MINISTRY OF EDUCATION AND SCIENCE OF UKRAINE
INTERNATIONAL HUMANITARIAN UNIVERSITY

SCIENTIFIC HERALD OF INTERNATIONAL HUMANITARIAN UNIVERSITY

Series:

JURISPRUDENCE

COLLECTION OF SCIENTIFIC PAPERS

Edition 9-2 volume 2

Odesa
2014

Collection was included to the List of scientific specialist editions of Ukraine
according to the Ministry of Education and Science of Ukraine order № 463 from 25.04.2013

Series was founded in 2010

Founder – is International Humanitarian University

It is published by the decision of Academic Council of International Humanitarian University
protocol № 1 from the 25th of September 2014

Certificate of state registration
KV № 16818-5490R from 10.06.2010

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LABOUR LAW, SOCIAL SECURITY LAW

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PENSIONS FOR OFFICERS OF INTERNAL AFFAIRS BODIES DURING WARFARE IN PEACETIME

The article is devoted to finding innovations in provision of pensions for officers of internal affairs bodies, which are related to the warfare in eastern Ukraine in peacetime. The relevance of this paper is determined by the need to guarantee decent pensions for all persons eligible for retirement by setting their pensions above a living wage determined by law. Militia officers are not exception to this rule. They also have a right for a decent pension. In the current tragic circumstances in Ukraine, the service in the militia departments is one of the most dangerous, because these officers, in the first place, from the first day of hard struggles were called to defend the peace and order in the country. A large number of deaths in peacetime among militia officers, the exact number of which is not stated in the official data, of course, hit the whole country. In such circumstances, the relevant question is how the government responds to the need to support militia officers, and whether it performs some additional measures to protect them. The main point today, obviously, is pensions, because some of the officers laid down their lives, and left their families, in many cases with children, while the others became disabled in peacetime. Thus, the aim of this study is to reveal significant amendments to the current law on pensions for militia officers, given the present risky circumstances. To achieve this goal it is expedient to review the principles of pension provision for specified categories of workers and give specific implementation of changes to legislation, to determine their effectiveness.

Also, the research shows that the legislator is trying to ensure a decent life for families of people who defend law and order and peace in the country in case of their death. However, shortcomings of these steps should include time lag in implementation of these safeguards and doubtfulness of their full implementation due to the difficult economic situation in the country as a result of the significant financial costs regarding warfare.

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INTERNATIONAL EXPERIENCE OF LEGAL REGULATION OF SUPERVISION AND CONTROL OVER OBSERVANCE OF LABOUR LEGISLATION

In this paper the problems of legal regulation of legal supervision and state control over observance of labour legislation in Poland, Germany, France and Italy are observed. The basic features of the reform of supervision and control over the observance of labour laws in those countries are determined. The ways of solving problems of supervision and control over the observance of labour legislation in Ukraine in view of the experience of other countries are suggested. Relevance of the article is determined by the fact that the State Inspection of Ukraine in Labour Affairs is part of the executive power and provides implementation of state policy on supervision and control over the observance of labour and employment legislation, as well as legislation on compulsory social insurance against industrial accidents and occupational disease that cause disablement, against temporary disability in connection with expenses related to the birth and burial, in case of unemployment in the appointment of the calculation and provision of benefits, compensations, social services and other kinds of material security to comply with rights and guarantees of insured persons. This body is primarily responsible for supervision and control over the observance of labour legislation, but the current state of labour relations in Ukraine shows the ineffectiveness of its activities and overall social tension. There is an acute need to reform public bodies.

The purpose of this article is to analyze the international experience of regulation of supervision and control, determine the most optimal ways of its implementation in Ukraine using the experience of developed countries and EU.

For Ukraine it is necessary to review and study international experience in normative and legal activity, as well as in actual implementation of the right to safe working conditions in developed countries with high efficiency and social protection of its system.

Conclusion is made that in Ukraine mechanism of supervision and control is outdated and does not meet the requirements of present time, therefore it seems necessary to carry out labour reform. Particular attention should be paid to supervision and control over compliance with labour laws. Thus, in our opinion, in the field of public control it is considered appropriate to apply the experience of Germany and France, where an important role is given to labour unions and elected bodies of workforce. As for state supervision and control, experience of Poland and Italy, where up to date labour inspections ensure effective coordination and cooperation with non-governmental bodies, enterprises and organizations, is considered to be useful.

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TYPES OF THE DISCIPLINARY PENALTIES OF ADVOCATES: PROBLEMS OF LEGISLATIVE ADJUSTING

This article describes the types of disciplinary penalties envisaged by the current legislation of Ukraine: 1) caution; 2) suspension of the right to practice law for a period from one month to one year; 3) disbarment with further exception from the Single Register of the Advocates of Ukraine – for the advocates of Ukraine and exception from the Single Register of the Advocates of Ukraine – for the advocates of the foreign states. It is determined what kind of the disciplinary penalty is imposed on the advocate for that or other breach of the discipline.

However, adequacy and efficiency of the types of the disciplinary penalties for prevention of the breaches of the discipline by the advocates is questionable. It is determined that they are not effective enough, and in some cases even ineffective. For the improvement of the legal adjusting of the system of the disciplinary penalties, the foreign experience of the legal adjusting of this question is studied in such countries as the Republic of Austria, the Kingdom of Spain and the Republic of Finland.

As a result of the research propositions for amendments to the national legislation are made:

1) to supplement Part 1 of the Art. 35 of the Law of Ukraine "On the Bar and Legal Practice" (hereinafter – the Law), with the following paragraphs: "1) a ban on teaching trainees for three years after the imposition of a disciplinary penalty; 2) a fine in amount from 1,000 UAH to 10,000 UAH";

2) to supplement Part 2 of the Art. 35 with the following: "An advocate against whom a decision on imposing a disciplinary penalty in the form of suspension of the right to practice law is made, for the period specified in the decision is deprived of the right to practice law, the right to provide legal assistance and to act as a representative or defender of a person";

3) to supplement the Commercial and Procedural Code of Ukraine with the Article 28^1, and supplement Art. 41 of the Civil Procedural Code of Ukraine and Art. 57 of the Code of Administrative Proceedings of Ukraine with the Part three having the following content: "An advocate, whose right to practice law was suspended for the period specified in the decision, or who was disbarred, can not be a representative."

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COMMON LEGAL GROUNDS FOR BRINGING EMPLOYEES TO DISCIPLINARY RESPONSIBILITY

This article explores the common grounds for bringing employees to disciplinary responsibility. It provides definitions of the concepts of labor discipline and disciplinary offense. Analysis of current legislation on labor and draft Labor Code governing the employees' discipline is carried out. The composition of misconduct is also given in the article. The relevance of this theme is determined by the fact that government policy is aimed at providing basic tasks – the observance of the rights of citizens and society. However, attention is rarely paid to economic agents and the employer as a subject of state protection and additional support. That is why one of the most effective ways to protect employers from unfair and dishonest employees is labor discipline, internal labor order and legal mechanism of bringing employees to disciplinary responsibility for violation of labor discipline.

Institute of disciplinary responsibility is the subject of research of many scholars. However, given the current reform of labor legislation, the issue of the legal basis for bringing employees to disciplinary responsibility requires further analysis, including critical one.

The article provides the definition of disciplinary responsibility, determination of legal grounds for disciplinary responsibility, clarification of the main issues in contemporary legal regulations for disciplinary proceedings.

The conclusions are made that common grounds for bringing to disciplinary responsibility are the presence of misconduct, compliance with the terms provided by applicable law. It is revealed that the current Labour Code of Ukraine is imperfect and outdated. Its provisions do not specify all grounds for bringing to disciplinary responsibility for disciplinary offenses. Draft Labour Code specifies the procedure of bringing to responsibility but does not fully reflect all the constituents of a disciplinary offense.

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THE PROBLEMS OF IDENTIFYING THE SCOPE OF PERSONS TO MANDATORY STATE PENSION INSURANCE

When a person is insured by the mandatory state pension insurance, respectively, a single fee is paid for it (or by it), and upon the occurrence of certain legal facts, the person will have the constitutionally guaranteed right to a pension. In practice, the problem is the issue of a clear definition of persons subjected to compulsory state pension insurance. The article examines the affiliation of persons providing services under contracts of civil law to the category of persons subjected to mandatory state pension insurance.

Law of Ukraine "On Mandatory State Pension Insurance" provides that mandatory state pension insurance to those individuals who perform work at these enterprises, institutions, organizations or for individuals under civil law contracts. Law of Ukraine "On Collection and Registration of the Single Contribution for Mandatory State Social Insurance" determines a single fee charged for the amount of compensation to individuals for works (services) according to civil contracts. Thus, there is a conflict in the law considering persons providing services under contracts of civil law.

Contracts for provision of services are divided into paid and gratuitous. If a person signed a contract for paid service, provided the service, was rewarded for it, then the right of such persons should be equated to persons performing work under civil contracts. Then such persons will be insured during the period of the service contract and payment determines a single fee. If a person has entered into a contract for services (e.g., contract on disposal of a motor vehicle, agency agreement for sale of the house, etc.), which indicates a gratuitous nature of a service, the person is not insured under this agreement and shall not pay a single fee.

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GUARANTIES OF THE RIGHT TO SOCIAL SERVICES

The work is devoted to defining the system of guaranties of the right for social services. A variety of classifications of legal guaranties allowing choosing the optimal characteristics for guaranties of the right for social services is provided. Intrastate (national) and international guaranties are characterized.

National guaranties are divided by the author into constitutional and industrial guaranties, which can be general and special, regulatory-legal and organizational-legal. In the course of research models of guaranties of the right for social services are demonstrated and designated.

With regard to the financial and legal framework of the right to social services, it is noted that social services are financed at the expense of state and local budgets, special funds, funds of enterprises and organizations, payments for social services of charity support (donations), funds of recipients of social services and other sources.

In addition, the author lists international guaranties, which include the Universal Declaration of Human Rights, the European Social Charter, the European Social Charter (revised), the International Covenant on Economic, Social and Cultural Rights, the Charter of Fundamental Rights of the European Union, the Charter of Social Security and other international documents.

As a conclusion, the author summarizes the results of the study and determines the system of guaranties of the right to social services.

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FEATURES OF LEGAL REGULATION OF FEMALE LABOR IN UKRAINE

This article explores the state of the legal regulation of female labor in developed countries. The regulations governing the employment of women in Ukraine are characterized. The features and shortcomings of the legal regulation of female labor in Ukraine are specified. The relevance of this topic is determined by the fact that the constitutionalization of freedom, equality and legal protection of women in public production should be reflected in the system of principles of labor law, particularly, the principle of increased protection of women. The principle of increased protection of women who combine work with motherhood should be understood as fundamental judgment of legislature on essential, the main legal regulation of all forms and types of hired labor of mothers, its organization and management without sacrificing motherhood based on socio-economic and demographic laws of society's development and its moral and ethical beliefs about the role of the family in it and on right enshrined in the law. Creating special protection of women is one of the most important social problems for all countries. Thus, the ILO Convention №103 on Maternity Protection (revised in 1952) establishes requirements for increased protection of women in industrial enterprises and agriculture. In addition, women make up more than half of the total labor force in Ukrainian economy. Four-fifths of women of working age are economically active population that is employed or actively engaged in seeking work. A considerable number (more than 40% of working women) have a higher or specialized secondary education. Besides, for men this figure is 35%.

The issue of legal regulation of women's work in Ukraine has become fairly extensive discussion among scientists.

The purpose of this paper is to outline the peculiarities of legal regulation of female labor in Ukraine in a market economy compared to other countries, to determine rights and guarantees provided for working women, to identify gaps in the legal regulation of female labor in our country.

Thus, to summarize the abovementioned, such peculiarities of legal regulation of women's work in Ukraine are determined:

1. Legislation of Ukraine, compared to other countries, provides a significant number of benefits and guaranties for women and mothers.

2. Female labor is regulated by Soviet standards which are still in force, and, though providing a significant amount of rights for women, are not always efficient and effective because a mechanism for their implementation is quite outdated.

3. It is necessary to improve the rules governing female labor and the responsibilities of employers for their failure, as well as to adopt regulations to modern conditions.

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FEATURES OF TERMINATION OF EMPLOYMENT CONTRACT BY THE EMPLOYER ACCORDING TO CLAUSE 2, PART 1, ARTICLE 40 OF THE LABOUR CODE OF UKRAINE

The article describes the procedure for termination of the employment contract by the employer in the event of revealed inconsistency of the employee with job or with work performed that prevents continuing this work. The basic problems consist in regulating this issue. Relevance of the chosen topic is determined by the fact that labor legislation of Ukraine gives quite an extended list of grounds for termination of an employment contract. The law recognizes the right of parties to the employment contract to its unilateral termination and termination of existing employment relationship between the parties in accordance with the rules established by regulations in the workplace. Owner, unlike the employee has no right to terminate the employment contract concluded for an indefinite period at his/her own discretion. He/she has the right to terminate the employment contract only under the conditions which give the right to terminate the employment contract according to the current law. One of such bases is the revealed inconsistency of the employee with job or with work performed as a result of insufficient state of health. Today, due to the lack of a clear mechanism, this reason is rarely used by employers. Therefore, in our opinion, the mentioned problems require additional research.

The article provides the definition of the term "revealed inconsistency of the employee with job or with work performed", analyzes the legal framework of the issue and establishes the health requirements to the employee, providing the possibility of dismissal.

It is concluded that the labor legislation in Ukraine today is outdated and does not meet modern requirements of the state; often its provisions not only overlap, but also contradict each other. A striking example is the rules governing the dismissal by the employer in the event of revealed inconsistency of the employee with job or with work performed as a result of insufficient state of health that prevents continuing this work. Carrying out a detailed analysis of this type of dismissal, the following conclusions can be made. It is necessary to enshrine the definition of "revealed inconsistency of the employee with job or with work performed as a result of insufficient state of health" in law. In addition, it seems appropriate to set requirements for workers' health, namely, permanent disability, as such, preventing continuation of the work as a ground for termination of the employment contract by the employer.

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GOOD REASONS AS EVALUATIVE CONCEPT IN LABOR LAW

The article is devoted to determining and disclosing the nature of good reasons in labor law in terms of their evaluative content. The relevance of the article is determined by the fact that the term "good reasons" is applicable in labor law, which does not contain its precise explanations, which may determine improper understanding causing violations of labor rights. Now we propose to compare the use of the specified concept in different legal provisions of labor legislation and determine its meaningful essence to avoid its abuse by employers and sometimes even employees.

The purpose of this study is to outline the essence of the concept of evaluation of "good reasons" in employment law.

It is worth noting that this concept is found while determining the reasons of termination of the employment contract concluded for an indefinite period, on the initiative of the employee. It can be seen that the context of use of the concept of "good reasons" is essential and acts as a normative ground for termination of the employment relationship, which is why its content should be treated with extreme caution and attention. Thus, Art. 38 of the Labor Code of Ukraine states: "Employee shall be entitled to terminate labour contract entered into for indefinite period of time having sent a two-month notice to the owner or authorized by him/her body in writing. In case the employee's letter of resignation was caused by impossibility to continue working (movement to new place of residence; transfer of spouse to job in other locality; entry to educational institution; impossibility to live in this locality proven by medical opinion; pregnancy; care of child until it reaches fourteen years old, or of disabled child; care of ill family member according to medical opinion, or of 1st group disabled; retirement; competitive employment, as well as for other good reasons), the owner or authorized by him/her body shall terminate labour contract within the period requested by the employee".

In summary, it is worth noting that legal regulation is adjustable by means of the law of real social relationships with their actual participants, and therefore it is impossible to specify, predetermine and provide for all possible situations. Thus, the presence of such evaluative concepts in labor law should not be considered a gap or shortcoming; on the contrary, they provide flexibility of legal regulation and adopt it to real life.

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REFORMING WELFARE STATE IN DENMARK

This article examines the reform of the welfare state of Denmark, its causes and consequences. It is noted that the social democratic and liberal governments are forced to reform the social security system. The results of reforms are institutional and paradigm changes in the system of social protection. The relevance of this topic is determined by the fact that Denmark, which belongs to the Northern European model of the welfare state, has the same complex problem of reforming the social security system as other European countries. Reforming processes occur in line with general European trends, and on the basis of historic national guidelines. The study of foreign political and legal practices with regard to similar problems is necessary for Ukraine.

The purpose of this article is to study generalized process of reforming the welfare state of Denmark in terms of its complex crisis.

In the early 1980s, before the first attempts to reduce social costs and to carry out more significant reforms, Denmark had one of the most developed social protection systems in the world. The state provided universal access to social services (health care, child and old-age care) funded from tax revenues. Money transfers, which were also largely funded from general taxes, were applied in the pension provision, including the cases of early retirement, sickness, unemployment and so on.

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ACTIVITIES OF THE EXECUTIVE AUTHORITIES BEING PART OF CONVENTIONAL GROUP OF SPECIAL ANTI-RAIDING AUTHORITIES

The article investigates the activities of executive bodies being part of conventional group of special anti-raiding authorities. Particular attention is paid to the analysis of regulatory support of the Interdepartmental Commission on Protection of Investors' Rights, Combating Illegal Merger and Takeover of Enterprises, National Commission for Securities and Stock Market of Ukraine, as well as their activities to combat illegal merger and counteract the negative effects of raider attacks. The relevance of the study is determined by two factors: firstly, this question has never been comprehensively explored in the doctrine of national economic or administrative law, which is, of course, unacceptable; secondly, in the process of formation of the new anti-raiding policy in our country, which will be formed on the model of the European anti-raiding policy, close attention should be paid to the question of government intervention (which largely occurs because of executive authorities) in the economic activity of enterprises in order to counter the negative effects of raider attacks, since the intervention is a kind of foundation for such policies in general.

The article presents an analysis of activities of executive bodies being part of conventional group of special anti-raiding authorities (mainly the Interdepartmental Commission on Protection of Investors' Rights, Combating Illegal Merger and Takeover of Enterprises and the National Commission for Securities and Stock Market of Ukraine).

Consideration of related areas of law, positions of professionals in this area, studying the provisions of national laws and regulations would contribute to achievement of this goal in the process of scientific inquiry.

The conclusions made in the article state the positive effect of government intervention in economic activity of entities through special anti-raiding public authorities in order to overcome the negative effects of raider attacks will depend on persons engaged in direct management of these bodies.

LAND, AGRARIAN, ENVIRONMENTAL, AND NATURAL RESOURCES LAW

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ON UNDERSTANDING AND DETERMINATION OF THE CONCEPT "ANIMAL WORLD"

In the Law of Ukraine "On the Animal World" the general list of objects of animal world is established (which is detailed in other normative-legal acts), as well as the list of objects subjected to protection, along with the objects of wildlife and their signs, namely: their belonging to wild fauna; stay of wild animals in natural freedom (natural environment which is the wild nature), their hold in semi-free conditions or in captivity; permanent or temporary residence on the territory of Ukraine or belonging to the natural resources of its continental shelf and exclusive (marine) economic zone.

However, in scientific works there are two different points of view on understanding the content of the term "animal world".

Today in legal scientific and educational literature dominates the position, the gist of which in general is identification of objects of the animal world and the concept of "wild animal" in the first place. In most works devoted to different problems of legal regulation of the animal world the attention is focused on the signs attributing animals to wildlife: biological, environmental, territorial.

According to the second approach, the concept of "animal world" includes all animals, not just wild animals.

In our opinion, the concept of "animal world" should be given somewhat different meaning than the totality of all species of animals, both wild, domestic, livestock etc. For generalized definition of the latter there is the concept of "animal" in Ukrainian legislation.

In our opinion, the use of a systematic approach for understanding the concept of "animal world" allows to reveal the last as a whole system, including all living organisms of all kinds of wild animals (the elements of the system), in which each element of the system is in complex causal relationships with others. This understanding of the concept of "animal world" is based on the following aspects:

– integrity – sufficiency of the animal world towards the human world, due to the ability of self-regulation (recreation of basic properties after natural or anthropogenic changes) determined by the totality of complex and diverse causal relationships of each element of the system with all the other;

– hierarchy – presence of levels of structural and functional organization (organism, population species), while animal world as the element of the system of higher rank – ecosystems, at the same time, consists of elements (living organisms of all kinds of wild animals) – subordinated to it systems of the lower rank;

– interdependence of the system and environment – indissoluble unity of the animal world with the environment, in the process of interaction with which the animal world functions, forms its properties and manifests its integrity.

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THE PRINCIPLE OF EXTENDED PRODUCER'S RESPONSIBILITY AND THE PERSPECTIVES OF ITS IMPLEMENTATION TO THE NATIONAL WASTE LEGISLATION

The definition and essential content of waste management law is one of the theoretical issues, which have great importance for its development. The purpose of the article is to consider the principle of extended producer's responsibility in its close connection with the ongoing social and political processes in the field of waste management.

Clear link between the normative principles and subsequent level of their implementation does not allow ignoring the problems of their legal consolidation and differentiation according to specific branches. In this connection, it is stated that at the international and national levels, there is a formation of such a principle of waste management as a principle of extended producer's responsibility. This principle is evolutionarily related to the principle of sustainable development, and is a logical development of it, but at the same time it is aimed not just at harmonization of economic, environmental and social components, but also at the maximum consideration for all stakeholders. The principle of extended producer's responsibility is one of the means to support the development and production of goods which take into full account and facilitate the efficient use of resources during their whole life-cycle including their repair, re-use, disassembly and recycling without compromising on the free circulation of goods on the internal market.

The results can be applied in the theoretical studies of environmental law issues and issues related to waste management, as well as in the process of law-making and law implementation.

The study formulated the conclusion that at the present time there is every reason to highlight the principle of extended producer's responsibility as one of the basic principles of the waste management law, to be enshrined at the law level for further implementation process and systematization of waste legislation in Ukraine.

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HISTORICAL ASPECTS OF DEVELOPMENT OF THE LEGISLATION ON LEGAL PROTECTION OF LAND FROM CONTAMINATION BY HAZARDOUS SUBSTANCES IN UKRAINE

This article is devoted to historical aspect of development of the legislation on legal protection of land from contamination by hazardous substances. Author conducted analysis of legislation valid in XI-XXI centuries.

The analysis and examination of historical data provide grounds to determine and suggest such stages of historical and legal aspects of development of the legislation on legal protection of land from contamination by hazardous substances: 1) XI-XIV – land was subject to a legal protection within the protection of property rights to land, legislation was aimed only at protecting private property; 2) XVI-XIX – emergence of certain rules relating to the legal protection of lands from contamination by hazardous substances, though, carried out within the property rights to land; 3) 1917-1960 – land legislation of this phase reflects more economic and political orientation, rather than environmental; 4) 1960-1991 – the beginning of the consolidation of the legal protection of land from contamination by hazardous substances, at the Soviet, as well as at the state level; 5) modern stage of historical development of legislation on the legal protection of lands from contamination by hazardous substances dates back to 1991 and continues to this day.

Thoughtful consideration of land can arise and develop only in the presence of definite conditions. At all stages of development humanity was closely associated with land. Overharvesting and economic consequences of scientific and technical progress became the most relevant problems of today. Consequently, examination of historical development of legal regulations on legal protection of land from contamination by hazardous substances will give ability for searches to find new ways to solve the problems of legal protection of land from contamination by hazardous substances. Scientific research of question of historical aspects of legislation on legal protection of land from contamination by hazardous substances in Ukraine keeps being relevant in both in theoretical and practical aspects.

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THE FEATURES OF THE RIGHT OF USE OF LANDS OF PUBLIC BUILDINGS

Issues related to the type of use of lands of public buildings are actualized today. However, the Land Code of Ukraine regulates this area only fragmentary and does determine features of this area.

The subjective right of use of lands of public buildings can be seen as different from the ownership that allows individuals and legal entities of all forms of ownership using lands of public buildings in accordance with the law and within their legal capacity.

In the objective sense it should be defined as a set of legal rules governing relations in the emergence, change and termination of the right of individuals and legal entities of all forms of ownership on lands of public buildings as well as implementation of this subjective right.

The right of use of lands can be carried out on the bases of permanent use, land lease, superficies.

The right of permanent use of land is the right of possession and use of land of state or communal property without time specification.

Land lease agreement shall be an agreement upon which a lessor undertakes an obligation to transfer a plot of land to the lessee for possession and use for a specified period of time and for payment. A land plot may be leased with or without plants, buildings, constructions and water reserves located thereon.

An owner of the land plot shall have the right to grant it for use to another person to build industrial, amenity, social-cultural, housing and other buildings and constructions.

The superficies shall arise on the ground of contract or will.

CRIMINAL LAW, CRIMINOLOGY, PENAL LAW

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METHODS FOR IDENTIFICATION OF A FOREIGN CITIZEN

This article deals with the scientific methods of identification of a foreign citizen for further documentation for the application of readmission. Attention is focused on the Polish experience in personal identification and on this basis it is proposed to implement these methods in Ukraine. Also it is determined that the relevance of the topic is manifested in the fact that the issue of foreign citizens' identification is recently in the focus of attention, which is evidenced by approved in June 4, 2008 decision of the International committee of member states to the Creation Agreement of CIS in the fight against illegal immigration "Methods of identification of foreign citizens and stateless persons detained by the competent authorities without documents of identity", which presents the main steps of the authorized state authorities, aimed to determine the identity of the foreign citizen. Thus, the foreign citizen against whom a decision on expulsion is rendered shall be expelled from the country.

Often the person does not have the necessary documents and therefore must be "identified" to get the documents to enable him/her to cross the border and enter the country of origin. One of the most important characteristics of readmission, which sets it apart from the standard procedure of expulsion, is the fact that in case of readmission requesting state is required to identify a foreign citizen, whom it moves to the requested state.

It is sufficient to prove that the person entered the territory of the requesting state from the territory of the requested state. In this case, the request for readmission must include information about the absence of documents of identity and testimony and evidence required for readmission. In this case, the burden to identify the person lies on the requested state. That is why it is important for the requested state to have readmission agreements with countries of origin. These agreements create a legal obligation for the countries of origin for collaboration and rapid response in the event of the need to identify their citizens and provide them with travel documents. The problem of identification (i.e. purchase of tickets) and cooperation with the countries of origin for the solution of this problem is considered the most difficult in terms of the expulsion of illegal immigrants.

The aim of the paper is the analysis and assessment of methods for identification of foreign citizens in foreign countries to determine the feasibility of their implementation in Ukraine.

Author also proposes such conclusions: in Ukraine range of issues related to the identification of migrants is not legally defined, forming a gap in the

law. However, given the increasing migration attractiveness of the state and the gradual change of its status from a state of transit to the state of final destination, we must assume that in future subdivisions of State Migration Service of Ukraine will face similar situations, which already today sets the task of formation of the corresponding algorithm of actions which obviously will have to take into account existing international experience, namely, introduction of the concept of "person of tolerant stay"; determination of its legal status; legal regulation of temporary residence in the territory of Ukraine.

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THE ANALYSIS OF THE CONCEPTUAL ASPECT OF "CRIMES WITHOUT SUBJECTS" IN THE AREA OF OFFICIAL AND PROFESSIONAL ACTIVITY RELATED TO THE PROVISION OF PUBLIC SERVICES

Today one of the major "defects" in Ukrainian criminal law doctrine is uncertain nature of the category "crimes without subjects". This problem has been the subject of scientific interest of many scholars, including Y. Lashchuk, M. Bikhmurzin, A. Chuchaiev, N. Kvasnevska, M. Panov, A. Baranov, V. Buhaiev and others. The purpose of our research is the systematization of existing knowledge and the differentiation of the main approaches to the interpretation of the legal nature of the term "crimes without subjects", drawing attention to their implementation in the context of crimes related to official and professional activities in the provision of public services. We believe that the main reason to specify this term is its optionality in the structure of the offense.

In our opinion, there are four main types of interpretation of the term "crimes without subject": firstly, as crimes committed in the form of inaction; secondly, as crimes the subject of which is defined by blanket disposition; thirdly, such crimes do not exist; fourthly, crimes without subjects are crimes, the subject of which is not covered by criminal law. We think that the only reasonable position is one that believes that "crimes without subject" are crimes subjects of which are not even indirectly reflected in the texts of the Criminal Code of Ukraine.

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FICTION IN THE LEGISLATIVE FRAMEWORK OF REPETITION OF CRIMES

One of the urgent tasks for both theory and practice is the issue of improvement and specification of criminal legislation of Ukraine, increasing the effectiveness of its regulations. Analysis of the legal nature of fictions in the criminal law, particularly fictions within the framework of repetition of crime, becomes relevant.

Repetition, aggregate and recidivism of crimes are different forms of multiple crimes, each of which has a specific criminal content. However, this content is defined in the Criminal Code of Ukraine in such a way that some of these forms are not mutually exclusive, that is why commit of two or more crimes by a person may, under appropriate conditions, form an aggregate and repetition, repetition and recidivism.

Criminal fiction of the institute of repetition of crimes is expressed in cause-and-effect connection with the fictions of other institutes of criminal law in Ukraine. The problem of fictitious regulations of the institute of repetition of crime is manifested in the fact that not all the facts of conduct of two or more offenses by a person fall under the concept of repetition. In practice, distinction of repetition and multiple crimes is often difficult, which determines the need for improvement of nomenclature of criminal law in Ukraine.

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QUALITATIVE INDEXES OF CRIMES COMMITTED BY FOREIGNERS AND NONCITIZENS IN UKRAINE (USING THE MATERIALS OF EMPIRICAL STUDY)

The intensive development of external migration and active changes in the sphere of foreign policy are typical for contemporary Ukraine. These processes are one of the main reasons why we should study the crimes conducted by immigrants.

There haven't been conducted any comprehensive criminological research of criminality of foreigners and noncitizens in Ukraine yet. Some aspects of this problem were analyzed in scientific works of O.M. Dzhuzha, O.F. Dolzhenkov, D.S. Melnyk, A.P. Mozol, V.I. Shakun and others.

The purpose of this paper is to characterize qualitative indexes of criminality of foreigners and noncitizens based on the results of the empirical study conducted by the author.

In the article the author examines such qualitative indexes of the criminality of immigrants depending on criminal law and criminological criteria as the subject of criminal legal protection, gravity of the crime committed, form of guilt, stage of a crime, joint crime, crime topography, seasonal peculiarities of this kind of a crime and others.

The conclusion of the paper is that the structuring of the criminality of foreigners and noncitizens determined by the empirical study enables to determine specific features of the concept. The awareness of these peculiarities is necessary for elaboration of the effective measures for prevention of crime among immigrants in Ukraine.

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CRIMINAL RESPONSIBILITY FOR CRIMES RELATED TO ILLICIT TRAFFICKING IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, COMMITTED WITH THE INVOLVEMENT OF JUVENILES AND FOR JUVENILES: CONCEPT AND WAYS OF IMPROVEMENT

The paper investigates some aspects of criminal liability for offenses related to illicit trafficking in narcotic drugs and psychotropic substances, committed with the involvement of juveniles and for juveniles. The research has established meaning of legal construction "with the involvement of juveniles and for juveniles" and offered a number of suggestions for improving the criminal liability for offenses related to illicit trafficking in narcotic drugs and psychotropic substances, committed with the involvement of juveniles and for juveniles. The relevance of this topic is determined by the fact that drug addiction and drug crime in Ukraine over the past decade has been one of the most pressing social problems. Absence of its solution results in harm to human health, negative impact on social services, as well as threat to national security of the state. The present-day situation in the field of drug trafficking is primarily caused by the overall high level of drug consumption by people not for medical purposes, which is 33 per 10 000 people (compared to 21 person in 2003), the intensification of international drug rings and transit movement of drugs through the territory of Ukraine.

At the same time, statistics show that a significant number of crimes related to drugs trafficking by juveniles are committed under the direct influence of older persons. That is, there is negative trend in drug-related criminology in the part of direct criminal influence of adults on juveniles for the purpose of their involvement in criminal activities. For example, in 2012 11.5% of the total number of crimes related to drug trafficking was committed by juveniles or with their involvement, and in 2013 – 13.1%. The foregoing reveals the relevance of issues related to the legal protection of minors from adults' targeted actions aimed at their involvement in the commission of drug-related crimes, both as consumers and active participants in the criminal activity.

The conclusion is made that, given the substantial similarity of disposition of the Art. 307 and Art. 309 of the Criminal Code of Ukraine and the need for their unification in the context of age differentiation of juvenile as accomplice of drug-related crimes, there is a need for an

adjustment of the relevant provisions of the studied articles. Thus, it is proposed to complement Part 2 of Art. 309 of CC of Ukraine inserting the legal structure "with involvement of a juvenile" after the words "by Articles 307, 308, 310 and 317 of this Code, or". At the same time, in Part 3 of the Art. 307 of CC of Ukraine it seems relevant to provide the concept of "minor" instead of the concept of "juvenile".

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DETERMINATION OF PRINCIPLES OF THE POLICY IN THE SPHERE OF EXECUTION OF CRIMINAL PUNISHMENTS

Theoretical issues of legal policy and its principles in general have been the subjects of researches of many theorists and representatives of various legal sciences. However, there are not enough developments on the policy in the sphere of execution of criminal penalties and the definition of its principles. Among Ukrainian and foreign scientists, who developed the policy in the sphere of execution of criminal punishments, can be distinguished such authors as I.H. Bohatyrev, O.M. Dzhuzha, V.M. Dremin, S.M. Zubarev, O.I. Zubkov, K.M. Kakovkina, O.H. Kolb, V.V. Kondratishina, O.V. Lysodied, O.S. Mikhlin, N.N. Ol'shevskaya, L.B. Smirnov, A.K. Stepaniuk, M.O. Struchkov and others.

It is highlighted that science of penal law clearly indicates the elements of its structure: strategy of policy, goals and tasks, principles, main directions and methods of activity of the institutions of execution of criminal punishments. However, the scientific doctrine still has not formed a clear approach to the definition of "principle of the policy" and the system of principles underlying the policy in the sphere of execution of criminal punishments.

In the research the definition of policy as a strategy of the state activities in the sphere of execution of criminal punishments as a wide comprehensive phenomenon with many different components is given.

In the article the definition of "principles of the policy" and "principles of legislation" are examined. It is concluded that this definitions do not coincide with each other, because, firstly, they differ in content, and, secondly, they

could have different forms of realization.

The principles of the policy in the sphere of execution of criminal punishments, including the basic legal strategic positions, moral principles and basic directions of the policy in the sphere of execution of criminal punishments enshrined in the Criminal Executive Code of Ukraine and other normative acts in this field are determined.

In conclusion, to the principles of the policy in the sphere of execution of criminal punishments could be attributed: firstly, all the principles formulated in Art. 5 of the Criminal Executive Code of Ukraine, secondly, the number of principles developed by science and practice, like the principle of minimization of legal limitations of rights and freedoms of prisoners; the principle of minimal criminal repression; the principle of priority of development of incentive policy over the repressive one; the principle of resocialization and adaptation of convicts, who have served their sentences; the principle of priority of measures of social and pedagogical correction of the prisoners; the principle of improving special investigative work with the prisoners; the principle of increasing transparency of penal system and its focus on cooperation with civil society; the principle of improving the institutions of progressive system of serving the sentence.

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AGGRAVATION OF PUNISHMENT AND ITS APPLICATION AS A METHOD TO COUNTERACT THE CORRUPTION IN MODERN CONDITIONS IN UKRAINE

Close connection of the organized crime with a corruption is a significant barrier in development of the legal state, which prevents strengthening of its institutions, influences rights and legal interests of its citizens.

Every state counteracting criminality uses the arm of the law not only as instrument of punishment of criminals but also as prevention of their criminal activity. At the same time, power of the law in the state must be so obvious, that a criminal must have no doubt in relation to impossibility to avoid punishment. When society and state require counteracting corruption as active as possible, the use of the arm of the law is a considerable instrument of the state.

By the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine to Harmonize the National Legislation with the Standards of Criminal Law Convention on Corruption" of April 18, 2013 actions of official person regarding acceptance or promise to grant an illegal benefit is really considered to be criminal, and responsibility for corruption increases.

The attention should be paid to the fact that measure of punishment for the commission of this crime is graver, than it used to be in a previous version of the law regarding receipt of bribe. In practice there will be problems with proving not only fact of accepting or promising to give an illegal benefit to a person but also with establishment of size of illegal benefit in certain cases.

For the repeated grant of illegal benefit, and its provision to the person that occupies responsible or especially responsible position the legal responsibility remains the same.

According to the data of High Specialized Court of Ukraine for Civil and Criminal Cases contained in the Analysis of Criminality in Ukraine for 2012, almost 2,000 facts of receipt, grant and provocations of bribes are educed, which is 32,3% less compared to the same period of the last year.

Analyzing the abovementioned statistical data, we see that law enforcement authorities annually register and courts examine approximately the identical amount of crimes of a receipt or grant of illegal benefit with insignificant lap (about 3%) that specifies certain negative stability of conduct of this crime in the state, regardless of the envisaged measure of punishment. It should be noted that the basic category of persons brought to criminal responsibility for the indicated crimes consists in official persons of lower and middle

level. Aggravation of responsibility for a certain crime is not able to bring to reduction in the number of cases, and will not influence its extent.

Courts often apply punishment for corruption in form of imprisonment and fine. Custodial restraint is the least widespread. Often enough courts appointed lighter punishment, than statutory provided.

We hope that next to aggravating responsibility, the state will pay considerably more attention to other methods of counteracting corruption, in particular will form the clear mechanisms of realization of rights for citizens, that will assist the removal of grounds for corruption.

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THE NOTION OF AN ORDER AND ITS TYPES IN CRIMINAL LAW OF UKRAINE

The adoption of the Constitution of Ukraine was the basis for the new conception of democratic system of law and legislation of Ukraine. Thus, in accordance with Article 19 of the Fundamental Law of Ukraine "Legal order in Ukraine is based on the principles according to which no one shall be forced to do what is not envisaged by legislation".

Nowadays, Ukraine is in the process of reforming public administration, political system, public institutions and industries. Part of this reform process is legal provisions of normal governance activities as an internal peculiarly of any society at all stages of its development. Recent tragic events in Ukraine have shown that the execution of unlawful and manifestly unlawful orders may lead to negative consequences, including the violation of fundamental human rights and freedoms.

The article discusses the current legislation of Ukraine, certain provisions of criminal law doctrine, the notion of an order and its types in the jurisprudence and legislation of Ukraine. Order is considered as prescriptive act of governance, and therefore the place of an order among other acts in the governance system is defined.

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THE USE OF MECHANICAL MEANS AND DEVICES AS A MODERN WAY OF IMPLEMENTATION OF JUSTIFIABLE DEFENCE

One of the circumstances, which exclude criminality of act in the criminal law of Ukraine, is the justifiable defence. In the theory of criminal law, the justifiable defence as a circumstance (legitimate act), which excludes criminality of act, has its juridical structure and is characterized by certain ways of its implementation. One of such ways of implementation of the justifiable defence may be use of mechanical means and devices, which automatically hit abuser. The existence of the specified way of its implementation causes considerable debate in the theory and in the science of criminal law of Ukraine.

According to the first approach, which was formed on the basis of a general analysis of judicial practice, such actions are not considered as the justifiable defence but are classified according to the consequences, as murder or injury through negligence. According to the second approach it is considered that such actions are the justifiable defence.

To support the second point of view the author believes that the use of mechanical means and devices that automatically hit abuser can be a way of justifiable defence. This way of defence should be applied with certain restrictions. The legal basis for its application is the existence of a real threat of socially dangerous abuse. The procedure for installing mechanical means and devices is "preparation for the justifiable defence" and there is no regulation of its legitimacy. Also there should be a gradation of mechanical means and devices, depending on the severity of harm: a) those threatening life of an abuser (i.e., those that could cause serious bodily injury or death of a person). Application and use of these mechanical means and devices for the protection of property rights is unacceptable; b) those that are not dangerous to life and health of abuser (may cause mild or moderate injury). Given the different conclusions the author proposes appropriate amendments to the Resolution of the Plenum of the Supreme Court Ukraine of April 26, 2002 "On Judicial Practice in Cases of Justifiable Defence".

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CRIMINAL AND LEGAL DEFINITION OF "SPORT"

It is noted, that one of the priority missions of modern state is to form healthy nation. It is obvious that namely physical training and sport are intended to promote implementation of this mission. By inertia since Soviet period of Ukrainian statehood, the area of physical training and sport have been considered to be free from criminal interference, allegedly "untouchable". The given approach of the national state institution causes the lack of proper attention of law enforcement agencies to the state of legal order in this area that has caused nowadays a great multitude of socially dangerous phenomena. The most serious concern is about widespread doping, high level of injury, death-rate and corruption in sport.

It is well known that legal regulation of the given area of social relations is unsystematic, and besides there is no good and deep scientifically-based elaboration for basic definitions, particularly concerning "sport", that impedes law enforcement agencies to timely respond to socially dangerous actions, taking place in sport.

The analysis of scientific literature demonstrates the presence of a great multitude of approaches to definition of this notion. However, according to the author's point of view, the most extended and theoretically substantiated definition is one, which notes that "sport" is "educating, playing, contesting activity, based on physical exercises, that has socially important results". It is also noted, that nowadays this notion has appeared to be independent, having converted in factor, creating system for a given area of social life, which has its own structure, content, subject and object.

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ENSURING COMPLIANCE WITH LAWS ON SOCIAL PROTECTION OF JUVENILE OFFENDERS BY THE PROSECUTOR

Article 46 of the Constitution of Ukraine stipulates that citizens have the right to social protection that includes the right to provision in cases of complete, partial or temporary disability, the loss of the principal wage-earner, unemployment due to circumstances beyond their control and also in old age, and in other cases established by law.

According to the Criminal Procedure Code of Ukraine, the State respects and protects the rights, freedoms and legitimate interests of prisoners, provides the necessary conditions for their corrections and re-socialization, social and legal protection and personal safety.

According to Art. 1 of the Law of Ukraine "On Bodies and Services on Affairs of Minors and Special Establishments for Minors", implementation of social protection of minors and prevention of offenses is the competence of special educational institutions of the State Penitentiary Service of Ukraine.

It is necessary to start inspection with local authorities, guardianship and custodianship agencies requesting information about the minor who is in a correctional facility.

It seems expedient to read the legal framework which ensures social security of juvenile offenders.

Before the inspection it is advisable to get acquainted with the results of previous inspection, information on submitted acts of prosecutor's response, results of their review, the measures taken to eliminate violations of the law, renew violated rights and bring offenders to justice, as well as other documents submitted to the prosecutor about the institution (statements of citizens, public officials, information of governmental bodies, statistical data, etc.) or information in the media.

Through checking compliance with legislation aimed at social protection of juvenile offenders, it is expedient to learn the personal criminal records of such individuals. Particular attention should be paid to the presence in the personal criminal records of juveniles of:

– information on the composition of their families (parents, persons in loco parentis, siblings, etc.), education, health status, place of study (work) and residence (registration), etc.;

– evidence of the right to a pension, public assistance, alimony payment, receipts of payments and responses of administration of penal institutions in cases of evasion of alimony payments by parents;

– court judgments on recognition of the parents or one of them missing or

dead, documents on measures taken for their location;

– judgments on the grant of appropriate status to the child – status of orphan, disabled child or child deprived of parental care and grant of social assistance, pensions and alimony payments;

– the documents confirming that the administration took steps to grant and receive social assistance, pensions, alimony payments, temporary subsidy for children whose parents refuse to pay alimony payments, are unable to support the child or whose place of residence is unknown.

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THE CATEGORIES "PURPOSE" AND "EXPEDIENCY" IN CRIMINAL LAW OF UKRAINE

The article is devoted to the research of categories "purpose" and "expediency" in criminal law. Based on the analysis of legislation and scientific literature we suggested a definition of the purpose of criminal law and established the relationship between the purposes and objectives of criminal law. The article reveals the concept of expediency of criminal law.

Any area of law has its own specific purposes. Criminal law is no exception. The immediate purposes of criminal law are objectives embodied in the Criminal Code of Ukraine. The purposes of the criminal law, as well as any other objectives are achieved by certain means of criminal law. The means of criminal law to be understood in a broad sense, that is, each rule of criminal law is a mean to achieve certain purposes of criminal law. Quite a number of the dispositions of the regulations, including the Criminal Code of Ukraine, are designed in such a way that they cannot be used without discretion or explanation. The enforcer has to choose a solution that would better reflect the matter of the statute and its purpose. The lawmaking activity includes the area of criminal law. In this regard, in each case, there is a need to choose such decision in lawmaking and enforcement activities that would help to achieve the outcome confirming with purposes of criminal law. This is the expediency of criminal law.

The expediency of criminal law should be understood as a choice of ways in lawmaking and enforcement activities in accordance with the purposes of criminal law and the specific mechanism of development of society and the state (where place and time should be taken into account).

CRIMINAL PROCEDURE, CRIMINOLOGY, INVESTIGATIVE ACTIVITY

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LEGAL FRAMEWORK OF STATE PROCEDURAL COMPULSION FOR CRIMINAL PROCEEDING IN UKRAINE

The thesis contains complex analysis of theoretical problems connected with definition, interpretation and applicability of state compulsion in legal system of Ukraine.

The concept of legal system, the classification and typology of the legal system of Ukraine are researched in the thesis. Its belonging to the Eastern European legal family stipulates understanding and significance of the state compulsion. The article thoroughly considers public interest and its predominance. It emphasizes the necessity of implementation of the obligations as indispensable condition of realization of law.

The research studies the possibility of the wide-range applicability of state compulsion as the element of mechanism guaranteeing functioning of the legal system and the social system as a whole.

The concept of the state compulsion, types and distinguishing features of legal relations between private and public law as well as its significance for performance of objective and subjective rights and fulfillment of the obligations researched here.

Some suggestions as to improvement of the law doctrine in Ukraine are made on the basis of the analysis carried out. It is considered impossible to realize norms and subjective rights and obligations of the parties of legal relations without them.

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LEGAL NATURE OF CASSATION IN CRIMINAL PROCEDURE

In the article, basing on scholars' point of view and provisions of the Criminal Procedure Code of Ukraine, which was adopted on April 13th, 2013 and came into force on November 20th of the same year, the legal nature of cassation in criminal procedure is revealed. As the result of it, the conclusion was made that it is necessary to treat it as examination of legitimacy and validity of court rulings that has not taken legal effect and was not reviewed by the court of appeal. The national regulatory acts and international normative legal acts that regulate criminal process within cassation are analyzed briefly and subsequent to the results of it the conclusion is made that there are only a few sources of law of this kind and the provisions of these sources prescribe cassation as one of the main principles of the criminal process. The similarities and distinctions between new and later version of the Criminal Procedure Code of Ukraine are described thoroughly in the part of cassation procedure. The attention is paid to principal criminal procedure innovations in court of cassation under the Criminal Procedure Code of Ukraine of 2012 and to scholars' points of view as well as criminal procedure branch in relation to its correspondence with international criminal procedure standards. Principal problems concerning criminal procedure activity in course of court decisions' review within cassation procedure and possible ways of its solving are stated in the article. In this regard, the attention is paid to the fact that despite initiation of operation of the Criminal Procedure Code on November 20th 2012, the cassational court's decision review requires continuation of theoretical discussion and consequent legislation alteration.

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CRIME REENACTMENT: PROBLEMS OF APPLICATION

A detailed and profound research of the problems of pre-trial investigation in Ukraine has a direct impact on the possible reformation of law-enforcement system of Ukraine, because Ukrainian legal society cannot ignore the problems in this sphere.

The problems of crime reenactment have always been the subject of Ukrainian scholars' researches. However, the problem of the importance of its application, during the pre-trial investigation is still opened. The purpose of this article is proving the importance of investigative experiment in pre-trial investigation of Ukraine.

The great practical importance of the evidences that are obtained during a crime reenactment and will be used during judicature make a crime reenactment an important part in carrying out investigation process and collection of evidence.

In this article, we reveal the issue of organization of crime reenactment according to the current needs of law-enforcement practices.

Furthermore, the analysis of scientific works and researches devoted to this investigation action was conducted. It was found that the essence of the investigative experiment was revealed by Ukrainian scholars.

Also we specified the stages of formation and development of crime reenactment and found that the development of the investigative action started before the criminology became a separate science. We examined the stages of preparation for the crime reenactment and proved that this stage determines whether a person that conducts the crime reenactment performs his/her tasks.

In addition, we examined several tactics that were offered by outstanding forensic scholars and made a conclusion that the investigator that conducts investigative experiment can use a big variety of tactics offered by scholars depending on the situation.

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LEGAL RELATIONSHIPS OF INVESTIGATING JUDGE, PROSECUTOR AND INVESTIGATOR DURING THE CONDUCT OF INVESTIGATIVE (DETECTIVE) ACTIONS

This article provides an attempt to study the concept of investigative (detective) actions and their content, manner of conduct, and consequently arising legal relationships of investigative judge, prosecutor and investigator, in the context of the new Criminal Procedure Code of Ukraine (CPC).

The purpose of this paper is to study the concept and content of investigative (detective) actions under existing criminal procedure law and its impact on the relationship between the investigating judges, prosecutors and investigators in the course of their conduct. The relevance of the topic is determined by the fact that Chapter 20 of the Criminal Procedure Code of Ukraine regulates the requirements and procedure for the investigative (detective) action. It should be noted that the term "investigative (detective) action" is new and still is not used in the criminal procedure legislation of Ukraine. In this regard, there are questions about the concept of investigative (detective) actions and their content, manner of conduct, arising legal relationships of investigative judge, prosecutor and investigator and so on. The concept and content of investigative actions in the context of the old criminal procedure law is widely and fully investigated by Ukrainian and foreign scholars. Some of them define investigative actions as "proceedings for the purpose of collection, identification, record, inspection, examination of evidence in a criminal case". Others, actually agreeing with them, emphasize that "investigative action is part of the proceedings, which is related to the identification, recording and checking of evidence in a criminal case". The traditional treatment for investigation as understanding of the proceedings is related to obtaining, recording and verifying evidence. Similarly, when investigative actions are understood as measures for identification of persons involved in the commission of crimes, and evidence related to the crime. It should be understood that it is not an operational and search activity, but the investigative activities of the investigator.

Conclusions also give us reason to establish that the legal regulation of the grounds and procedure for the investigation (detection) of action specified in Chapter 20 of the Criminal Procedure Code of Ukraine, convincing evidence of a functional mismatch in structure of public bodies involved in the provision of pre-trial investigation requirements today and European standards. Excessive expansion of the powers of

prosecutors, weakening of the role of judicial review in a criminal trial, the actual destruction of an effective system of pre-trial investigation require immediate introduction of significant changes to existing CPC of Ukraine, which would restore the effective functioning of the fight against crime.

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EQUALITY BEFORE THE LAW AND COURT AS THE CONSTITUTIONAL PRINCIPLE OF CRIMINAL PROCEEDINGS, ITS ESSENCE AND CONTENT

The article is devoted to research of essence and content of the constitutional principle of equality before the law and court in criminal proceedings, to formulation of the concept of this principle, and also author's edition of the corresponding criminal procedural regulation.

It is specified that equality and inadmissibility of discrimination of people are not only the constitutional principles of national legal system of Ukraine, but also fundamental values of the world community which is manifested in international legal acts concerning protection of the rights and freedoms of man and the citizen.

It is established that the constitutional provision on equality before the law and court defines content of the law and practice of its application in criminal proceedings and acts as the requirement to activity of the legislator and subjects who carry out criminal proceedings. Thus, for government bodies and officials the norm on equality before the law and court is a duty, and for citizens – a guaranty for implementation of their rights, protection of freedoms and legitimate interests.

Equality before the law and court is defined as the constitutional principle of criminal proceedings which works in all its stages, is directed on implementation of the provision on the highest natural value of each person, defines contents of the law and law-enforcement activity and grants to participants of legal relationship equal legal opportunities for implementation of the interests and demands from the legislator and subjects who carry out criminal proceedings, not allowing exclusive or discrimination position of its participants.

Author's edition of regulations on equality before the law and court which is enshrined in Article 10 of the Criminal Procedural Code of Ukraine is offered.

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HUMANISTIC APPROACH TO IMPLEMENTATION OF CRIMINAL PROCEEDINGS

The article is devoted to definition of the main directions of realization of humanistic values in criminal proceedings in the course of further improvement of the criminal procedure legislation and practice of its application.

It is offered to consider such directions: humanization of the purpose and problems of criminal proceedings, their compliance with ideas of legal humanity which are established by the international acts on human rights; development of the competitive basis of criminal proceedings; greater use of compensation and conciliatory procedures; improvement of legal status of each participant of criminal proceedings; introduction of the mechanism of formation of humanistic outlook for persons carrying out criminal proceedings.

It is established that resolution of a problem of humanization of criminal proceedings provides introduction of the principle of the rule of law in the content of criminal procedural activity, providing an individual approach to everyone involved in the sphere of the criminal procedural relations. In turn, realization of the rule of law in each criminal proceeding is possible only in terms of independence, objectivity and high vocational training of appropriate subjects. After all, the official entitled with appropriate authority, establishes the right in a definite life situation and, making the procedural decision, becomes materialization of social justice at a certain stage of criminal proceedings.

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INTERNATIONAL LEGAL REGULATION FOR COUNTERACTING MONEY LAUNDERING

This article analyzes the international legal regulation counteracting money laundering. Relevance of the topic is determined by the fact that in the modern world money laundering poses a danger to the entire international community. According to experts of the International Monetary Fund, the criminal organizations legalize 1.5 trillion dollars each year, which is about 5% of the gross world product. The international community considers prevention of money laundering as one of the most effective means of combating transnational organized crime, corruption and money laundering, attributing this crime to international ones.

In scientific studies of money laundering it is defined as a link between the criminal sector of the shadow economy and an open economy, the channel through which income derived from criminal practices transfers into the legal sphere of economic relations, thereby maintaining both legal and illegal business. It emphasizes the nature of money laundering as the process by which "dirty" money, usually cash received in the course of criminal activities go through the banking system thereby transforming into "clean" money, i.e., they are given the appearance of legitimate income, and therefore it is not possible to identify the person, which is the initiator of the transaction, or the criminal origin of the funds.

The purpose of this article is the implementation of comparative legal analysis of international legislation of the USA and European countries for prevention of money laundering.

It is concluded that the creation of a group similar to the Eurasian group on combating money laundering and financing of terrorism will harmonize legislation in the member states of the CIS in the field and successfully deal with practical issues of cooperation between national systems for counteracting money laundering.

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PROBLEM ISSUES OF STATUTORY REGULATION AND REALIZATION OF THE PRINCIPLE OF CONFIDENTIALITY OF ADVOCACY

Confidentiality of advocacy and problem issues of its realization are researched in the article. Causes of transformation of the institute are described in detail. In particular, given world's community tendency to protect the foundation of the constitutional system, morality, health, protection of rights and legitimate interests of other persons and state's safety, advocacy's confidentiality started being limited by the virtue of: 1) advocates' obligation to inform on money laundering cases that has came to their knowledge in course of their professional duties; 2) authoritative bodies' right to bug advocate's and client's interaction in particular cases.

Moreover, the attention is paid to the issue concerning general structural background elements of the advocacy's confidentiality, namely: 1) the subject is a client and an advocate. The definition of the latter includes persons whose right to practice law was suspended or terminated; 2) the object is a specific client's legal status arising due to addressing to advocate; 3) the goal refers to providing the trust relationship between client and advocate.

In addition, the main criteria of further transformation of advocacy's confidentiality have to correspond with specific international and national legislative requirements formed in the article. The criteria are the following: 1) an advocate is obliged to adhere to attorney-client privilege and keep all the information that came to his notice in course of his professional duties confidential; 2) an advocate shall keep in secret the information until client's permit is received or in case if the law requires disclosure thereof; 3) confidentiality principle is termless.

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THE SUBJECT OF PROOF: NATURE AND CONCEPT

The article is devoted to the research of subject of proof in criminal procedural law of Ukraine. Based on the analysis of legislation and scientific literature, complex structure of subject of proof and its elements are identified. While proving factual circumstances, there is local subject of proof as well as subject of proof.

It is not an overstatement to assert that proving is core and one of the most important parts of any jurisdictional process and criminal in particular. Being one of the types of perception, proving is aimed at detection of circumstances of a criminal proceeding, which are explicitly listed in the Criminal Procedure Code. In the criminal procedural law and in criminalistics this list of circumstances to be proved is called "subject of proof". This list appears to be useful in the course of investigation, when arises the necessity of making decisions, which need existence of specified reasons. This necessity appears not only while making a decision on certain case but also making interlocutory decisions during pre-trial investigation. The list of such circumstances should be called "local subject of proof".

Proving of such circumstances is necessary for making decision about ensuring measures of restraint, investigative (detective) and covert investigative (detective) actions and so forth. In this case we can consider "local subject of proof" as a collective idea of circumstances to be proved while making interlocutory (auxiliary) decisions.

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ENFORCEMENT OF COURT DECISIONS ON COMPULSORY MEASURES OF EDUCATIONAL NATURE: THEORY AND PRACTICE

Enforcement of compulsory educational measures within criminal procedure is researched in the article. The data concerning features of the procedure's realization according to international standards of juvenile justice, namely United Nations Standard Minimum Rules for the Administration of Juvenile Justice are displayed in the article. Further, in accordance with provisions of the Criminal Procedure Code and relevant interpretations of the Plenum of the Supreme Court of Ukraine, the national enforcement of compulsory measures of educational nature is revealed. Basing on the aforementioned, the comparative study on the issue whether compulsory measures of educational nature, as a part of the national criminal procedural legislation, correspond to international requirements stated in the United Nations Standard Minimum Rules for the Administration of Juvenile Justice is conducted in the article. Thereafter the possible methods of perfection of the criminal procedural activities conducted in course of enforcement of compulsory measures of educational nature are proposed, namely: 1) in order to achieve the goal of the "warning" as a compulsory educational measure, a court judgment that has entered into force shall be unconditionally executed, as stated in Part 1, Article 276 and Part 2, Article 534 of the Criminal Procedure Code of Ukraine; 2) thereafter under Part 2, Article 535 of the Criminal Procedure Code of Ukraine, the judge shall provide enforcement of current compulsory measure by criminal juvenile militia and children rights' administration to continue educational work with the juvenile offender in order to prevent commitment of illegal action in further.

INTERNATIONAL LAW AND COMPARATIVE LAW

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IMPLEMENTATION OF THE RIGHT OF PALESTINIAN PEOPLE TO SELF-DETERMINATION IN 1948-1967

The Middle East problem, despite the monumental efforts of the international community, remains one of the acute issues in international relations today. This is evidenced by the operation "Pillar of Cloud", which was held in November 2012 and the operation "Protective Edge", which began in July 2014. However, Palestine has not yet gained independence, despite the fact that both Israel and the Palestinian authority support the solution of the problem through the creation of two states.

November 29, 1947 the General Assembly of UN recommended the termination of the British Mandate of Palestine starting with August 1, 1948 with the creation of two independent states – Jewish and Arab not later than October 1, 1948; allocation of the city of Jerusalem and its surroundings into a special zone under international control. In general, the Arab state seceded only 43% of the territory of Palestine (14.1 thousand km) with 749 thousand Arabs and 9.5 thousand Jews, while the Jewish state was given 56% of the Palestinian territory with a population of 499 thousand Jews and 510 thousand Arabs, including Bedouin tribes; the international zone of Jerusalem was given about 1% of the area (177 km) with a population of 105.5 thousand Arabs and 99.7 thousand Jews.

Arab states voted against the plan, and immediately after its approval announced that they did not consider it mandatory.

However, the attitude of the Jewish side of this document was not so radical. Jews, in general, agreed with this approach.

However, UN agencies have not been able to fulfill Partition Plan for Palestine because of the ongoing battling between Jews and Arabs and the refusal of the United Kingdom to allow the UN Special Committee on Palestine to enter the territory of the region.

When the armistice was signed in 1949, Israel has increased its territory by about twenty percent in comparison with the land for the Jewish state in the framework of the Partition Plan for Palestine.

The border between Israel and Jordan listed in the General Armistice Agreement signed between the two countries on April 3, 1949, was called "Green Line". This line separated Israel from the West Bank from 1949 till 1967 – till the so-called Six-Day War, which significantly changed both the territory of the state of Israel and the territory where the Palestinian people lived.

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LEGAL ASPECTS OF UNITED NATIONS' PEACEKEEPING OPERATIONS

Peacekeeping operations of UN have proliferated within the activities of the organization, although such powers are not stipulated in its Charter. The current situation causes a number of practical and theoretical difficulties in the implementation of operations. In practical terms, there are problems of manning, financing and management of such operations caused by the absence of universal agreement on a single mechanism of international law. In theoretical terms, especially important is the relationship between the peacekeeping operations and the system of collective security under the United Nations and their legal basis. The absence of special rules in the Charter of UN governing conduct of peacekeeping operations, during "cold war" caused ideological confrontation, which hindered the sequential statutory confirmation of the mechanism for such operations and caused the need of formation of such regulation for each individual case. Broad debate on the legal nature of peacekeeping operations was launched. Different points of view were expressed. Western lawyers, first of all, emphasized the difference between peacekeeping operations and specified in Chapter VII of the Charter of UN actions on threats to peace, breaches of peace and acts of aggression. The basis of this position was aspiration to limit the impact of the UN Security Council, which could use veto and put the main responsibility for the peacekeeping operations to the UN General Assembly and other authorities. In Soviet literature it is repeatedly emphasized that Chapter VII of the Charter of UN provides not only military action, but also preventive and temporary peaceful measures. However, the history of UN indicates constant use of "peacekeeping operations" despite their not statutory nature.

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FEATURES OF ANTIDUMPING LEGISLATION OF THE EUROPEAN UNION

Modern European market has traditionally been a cherished goal of many Ukrainian producers for the sale of goods, including agricultural products. High demands for quality of agricultural products supplied do not affect the attractiveness of the market due to high purchase prices and increasing purchasing power. However, it should be kept in mind that the EU, like most developed countries, treat domestic agricultural producers with special care.

The European Union (as most developed economies) increasingly applies anti-dumping measures to protect national producers. The amount of anti-dumping investigations and number of cases of application of respective measures to agricultural production are relatively small compared to such "classic" in this context objects like metal and textile products. Also import of Ukrainian agricultural products to the EU historically is not at risk. However, one should not underestimate the potential risk of such measures. The low level of anti-dumping investigations concerning agricultural producers is associated with high national rates for its imports, which, however, tend to decrease. Moreover, EU recently tends to increase the number of antidumping investigations in the agricultural sector. Another important factor is enforcement of protection of national producers in crisis, and as a result – widespread use of antidumping mechanisms of protection.

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Published twice a year

Edition 9-2 volume 2, 2014

Series was founded in 2010