by a person determined as beneficiary.

Based on the analysis, the article specifies difficulties in implementation of the mechanism of damages which occur in the organization of freight forwarding activities, determines the ambiguity of judicial enforcement, including the lack of specifically defined responsibilities and the need to provide negotiated settlement with freight forwarder.

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PROSECUTOR'S POWER TO PROTECT THE PROPERTY RIGHTS OF THE CHILDREN

In order to ensure an integrated approach to the execution of tasks, prosecutors should first concentrate their efforts on the review of the legality of decisions of the executive authorities and local self-government regarding disposal of children's homes and property as one of the main factors of preventing crime and homelessness among adolescents.

One of the most urgent areas of the prosecutor's activity to ensure compliance with property and housing rights such as categories of children-orphans and children deprived of parental care should include enforcement of legislation: the issuance of permits to commit deeds of alienation of child's living space by institutions for orphans and children deprived of parental care, left without care of parents or guardians to foster parents for the implementation of actions for the conservation of premises belonging by the right of ownership or lease agreement to orphans and children deprived of parental care who live in these institutions or in foster care; safeguarding orphans and children without parental care who are not assigned to their living quarters, and other measures in cases stipulated by applicable legislation.

All forms of prosecutorial activities aimed at ensuring children's property rights can be supplemented with prosecutor's prevention activity. Thus, during prosecutor's investigations in Office of Children's Services, executive authorities and local self-government authorities, boarding schools during the stay of orphans or children deprived of parental care in institutions for children, in foster care or family-type orphanages it is advisable for prosecutor to call authorized persons' attention to the need for clarifications and talks with the children aimed at raising legal awareness of children to maintain their premises and prevent fraudulent activities regarding living space.

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RULES OF ORIGIN OF GOODS AS AN ELEMENT OF THE TARIFF REGULATION OF FOREIGN ECONOMIC ACTIVITY

Rules of origin of goods are the criteria needed to determine the national source of a product. Their importance is derived from the fact that duties and restrictions in several cases depend upon the source of import. In fact, misuse of rules of origin may transform them into a trade policy instrument instead of just acting as an instrument to support a trade policy.

When a product is wholly manufactured and produced in a single country, it is relatively easy to determine its origin. Difficulties in determining the origin of a product arise when it is manufactured and assembled in different countries, or uses materials originating in more than one country. At least, there are four different methods or criteria for determining the origin of these goods:

1. Using the concept of substantial transformation as a rule;
2. Using an ad valorem percentage test;
3. Listing specific manufacturing or processing operations which determine or do not determine origin of the goods; and
4. Requiring a specified change in tariff classification.

Whichever method is employed to determine origin, each seeks to prevent simple assembly and packaging operations from determining the good's origin. The article evaluates the different methods according to their effectiveness in determining the origin and in preventing circumvention, their clarity, their certainty, their transparency and the predictability or consistency of origin determinations which the method employs.

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THE CONCEPT OF JUDICIAL PROTECTION OF LAND RIGHTS OF INDIVIDUALS IN UKRAINE

The article investigates the concept of judicial protection of land rights in the context of substantive and procedural law applicable to the content of land rights and interests of individuals in Ukraine. Analyzes of the theoretical and legal approaches to the definition of "the right to the protection of land rights of individuals" and their legal meaning based on the clarification of the nature of law is determined by the structure of the right to defense as part of objective and subjective rights.

The relevance of the chosen topic is based on the fact that today one of the fundamental and overarching characteristic features that reinforce the conditions of existence (creation) of legal state is the category of "the right to protection." Legal action of the individual to the court as prescribed by law for the protection of his rights and the protection of his respective remedies provided by law are stated in the right to protection (the Constitution of Ukraine (Article 55).

The peculiarity of the protection of subjective civil rights and interests is a choice of different orders of recognition of the rights violation and legal impact on the offender which is not limited by methods established in the article 16 of CC of Ukraine. The right to protection includes substantive and legal as well as procedural measures. This is an additional basis for the recognition of the right to protection as an outstanding subjective right which belongs to citizens and organizations.

The purpose of the article is an analysis of the substantive law governing the protection of land rights of individuals in court, justification of the provisions associated with significant changes in the content of land rights and interests of citizens.

Analyzing legal provisions in the context of protecting the land rights of the individuals, author suggested that an individual, whose subjective land right violation is not recognized or challenged, has to make decisions regarding his defense.

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FEATURES OF PUBLIC CIVIL CONTRACT APPLICATION

This article deals with the nature of public contract and its specific application in connection with the problems of interaction of mandatory and discretionary rules in civil law and coordination of public and private interests.

Modern civil law laid down entirely new principles of legal regulation of property and personal relations, greatly enriching the judicial system with paper work.

The author pays attention to a public contract in civil law which coordinates private and public interests against government interference in economic relations.

The Civil Code of Ukraine has preserved continuity in the development of contract law, has improved existing and laid down new institutions, aiming at the development of market economy. One of the general principles of civil law is the principle of contractual freedom (Articles 6, 626 CC of Ukraine), which is recognized as the cornerstone of private law in foreign countries.

Contractual freedom allows creating and using new models of contracts which are not legally regulated. However, freedom of contract is not unlimited, as the lack of legal mechanisms and unlimited freedom can lead to violations of the rights, freedoms and interests of the civil law, cause misuse of rights. Therefore, in order to protect the rights and legitimate interests of certain categories of civil law, legislator has established public regime for some range of contracts.

Public contract as an independent institution is a legal phenomenon based on the combination of mandatory and discretionary principles of civil law. Connection of discretionary and mandatory legal rules is manifested primarily in their common aim to create conditions for legal relations regulation, solution of the conflict of civil interests and harmonious development of relations in the field of civil law. The existence of discretionary and mandatory rules is interdependent and quite necessary at present conditions of civil relations.

According to the Civil Code of Ukraine (Article 633 of CC), public contract is a contract in which one party – the entrepreneur – has a duty to sell goods or services to anyone who applies for them (retail, common carrier transportation, communication, medical, hotel, banking services, etc.). Public contract application is provided for potential monopoly areas.

Legislator clearly sets forth rules of a public contract application. In legal literature scholars recognize all public contracts under "Consumers Rights Protection Law."

Public contracts include a number of so-called statutory civil contracts,

including typical conditions (typical contracts are generally contracts of adhesion).

It should be noted that there are problems in application of public contract on practice caused by imperfection of its regulation and absence of appropriate rules as for public contracts rendering health care service, public services, and so on.

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LICENSE AGREEMENT AS A FORM OF COMPLEX INTELLECTUAL PROPERTY

According to the Constitution of Ukraine, which guarantees every citizen freedom of the literary, artistic, scientific and technical creativity, our independent state successively creates its own mechanisms of creation, consolidation and implementation of intellectual property rights, moral and material interests, which arise from its different types, which are the expression of complex intellectual property.

Results of scientific and technical activity and their implementation in the form of complex intellectual property, their safe legal protection and use will ensure sustainable economic development through continuous improvement of technical processes which are peculiar to modern production and provide output, competitive both in domestic and global market.

Certain aspects of the license agreement for the use of copyright items, including complex intellectual property and appearance of civil rights and responsibilities thereof as well as other issues were considered in the writings of many domestic and foreign scholars.

The license agreement must be concluded in writing. In the case of non– written form of agreement for use of a literary work, such an agreement is declared invalid (Part 2 of Art. 1107 of the Civil Code of Ukraine). Exceptions may be established by law considering cases when such a contract may be concluded verbally. According to Paragraph 1 of Art. 33 of the Law of Ukraine "On Copyright and Related Rights" verbal agreement may be negotiated for the use (publication) of work in periodicals (newspapers, magazines).

Parties to a license agreement are: the licensor – the person who owns the exclusive intellectual property rights (the person who has economic rights) and licensee – the person to whom the contract grants permission for use of intellectual property rights (license).

The content of the license agreement includes the following terms: 1) the type of license. In terms of the rights granted, there are exclusive, individual and non-exclusive licenses.

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THE CONCEPT OF NOTARIAT: THE ISSUES OF LEGAL NATURE

Institute of notariat as the object of scientific research is a major phenomenon, requiring a great deal of attention in domestic legal science. This is caused by a number of circumstances, among which such as the need to clarify the concept and the legal nature of the institute of notaries, its role in the mechanism of protection of the rights and freedoms of man and citizen, its place in the system of legal institutions and branches of law, fundamental functions, relations with government institutions and civil society.

The analysis of approaches to the definition of the concept "notariat" shows that forming their vision of the issue, each researcher is tries to find out the main task of notariat, which is important to determine its essence.

Analysis of the notion of "notariat" gives us all grounds to assert that despite the different approaches in the legal science and legal practice in relation to its definition, it is possible to identify a number of common features characterizing the notariat as a legal institution in the mechanism of protection of the rights and freedoms of man and citizen: 1) the institute of notariat is public and legal, enshrined in legislation (by notarial actions it enshrines ownership rights, makes the possession, use and disposal of property open, gives legal nature to civil circulation, protects rights and legitimate interests of individual and juridical persons in the field of property turnover and personal relations); 2) the institute of notariat is a system of bodies and officials carrying out notarial actions (a set of notaries working in state notarial office, notaries engaged in private practice, officials of executive bodies and officials of consular offices who are entitled by law to perform notarial acts); 3) notariat is responsible for providing qualified legal assistance and protecting the rights and legitimate interests of individual and juridical persons by performing notarial actions.

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SOME ISSUES CONSIDERING THE LEGAL STATUS OF PERSONS ACTING AS MANAGERS OF LIMITED LIABILITY COMPANIES FOR VACANT POSITION

The purpose of this article is to clarify the most basic features of the legal status of persons who temporarily perform duties for vacant positions based on the current level of development of this group of public relations and to provide recommendations considering the procedure of appointing persons as acting for the vacant post of head of Limited Liability Company.

At the presentation of the articles the following conclusions are made.

It is proved that acting is possible only in relation to managing positions of employers – entities which, according to constituent documents or other statutory provisions of these entities, are assigned by their governing bodies.

It is recommended to provide in the constituent documents of LLC a position of deputy head of LLC who may temporarily act as a director during his absence at work under the terms of the temporary patronage (including cases of dismissal – up to the appointment of another person as a head on a regular basis).

It is confirmed that the maximum term of existence of a person in the status of the acting director is limited by the period of two months – with the term, general meeting of LLC have to appoint a person (with his consent) as a head of the LLC on a regular basis or make him free of acting . In any case, after the two-month period, if the person continues to fulfill duties under the relevant post, fixed-term employment contract of acting as a director of LLC transforms into permanent one.

Unlike the temporary patronage where the duties of the head in case of his absence belong to additional duties performed on temporary conditions, acting temporarily, a person dismisses from the previous post, which is a temporary transfer.

The author proposes to provide regulations for persons returning to the previous position after temporary acting to guarantee preservation of their average salary in the amount relevant to the post they temporarily performed duties for within two weeks after returning to the previous position.

Without proper registration of LLC director's dismissal, it is recommended to complete this procedure in court – by the verification of legal significance of termination of the employment contract concluded with LLC after issuance of an appropriate order of dismissal.

LABOUR LAW, SOCIAL SECURITY LAW

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REGARDING EMPLOYEE'S RIGHT TO HONOUR AND DIGNITY

In this article, the author studies such labour law categories as "employee's honour" and "employee's dignity." Emphasizing necessity and practicability of studying and protecting employees' non-property rights, the author underlines that this will allow: firstly, distinguishing between subjects of the labour law and the civil law; secondly, studying legal nature of personal non-property rights of employees more thoroughly; thirdly, developing legal mechanism for protection of those rights.

While analyzing definitions of "employee's honour" and "employee's dignity," the author states that these definitions are not new for the labour law; however, legal science still lacks interpretation of those terms. These definitions are very important for further study and development, as a human being by means of work strives not only for financial reward for results of his activity, but for acknowledgement of those results by society, community, and personnel.

Summarizing results of the study, the author states that "employee's honour" and "employee's labour dignity" within the labour legislation play an important role in formation of high-quality and competitive human capital within the territory of modern Ukraine. The above categories have a direct effect on a working process and a labour market.

In summary, the author suggests assigning a new definition to such categories as "employee's honour" and "employee's dignity," which fall within the current trends of Ukrainian labour legislation.

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MEASURES OF PROSECUTORIAL RESPONSE TO THE VIOLATIONS OF LABOR RIGHTS OF CHILDREN: ISSUE OF EFFICIENCY

The article highlights the analysis of the prosecutor's intervention, which can be used in the detection of violations of labor rights of children, in particular, features of their implementation.

The author notes the existence of special danger of violation of labor rights of minors. At the beginning of working life, heavy working conditions and violations towards minors and their labor rights become vulnerable part of society.

The author of the article examines the effectiveness of prosecutor's complex application of their authority which is manifested in representation of children's interests in court to protect their labor rights and provide effective control over the timely and full implementation of court decisions regarding such cases and in real reinstatement of violated labor rights.

The author justifies the possibility of protecting the labor rights of children in the contemporary conditions of state prosecutors. As a measure of prosecutorial response to detected violations of labor rights of minors, they tend to commit the cases to court. To achieve greater efficiency, the prosecutor practice should actively use their authority to apply to the courts without previous prosecutor's submission.

In the article author focuses on the effectiveness and impact of prosecutor's interventions of representative character in cases of violations of labor rights of children.

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LEGAL NATURE OF THE EMPLOYMENT CONTRACT AS THE MAIN BASIS OF THE INDIVIDUAL LABOR RELATIONS

The article presents a detailed analysis of the legal nature of the employment contract as the basis of individual labor relations, its importance in the science of the labor law. Theoretical approaches to the definition of an employment contract formed a number of conclusions and proposals aimed at understanding and improving the legal definition of an employment contract in a market economy. Institute carried out an analysis of the employment contract in the duality of its legal nature and modern essence.

The theoretical significance of this research is manifested in complex new results of the research, theoretical conclusions and positions contributed to the system of scientific knowledge regarding the legal nature of the employment contract in modern conditions. The paper identifies its principle important features which allow delimiting employment contract from the other types of labor contracts in current civil law.

In the conclusion, the major provisions of the research are summarizes, and recommendations and suggestions on improvement of the draft Labor Code of Ukraine taking into account the approaches of national scientists are provided.

LAND, AGRARIAN, ENVIRONMENTAL, AND NATURAL RESOURCES LAW

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LEGAL REGULATION OF THE USE OF THE LAND PLOT UNDER BUILT-IN NON-RESIDENTIAL PREMISES WHICH ARE LOCATED IN A MULTYSTORIED HOUSE

The article is devoted to the explanation of legal content of land management, allocation of the land plot under built-in non-residential premises which are located in a multistoried house by the analysis of the landed legislation and practice of its application, legal and the special literature on land management, and also to the development of suggestions and recommendations for the improvement of the legal adjusting of public relations which arise in the field of land use. As the solution of the listed problem, K.O. Guschina suggests to confirm Temporary provision on the transmission procedure of land plots (without the real local selection) under the objects of the real estate. The similar variants of problem solution were also offered in works of such scientists as Ustimenko V.A., Rozgon O.V., Lazepka I.M. Author came to the next conclusions. According to the absence of the established in the legislation of Ukraine procedure of transmission of land plots under the objects of the real estate in a lease (in case of failure to determine their limits in kind) and regarding plenary powers of local authorities to adjust the land relations, defined by the operating statutory instruments, it is possible to assume that the offered regulatory instrument enables the achievement of the specified goal.

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PLACE OF FOREST RESOURCES IN NATURAL RESOURCE SECTOR OF UKRAINE

This scientific article determines the place of forest resources in natural resource sector of Ukraine. The article also defines the concept of "forest resources" and its characteristics.

Definitely, the term "natural resource potential" is a generic term in relation to natural resources and the natural environment, which refers to some additional effect of the complexity of its development and should be considered in the light of the prevailing industrial development of the productive forces and economic conditions. Therefore we offer to adhere to the division of natural resources potential on only two main components: natural resources and environmental conditions.

Forest is the area with a high density of trees which is formed in areas characterized as a large scale of land in different parts of the world where environmental conditions are suitable for the sustainable growth of the trees, above the sea level up to alpine meadows line. Forests have a big impact on microclimate and the climate of the planet with the exception of areas where the natural frequency of fire outbreaks is too large, or where the environment is induced by natural or anthropogenic factors.

CRIMINAL LAW, CRIMINOLOGY, PENAL LAW

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GENERAL CHARACTERISTICS OF VICTIMS OF CRIMES IN THE FIELD OF THE TURNOVER OF RESIDENTIAL PROPERTY

The article provides the arguments that the research of the individuality of victim has crucial impact while elaborating practical means of crimes prevention in the field of the turnover of residential property. On the basis of criminological analysis of criminality in the field of the turnover of residential property, it is proved that all victims can be conditionally divided into two groups – victims of mercenary crimes and victims of mercenary and violent crimes. It is stated that victims were not the "passive participants" of the mechanism of crime commitment. Their behavior influences both the sequence of criminal act and the establishment and formation of criminal intention. The classification of victims is made on the basis of social status, which raises the level of victimhood. The author emphasizes the following categories of potential victims of crimes: aged individuals; individuals, who abuse alcohol; individuals, who do not live in the object of residential property; potential buyers and sellers of objects of residential property; tenants of objects of residential property. Also, the spectrum of individuals in the "risk group" includes individuals who have higher level of victimhood. This particular group consists of aged individuals, individuals, who abuse alcohol, individuals, who do not live in the place of object of residential property. It is stated that legal entities in the field of the turnover of residential property rarely suffer from the criminal assaults. The article includes the analyses of factors, which raise the level of victimhood. The survey of victims of crimes was made depending on the field of civil legal relations, in which potential victims conclude agreements.

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THE ROLE AND PLACE OF DIFFERENTIATION AND INDIVIDUALIZATION IN LEGAL MECHANISM OF COUNTERACTION TO ORGANIZED CRIME IN PENAL COLONIES OF UKRAINE

One of the problems which requires a solution, as well as a priority, which is defined within the concept of public policy in the field of crime prevention until 2015 (approved by the Cabinet of Ministers of Ukraine of 30.11.2011 № 1209-p), is the fight against recidivism. This issue has become relevant since Ukraine gained its independence and remains so in today's environment. The adoption of the new Criminal Code (hereinafter – CC) of Ukraine in 2001 has not changed the situation significantly. This, in particular, is seen from the statistical data describing the state of recidivism in Ukraine.

Moreover, practice and results of researches show that one of the determinants which generate this type of crime is errors in the execution of the sentence in the form of imprisonment and, in particular, poor state of the principle of differentiation and individualization of penalties. In view of this, the chosen theme of this article is relevant and has both theoretical and applied nature.

The study of scientific sources revealed that, in one way or another, researches of the following authors are dedicated to the study of penal basis and fighting with organized crime in penal colonies: O.V. Bets, I.H. Bohatyryov, V.V. Vasylevich, A.P. Gel, O.N. Dzhuzha, T.A. Denisova, V.V. Kondratishyna, O.H. Kolb, V.A. Merkulova, O.V. Lysodyed, L.P. Onica, A.K. Stepananyuk, V.M. Trubnikov, I.S. Yakovets etc. An additional argument for choosing such a topic for this research was the fact that the issue of reflection penal principles in modern penal policy of Ukraine as a means of fighting with organized crime as well as the issue of the place of the principle of differentiation and individualization of penalties was not directly raised in science.

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CRIMINAL AND LEGAL PROTECTION OF CULTURAL HERITAGE OF UKRAINE

The article examines the basis of criminal legal protection of cultural heritage of Ukraine; analyses legislation, which provides and guarantees the right to protection of cultural heritage; relates to the definitions of "cultural heritage," "cultural property," "cultural asset."

The cornerstone of the humanitarian policy of our country is saving culture legacy as it is an integral part of cultural heritage of the world. Protection and multiplication of cultural heritage is provided with a system of legal, organizational and administrative activities. Basic principles of protection of cultural heritage are enshrined in the Basic Law of the State ratified by the Parliament of Ukraine in international conventions and legislative acts on legal coverage of the preservation of cultural heritage. However, the issue of crime preventive activities in the area of cultural heritage objects lacks coverage in the science of criminal law and criminology. Complex problem solution is possible with the effective implementation of the state policy in the area of prevention of crimes posing a threat on the cultural heritage. These measures are aimed at obviating the causes and conditions of committing illegal acts, as well as establishing effective cooperation between law enforcement agencies and the Ministry of Culture of Ukraine.

The objective of this article is to outline the contents of the legal protection of cultural heritage.

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FORMATION OF SURVEILLANCE AND CONTROL OVER PUNISHMENT EXECUTIONS DURING THE COSSACK-HETMAN STATE'S PERIOD AND IN UKRAINIAN LANDS AS THE PART OF AUSTRIA (AUSTRIA-HUNGARY)

The article is devoted to problematic issue of the formation of surveillance and control over execution of punishments at Cossack-Hetman state's period and at the Ukrainian lands as a part of Austria (Austro-Hungary). Author analyzes "Cossack's law" as complex of law rules which have been approved in Cossack's social relations. He also specifies that legal system of those times set forth the Cossack's military-administrative organization, the judicial organs, the system of delicts and punishments for these acts. The types of punishments and the system of their executions according to "Cossack's law" are analyzed in the paper. Among the Cossack's there used to be officials who had powers to control executions of punishment. These were military osavul, dovbysh, pushkar, who, besides other duties, had duties of control over the fairness of judge's verdicts and surveillance over Sich's prison, where prisoners and arrested men had been kept. Author concludes that at the times of Cossack's society there were developed norms and traditions, which ensured realization of judge's verdicts and implemented control over the rightness of their execution. It was indicated that historical sources did not include references about specific list of these officials' duties of surveillance and control. The only official who could control the rightness of execution of judge's verdicts at Zaporizka Sich was koshovyy ataman.

Author points out "Instruction of Kyiv Magistrate to the Magistrate's Mayor" by 1757, which is one of the first known regulations of instructional character which has Ukrainian origin and includes penal norms and issues considering mayor's duties which included: surveillance over guards' implementation of their duties, visit of prisons, inspections of prison facilities and prison cells, control over the prohibition to put in prison and disprison without magistrate's permission, the reports to magistrate every week.

It was concluded that analyze of available and historical sources and conducted researches in law science give grounds to assert that a prosecutors did not implement surveillance of judge's verdicts and prisons.

The author also elaborated the basic provisions of the Austro-Hungarian legislation about executions of punishment and control over their implementation. It is concluded that on the Ukrainian lands as part of Austria and later Austro-Hungaria control and surveillance activities were implemented through judicial review and prosecutorial supervision.

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ACTUAL PROBLEMS OF CRIMINAL AND LEGAL AGE DIFFERENTIATION

The purposes of the article are to depict the provisions of Ukrainian Criminal Code and to present the ideas for age differentiation.

As a result, the violations of the principle of systematic approach in the formation of the norms of Ukrainian Criminal Code have been proved. Also the necessity of the Criminal Code harmonization for the system of juvenile justice in Ukraine is confirmed.

The suggestions concerning legislation improvement in a context of the concept of criminal law influence are presented. The main directions for Ukrainian Criminal Code perspective improvements in the context of juvenile justice system development are defined.

The development of theoretical and practical application of the concept of age differentiation in order to suggest actual changes for Ukrainian Criminal Code seems to be rather perspective, especially considering the Ukrainian juvenile justice system development.

The areas of the results' application: juvenile justice, criminal law of Ukraine.

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PERSPECTIVES OF COUNTERTERRORISM STRATEGIES' IMPROVEMENT

Scholars of various disciplines devoted a number of works to practical and theoretical studies of the issue of counterterrorism. Most studies are devoted to criminological aspects of terrorism as a crime: classification and topology of terrorism, the methodological framework and organizational technologies combating domestic and international terrorism were sufficiently developed. Conceptual and methodological framework of general policies of national security in the context of fighting with crisis which provokes terrorism, as well as theoretical foundations of the functioning of state (national) system of counterterrorism, and state control in the field remain poorly developed.

The main objective of this paper is to outline the main approaches to a strategy of neutralizing the crisis and combating terrorism on the basis of social and information technology.

Modern terrorism requires new conceptual approaches, as the existing algorithm of countering terrorism showed its inability to ensure social peace, because there is an evidence of lingering anti-terrorist campaign, the results of which can hardly be called positive. The only acceptable weapon against the crisis of social character may be the optimized technology of social control, capable, given the interests of all the subsystems of the social system, to develop optimized strategies to counteract social conflicts. The key to the effectiveness of counterterrorism strategies is their thorough and timely positioning and operations.

Reformation of legal relations as an objective necessity today requires a combination of legal, social, and informational methods and requires further research, especially in the direction of improving the efficiency of counterterrorism through the shift of focus away from the punishing measures in favor of forecasting and social prevention.

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LEGALIZATION OF FUNDS OBTAINED BY CRIMINAL MEANS

The author addresses the peculiarities of the procedures of legalization of funds obtained by criminal means. Attention is drawn to the specifics of the legalization of "dirty money" according to the experience of the Slovak Republic.

The paper determines activities related to the elimination of the legalization of criminal assets developed in all democratic countries, including the Slovak Republic. Thus, the basic requirement for this activity is the effective legislation to create real conditions to avoid committing the crime of money laundering. Legislative instruments to punish criminals who commit the crime of money laundering have been adopted in many countries in eighty years – in Italy (1982), England and Wales (1986), Scotland (1987), France (1987), Spain (1988) and Canada (1989), in the Czech Republic later in 1996. Stakeholders involved in the creation of special legislation aimed at preventing money laundering in the Slovak Republic appeared after the establishment of the Slovak Republic, and these efforts led to the adoption of the first law aimed at combating money laundering in 1994. The aim of the work is to counteract legalization of funds obtained by criminal means which stipulate from the economic power of organized crime and terrorists. In the Slovak Republic, the issue of money laundering is legally addressed in special law 297/2008 on the prevention of money laundering activities and the financing of terrorism and on amendments to certain laws, which came into force on 1 September 2008, Criminal Code, Criminal Procedure Code, Law №. 221/1994 on recording origin of funds obtained from privatization and other legal provisions concerning, in particular, the financial sector, the Law №. 249/1994 on fight against money laundering, including the most serious forms of organized crime and changes of some other laws.

The author points out that the Slovak Republic was one of the first countries that introduced a standard, accepted and introduced legislative instruments to combat organized crime and money laundering activities in practice. Perhaps, lack of experience of its founders causes low efficiency of the law. The purpose of the adoption of this law is to create a set of specific remedies to prevent, detect and punish businesses and individuals aimed at laundering, including forms of organized crime. Under this law, illegalized income is considered to be criminal asset or fund obtained as a result of criminal offence or fraud.

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THE PROBLEM ASPECTS OF THE ANALYSIS OF SUBJECT OF CRIMES WHICH CONSIST IN EVASION FROM SERVING PUNISHMENTS NOT CONNECTED WITH THE ISOLATION OF A PERSON

This scientific article aims to research the problems of understanding the subject of crimes which consist in evasion from serving punishments not connected with the isolation of a person. The solution of this issue has a key value at the analysis of components of crimes; in fact, exactly the subject of crime embraces features, which contain plenty of information often needed for description of both objective and subjective side of crime and also its object.

In this article the analysis of the well-known determination of concept "the special subject of crime" is made and an idea about general features of such concept is formed. The author has done the detailed analysis of features determining the subject of crimes, which consist in evasion from serving punishments not connected with the isolation of person. It was concluded that under a "convict person," that comes forward as a subject of the crimes envisaged by the Article 389 and by parts 1, 2 of the Article 390 of Criminal Code of Ukraine, we must understand a person who evade punishment based on a sentence of court or on order of its replacement.

Besides, the author has made a conclusion that:

1) crimes, which envisage criminal responsibility for evasion from serving punishments not connected with the isolation of a person, can be accomplished by both general (part 2 of the Article 388 of Criminal Code of Ukraine) and special (the Article 389 and by part 1, 2 of the Article 390 of Criminal Code of Ukraine) subject;

2) subjects of crimes which consist in evasion from serving punishments not connected with the isolation of a person are characterized by specific properties and features depending on different types of punishments: "fine," "deprivation of right to fill certain positions or to carry on certain activity," "public works," "corrective labor," "restriction of liberty."

CRIMINAL PROCEDURE, CRIMINOLOGY, INVESTIGATIVE ACTIVITY

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LEGAL FRAMEWORKS OF PROSECUTOR'S SUPERVISION OF COMPLIANCE WITH LAWS IN RELATION TO PROVIDING RIGHTS FOR VICTIMS

Today the Public Prosecutor's Office of Ukraine, carrying out supervision of compliance with laws in relation to providing rights for victims, should actively promote realization of public policy in the field of providing rights and freedoms, without regard to difficult present terms. Surely, such an activity needs accurately defined legal frameworks of its realization, that is why this issue is actual enough, as the efficiency of observance and application of laws to a certain extent depends on the state of their development and research in the indicated field of public relations.

Thus, a legal framework of prosecutor's supervision of compliance with laws in relation to providing rights for victims is a system of statutory instruments which regulate powers of the Public Prosecutor's Office of Ukraine considering supervision of compliance with laws in relation to providing rights for victims. The elements of such a system, in particular, are: The Constitution of Ukraine, international agreements of Ukraine, consent on obligatoriness of which is given by Verkhovna Rada of Ukraine, Law of Ukraine "On the Public Prosecutor's Office" of public prosecutor, other Laws, Criminal Code of Ukraine, Criminal Procedure Code of Ukraine, Civil Code of Ukraine, departmental and other statutory instruments.

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GENERAL PROVISIONS ON INTERFERENCE IN PRIVATE COMMUNICATION IN ACCORDANCE WITH CPC OF UKRAINE

On the basis of legislative framework and modern sources analysis the article analyzes the content of the category of "interference in private communication" in the context of application of norms according to the article 258 of Criminal Procedure Code (CPC) of Ukraine. Direct introduction of such terms as "privacy", "private communication" in the legal circulation of Ukraine's legislation is associated with coming into effect of the valid CPC of Ukraine which fixed the corresponding definition. The Criminal Procedure Law clearly determines the list of covert investigative (detective) actions which are interference in private communication. In accordance with the provisions of the article 258 of CPC of Ukraine, this category comprises actions aimed at audio, video monitoring of an individual, collecting information from telecommunication networks, electronic information systems, arrest, examination and seizure of correspondence. Listed above actions of pre-trial investigation subjects (agencies) are carried out only in accordance with the decision of an investigating judge, in the order, set by legislation. Providing an individual with the right for privacy according to CPC of Ukraine is achieved also by the normative fixing of the special order of inspecting publicly inaccessible places, home or any other possession of a person (article 267 of CPC of Ukraine). On the basis of the research of Ukraine's and foreign states' legislation it has been defined that the Ukrainian legislators set rather high guarantees of protecting the individual's rights from groundless interference in private communication. It is also defined that the Ukrainian legislation in comparison with that of the USA sets much stricter legal order regulating organization and realization of the public phone talks control, audio monitoring of an individual, audio monitoring of a place. A conclusion

is made that at the level of separate law-interpreting acts it is necessary to explain the meaning of such concepts as "privacy," "collecting information from transport telecommunications networks."

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COMPARATIVE CRIMINAL LAW RESEARCHES: BACKGROUNDS AND GOALS

The article is dedicated to the research of actual issues of comparative criminal law studies in Ukraine. In particular, positions of well-known scientists on the issues of theoretical and practical significance of comparative law are highlighted, views of foreign researchers are revealed. Author's understanding of comparative law and its objectives is defined.

Among the main ways of modern comparative research the following are named: 1) study of general theoretical and methodological issues of comparative law as a separate legal science and academic course; 2) research of legal system in general, as well as their distinctive elements; 3) comparative and legal studies conducted toward separate legal sciences.

On the basis of understanding the meaning and main features of comparison as a method of scientific research the author reveals the peculiarities of comparative criminal law studies. Brief overview of fundamental works of national criminalists in which author actively uses method of comparison is proposed. Possibilities of convergence of legal systems of modernity, including use of comparative legal studies, are designated. Other useful features of comparative analysis employment in the field of criminal law are demonstrated: for the legislator, the judiciary, legal science and education. Based on the study of actual issues of comparative criminal law studies author's position on the desirability of further expanding scientific horizons with their results, the practical importance of understanding current processes and tendencies of fighting crime in other states are elaborated.

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VICTIM AS A SUBJECT OF PRIVATE PROSECUTION

The new Criminal Procedure Code of Ukraine has significantly expanded the list of crimes on the commission of the criminal proceedings which takes the form of private prosecution. This narrows the public regulation and reduces state intervention in the field of individual rights of citizens, which is promising for the development of the competitive nature of the criminal process.

Purpose of the article is to determine the content of the new Code of Ukraine regarding criminal proceedings in the form of private prosecution, determine the procedural status of victim.

The aim of the paper is to determine the characteristics of the victim's status as a subject of prosecution in criminal proceedings in the form of private prosecution.

The issue of the balance between public and private prosecution is important.

The state is obliged to encourage active people to protect their rights and interests. The government should be the guarantor of the rights and legitimate interests and deter encroachment on them.

Protecting the rights of helpless victims is important. The legislator should establish the right of the prosecutor to start criminal proceedings on their own in order to resolve the issue of the criminal proceedings in the form of private prosecution without the victim's statements.

The legislator should establish the right of the prosecutor to start criminal proceedings of private prosecution on their own without the victim's statements to protect persons who are helpless.

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SOME PROBLEMS OF COURT DISCLAIMER TO APPROVE THE SETTLEMENT AGREEMENT IN CRIMINAL PROCEDURE

In modern Ukraine, which has positioned itself as a legal and democratic state, protection of the rights and freedoms in criminal procedure takes priority, because a person's life and health, integrity, freedom and security are recognized as the highest values. New democratic achievements, trends, ideas of protection and restoration priority as well as protection of individual rights and legitimate interests in the criminal proceedings form the concept of the CPC of Ukraine 2012.

In 2013, the investigating authorities tried more than 1,5 million of criminal proceedings. The court received more 123,4 thousand indictments.

In recent years, interest in procedure of agreements conclusion in criminal proceedings significantly increased. These transformations in the field of criminal procedure bare certainly humanistic character, enhance strengthening and restoration of the rule of law and of the rights and freedoms of individuals.

The aim of the paper is to analyze critically the criminal procedural legislation and court decisions relating to court disclaimer to approve the settlement agreement in criminal procedure.

Thus, there is an urgent need to improve item 8 of the article 474 of CPC of Ukraine, in particular, it is necessary to determine the reason for the possibility of re-agreement, because the settlement between the suspect (accused) and the victim is an instrument for legitimate settling of criminal conflict with the purpose of enhancing and improving the quality of judgments which satisfy not only the public interest but also the interests of the victim and the suspect (accused).

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CONCEPT OF A YOUNG OFFENDER

Based on analysis of the concept of a juvenile offender according to the current legislation of Ukraine and views of scholars on the concepts of "offense," "offender," "juvenile," "young," "kid," and others, it was concluded that a young offender in criminology is a child aged 11 to 18 who committed socially dangerous act mentioned in criminal law, characterized by incomplete formation of the physical, psychological characteristics and social status. The concept of "young offender" covers the term "juvenile offender" (until the child offender is 14 years old).

The concept of "young offender" and "young suspects" are not the same as the last may be a person under the age of 16 (in certain cases of 14) and 18, who in the manner provided in Articles 276-279 of CPC of Ukraine is reported on suspicion or a person detained on suspicion of having committed a criminal offense and is characterized by incomplete formation of physical development, psychological characteristics and social status.

A child from the age of 11 until the age of criminal responsibility, who committed socially dangerous act that falls under the signs of offense under the law of Ukraine on criminal liability does not acquire the procedural status of the suspect (accused) because he is not a subject of a criminal offense. However, children from 11 years before the age of criminal responsibility are included in the term "juvenile offender" as socially dangerous; actions of such a child may lead to criminal proceedings in the form of application of compulsory educational measures (Article 498 of CPC of Ukraine).

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CONCEPTUALIZATION OF LEVELS OF PROFESSIONAL READINESS

The relevance of research is determined by the peculiarities of readiness of the employees in socionomy field to perform their work responsibilities in a professional manner, which means that the person must not only be competent in his field, but also ready to work.

The novelty of the research is related to the fact that it is the first ever anthology of scientific research on works of different-level readiness for professional activity, and as a result, it identifies five levels of readiness.

The author, having carried out an analysis of the literature on the levels of professional readiness, focuses on these:

– basic – basic readiness which is caused by the presence of a theoretical framework with practical skills (the period of study at university);

– sufficient – the level of readiness which a person acquires in the course of professional duties fulfillment, improving his skills by getting his own experience and self-improvement (first – fifth years of work);

– high – readiness, characterized by effective professional activity with minimum labor costs and high productivity, it is achieved by regular training and self-education (fifth – tenth year of work);

– very high – the highest level of readiness, which is manifested in the professionalism during fulfillment of duties; a person can be considered a master of his job (about ten years or more);

– "mastery" – the maximum level of readiness of the person, which is associated with a willingness to help others and be adviser in professional issues.

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CURRENT ISSUES OF THE CONTINUATION AND TERMINATION OF SURVEILLANCE AND NOTIFICATION OF PERSONS IN RELATION TO WHOM SURVEILLANCE OF A PERSON, THING OR PLACE WAS CARRIED DURING THE CRIMINAL PROCEEDING

Activity of the organs of internal affairs during the implementation of the tasks of crimes detection is based on constitutional principles of compliance with law, protection of the rights and freedoms of a person, the right to respect freedom and inviolability of a person and a habitation. The modern stage of development of the law-enforcement practice in Ukraine is characterized by appearance of the legal system of the unacknowledged investigative (detective) actions. The effectiveness of the conducted unacknowledged investigative (detective) actions on the stage of pre-trial investigation of grave and especially grave crimes, crimes of past years in relation to the receiving of possible evidences and use of them in a court revealed the row of problems which follow violation of norms of the criminal code of practice of Ukraine and orders of MIA, not giving the possibility to use the materials of the unacknowledged investigative (detective) actions as a possible evidence. Among problems which can negatively influence the use of the received results of the unacknowledged investigative (detective) actions, there is improper legal enshrinement of the position about the continuation and termination of surveillance and notification of the person, in relation to whom surveillance of a person, thing or place was carried during pre-trial investigation. The development of the scientific recommendations, the use of which would be instrumental while solving the row of the theoretical and practical issues aimed at the filling of omissions and contradictions in the theories of the criminal processing, as well as the improvements of the legal groundwork considering the results of investigative (detective) actions during the criminal legal proceeding, is given in the article. The problematic issues arising while drafting judicial documents are considered. In the article, general requirements of judicial legislation are namely violated in relation to drawing up a report of judicial action conducted, untimely report of persons whose rights were offended, unsingle cases of errors in the data of the participants in relation to the carrying of investigative (detective) actions. In connection with these problems the recommended annexes

to complete statutory instruments of Ukraine will considerably improve the activity of organs of pre-trial investigation, prevent violations of the norms of Criminal Code of Ukraine and provide functioning of the real mechanism of the guaranteeing human rights by the state, and also increase responsibility of the subjects, authorized to make decision in relation to a necessity of the conduction of the investigative (detective) actions, provide their legality and application during investigation of criminal actions.

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TRUST TO CRIMINAL STATISTICS: NECESSITY OR FICTION?

The article is devoted to quite painful problem of statistics in criminological research. The article notes that the distrust to official statistics is not absurd, because the ability of the society to record all crimes is limited by objective and subjective factors. However, the use of cumulative measures, which have now become ubiquitous in the world, factually leads to the dominant sociological ways of measuring the criminality. The results of verification while using these methods demonstrates that criminal victimization data are extremely overpriced and can not be true in the present state of civilization.

The article notes that in most cases we can use the statistics as a kind of extraction from the real picture of crime, which is still unattainable, except, of course, those systems where excessive recording of reported crimes as of really existing offences is a norm. The principle of extraction when significant errors of registering serve as rotten apple in a barrel remains indispensable to make correlation and apply statistical and mathematical techniques for errors smoothing.

My experience of researches shows that in many cases the indicators of all recorded crimes in investigated countries are quite suitable for the establishment of correlations. Unfortunately, this is not always possible to apply to the particular kinds of crime. Considerable controversies and inconsistencies can be noted there.

The article notes that in many states takes place the process of criminalization of the behavior which has broken the threshold of saturation. In Ukraine, for example, it is particularly tax evasion and in Florida (USA) it is sexual relations outside of mar-

riage. The article suggests that if the official statistics do not rank these crimes with first place, though they are the most prevalent among others, than registration does not perform its functions there. However, in this case the situation is different. When some practice becomes common in society, the criminalization, strange though it might sound, no longer reflects the possible deviant behavior.

The article provides evidence as to why the results of victimization surveys are to be trusted even less than the official statistics. I emphasize that in our hands lies the ability to use proportionate approach in comparison of the number of crimes by regions. It equips us with the new opportunities to identify "dark figures" of crime, without neglecting the natural influence of the number of population on social phenomena, without going into the use of artificial analytical units for comparison. However, all this would have been impossible if we had not got extractions as official statistics in the hands.

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PRINCIPLES OF PARTICIPATION OF THE PROSECUTOR IN CRIMINAL PROCEEDINGS ON THE BASIS OF AGREEMENTS

In the article actual problems of principles of participation of the prosecutor in criminal proceedings on the basis of agreements are considered. The purpose of the article is carrying out the theoretical and practical analysis of principles of the prosecutor's activity in criminal proceedings in compliance with the basis of agreements, identification of the problems arising in this field, and providing suggestion in this regard.

Characterizing principles of participation of the prosecutor in criminal proceedings on the basis of agreements, two main groups of principles are distinguished: general principles of criminal proceedings, and special principles inherent only to criminal proceedings on the basis of agreements.

Problems of compliance of criminal proceedings on the basis of agreements with principles of the rule of law and legality, as well as a presumption of innocence and a ban to make a person answerable for the same crime twice are investigated. The conclusion is drawn that the greatest measure of prosecutor's participation in criminal proceedings on the basis of agreements is defined by the principle of competitiveness providing independent upholding by the party of charge and the party of protection of their legal positions, rights, freedoms and legitimate interests in the ways provided by the law.

On the basis of research of international legal acts the conclusion is drawn that activity of the prosecutor in criminal proceedings on the basis of agreements should correspond to the special principles and important international standards. The following concerns them: (1) mediation in criminal cases should be carried out only with a voluntary consent of the parties having the right to withdraw the consent at any stage of a mediation; (2) negotiations during carrying out a mediation are confidential and statements of the parties cannot be further used without their consent; (3) intermediary services in criminal cases should be public; (4) mediation on criminal cases is possible at any stage of criminal proceedings; (5) mediation services should own sufficient independence within system of criminal justice.

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CLEAR INADMISSIBILITY OF EVIDENCE AS A CRITERION FOR EXECUTION OF CERTAIN JUDICIAL PROCEDURE FOR THE RECOGNITION OF EVIDENCE TO BE INADMISSIBLE IN CRIMINAL PROCEEDING

It is well known that evidences and proofs are central concepts of the system of criminal procedure. Quality standards of the evidential law are among the key indicators determining the level of development of the criminal procedural law of the state.

According to evidences assembled during the pre-trial investigation, having assessed them with relation to their admissibility, reliability and sufficiency, the court determines the major issues of criminal proceedings: whether there has been committed a crime and whether the person has committed the crime.

Among the legal innovations of the Criminal Procedure Code of Ukraine we must pay close attention to the institution of the admissibility of evidence and namely to the rules that recognize whether the evidence is admissible or not.

The result of development of this institution was the emergence of new scientific terms such as "clear inadmissibility of evidence." In accordance with Part 2, Art. 89 of the Criminal Procedure Code: where evidence has been found clearly inadmissible during the trial, the court shall declare such evidence inadmissible, which shall entail impossibility of its examination or termination of its examination if such was commenced.

The ambiguity of definition of "the clearly inadmissible evidence" causes difficult trial situations when the judge cannot determine the evidence as "clearly inadmissible." Therefore the judge must decide on its exclusion out of the evidence base with further issuance of the decree of the admissibility of evidence in a separate procedure in consultation room during the adjudication.

Thus, there is an urgent problem of scientific justification of such definition as "clearly inadmissible evidence" in the Criminal Procedure Code. This article attempts to define the criteria for this definition in criminal proceedings.

INTERNATIONAL LAW AND COMPARATIVE LAW

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EFFECTS OF ARMED CONFLICTS ON INERNATIONAL TREATIES

The aim of the article is to investigate the impact of armed conflict on treaties in the modern international relations.

The main international legal instrument in the sphere of international treaties is the Vienna Convention on the Law of Treaties of 1969. Considering the diversity of practice of the international treaties application during armed conflicts and the inability to take into account the peculiarities of each individual case, the Convention does not regulate the questions which may arise between states after the armed conflict begins. However, some general provisions of the Convention can still be applied while dealing with the effect of armed conflicts on international treaties (art. 60-62).

At its 52nd session, in 2000, the Commission, on the basis of the recommendation of a Working Group identified the topic "Effects of armed conflicts on treaties" for inclusion in its long-term programme of work. At the 63rd session in 2011 a set of 18 draft articles and an annex (containing a list of treaties the subject matter of which involves an implication that they continue in operation, in whole or in part, during armed conflict) was adopted on second reading. In accordance with article 23 of its Statute, the Commission recommended to the General Assembly to take note of the draft articles in a resolution and to annex them to the resolution, and to consider, at a later stage, the elaboration of a convention on the basis of the draft articles.

The Draft articles "Effect of armed conflicts on treaties," approved by ILC in 2011, contain only general principles of international treaties acting during armed conflict. The Draft articles are based on practices and needs of modern international relations. The beginning of armed conflict does not automatically terminate nor suspends treaty. All depends on the will of states. Every single situation has its own characteristics and should be considered according to the situation. However, Draft articles confirmed the list of treaties that do not terminate or suspend its action with the beginning of the armed conflict.

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REGULATORY INSTRUMENTS OF ENVIRONMENTAL ISSUES IN THE FIELD OF PRODUCTION IN EUROPEAN UNION LAW

With the development of society more and more goods are produced and consumed. Environmental principles formed in international and national law and on regional level use a set of extremely disparate legal instruments which attempt to systematically stimulate each phase of production in order to reduce the negative impact on the environment.

Horizontal legislation applies a set of disparate instruments: strategic and planning, voluntary, information and the market instruments.

In EU law there is a variety of policy instruments, which shall be clearly specified in the Treaty establishing the European Economic Community, and planning instruments.

Voluntary regulatory instruments of environmental issues in the sphere of production in the EU law include environmental management and audit, the Directive on Integrated Prevention and Pollution Control, environmental agreements.

Among the environmental policy instruments of a voluntary nature, such as voluntary agreements should be also mentioned.

Regarding information and market instruments, it is necessary to pay attention to environmental marking, access to information and environmental fees.

The use of all these instruments can effectively ensure the protection of the environment in the field of production and is important for our country in the light of further integration of Ukraine into the European Union.

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THE ISSUES OF REFORMING THE NATIONAL LEGISLATION ON SCIENCE IN THE LIGHT OF THE EUROPEAN INTEGRATION PROCESSES IN UKRAINE

Science reveals and implements the intellectual potential of the nation. Moreover, it is the basis for economic development and industrial growth of any state, determining its place in the international division of labour and in the geopolitical dimension. It plays the leading role for innovation activity in the country. Since the independence of Ukraine, different measures of state regulation and support were tested and applied to the field of science. All the scientists note the relatively poor quality of public services considering science and the inability to find effective ways to overcome specific problems of organizational, financial and legal nature.

An effective legal measure of combining not only science and industry, but also Ukrainian and European research areas could be the creation of small joint innovative enterprises. Their activities will be aimed at realization of intellectual property objects, which are created during the research of the Ukrainian research entities on the territory of countries-participants of EU. Form of participation in such enterprises of Ukrainian research institutions should be transfer of intellectual property rights, and of the second party − financial contributions. This type of investment in the implementation of scientific and innovative projects could be a good way of financing scientific research along with the grant system. Thus, it requires direct legislative consolidation of its mechanism.

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