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CONTEMPORARY ISSUES OF THEORY AND THE HISTORY OF GOVERNMENT AND LAWS

UDK 34:165.242.1

S. O. Gladky

LEGAL CONSCIOUSNESS AS AN OBJECT AND WAY OF SELF-KNOWLEDGE

This article discusses some pertinent issues relating to the complex problems of theoretical and practical problems that arise in the course of research undertaken by the author of the legal consciousness of the person and the development of theoretical frameworks, methodologies and techniques of legal self-knowledge. The study of legal consciousness caused problems and the general logic of this comprehensive study. It is aimed at generalization and specification of deepening scientific statements, which reflect the nature, structure and functional characteristics of this phenomenon. These provisions are discussed in the context of their suitability for achieving practical legal self-knowledge.

Author proceeds from the understanding of justice as a «field» (psychological space), in which there is (or could potentially occur) dialogue human «I» («Witness») and legal reality.

Any phenomenon of justice (and individual consciousness in general): 1) has a specific meaning, which, in principle, accessible display and description; 2) exists in some form (scientific description of the different forms of the phenomena of consciousness, conducted mainly in psychology, based on the isolation of emotions, sensations, perceptions, ideas, concept , desires, will, etc.).

The author argues that the types of justice (conventional, professional, scientific and theoretical) in the context of the legal tasks of self should be considered as equal. Each individual justice is a "microcosm" about the world of legal phenomena, that person has the potential to identify a particular interpretive form of anything that is in the legal reality.

***Keywords**: legal awareness, legal self-knowledge, legal mind, the unconscious, the legal reality.*

UDK 341.22:574

B. V. Kindyuk

PRINCIPLES OF SOVIET FOREST LAW

The problems of establishing and implementing the principles of forestry law in Ukraine during the Soviet period, which so far have not found a detailed coverage of modern juridical science.

The purpose of this article is to identify by means of formal logic and comparative legal method the consolidation patterns and implementation of these principles.

In the field of forestry, the primary document, that formulated principles of forest law is Lenin's Decree «On Forests» 1918, which secured the exclusive state ownership of this natural resource. The presence of double standards in the formal consolidation of the principles of Soviet forestry law is shown. First – declarative – reflected in the legal documents. Second – the real – is entrenched at the level of sub-legal acts. Declared principles of Soviet Forest Law were aimed at preserving forests and their accessibility to all segments of the population. Really, the practice of principles consolidation was aimed at the destruction of forests to ensure the construction of socialism.

The principles of Soviet forest law were singled out and analyzed: 1) the right of exclusive state ownership to forest resources; 2) the availability of forests for everyone; 3) the principle of sustainable forest management; 4) the principle of paid forest use; 5) the principle of permitted use of forests; 6) planned character of forestry; 7) the principle of centralized forest management; 8) legal protection of forests; 9) the principle of the a forestation.

Analysis of the implementation of the principles of Soviet forestry law in legal acts and practices of implementation showed their declarative character. In order to identify the real principles of forest law in force in the Soviet state approach, which consists in the derivation of legal principles from the content of legal norms, was implemented. It allowed to establish the actual content of the basic principle of the forestry law – the principle of predatory use of forests to build communism.

***Keywords**: forest legislation, the principles of Soviet Forest Law, fixation of law principles, mechanisms of Forest Law principles action.*

UDK 342.7

T. E.Telkinena

POLITICAL RIGHTS AND FREEDOMS OF THE STATE OF NOBLEMEN IN RUSSIAN EMPIRE AS THE ARTICLE OF LOBBYING DURING PREVIOUS DISCUSSION OF GENERAL PROJECT ABOUT PEASANTS WHICH WENT OUT FROM FORTRESS DEPENDENCE (August 1859 – April 1860)

In the article is exposed maintenance of relations of lobbying the subject of which were political rights and freedoms of the state of noblemen in the Russian empire during previous discussion of general project about peasants which went out from fortress dependence during August 1859 – April of 1860. An author has used such methods: legalistically logical for interpretation of texts of legal acts, hermeneutical – texts of petitions, official messages, memoirs. Among sources: legal acts, which was determine the order of work of establishments for development of general project about peasants which went out from fortress dependence, materials, in which work of the Editorial commission is noted, petition of members of the Editorial commission selected by noble province committees, memoirs of lobbyists of political interests of the state of noblemen, official messages of dignitaries. On the basis of analysis of the above enumerated sources the author came to the next conclusions. An institute of lobbying got subsequent development from August 1859 – to April 1860 in the Russian empire which showed up, in particular, in the following.

The object of lobbying of expansion of political rights and freedoms of noblemen was not only an emperor but also the commission of ministry of internal affairs which was named before. But because of the form of state government in Russian empire the main object of that pressure still were the head of the state. Possibility of realization of influence on the state departments was temporally got by the members of province committees on the improvement of way of life of squire peasants which consisted of noblemen, and their «deputies» to the Editorial commissions. Individuals, which was included in the state of noblemen, but were not the members of province committees also remained the subjects of lobbying of political rights for not only there state but also other groups of citizens. Among the actions analyzed in this article from the side of subjects of lobbying adoption of laws, which would give the state of noblemen and other states new political rights predominated direct methods of realization of such type of activity.

The authors of most solicitors and addresses, «deputies», to the Editorial commissions from province committees on the improvement of way of life of squire peasants had possibilities of direct contact with public agents. Only legalistically, results of lobbying by

«deputies» and individuals which was included in the state of noblemen during the period named higher, in particular, the grant of the Russian empire of the right to vote, freedom of seal, had negative character. A legislator did not take into account similar petitions and also put on their authors administrative responsibility. Change of reaction of the state according to the attempts of pressure on it from the side of groups and separate representatives of the state of noblemen from ignoring to punishment, in our view, is possible to explain above all things that part of population tried to set a precedent of establishment of changes in their legal status for initiatives exactly of society, but not state. Such principle changing of Russian legally state tradition a legislator did not wish to assume.

Besides, some authors of reformative projects passed from lobbying only the class interests to defending of expansion of political rights and freedoms of all Russian citizens. Maybe, that noblemen lost tactically, and won strategically. Soon in the Russian empire were realized reforms of organization and activity of local self-government (1864) and state control after maintenance and distribution of information (1865).

Keywords: *lobbying class of nobles, political rights and freedoms of the petition, noble provincial committees for the welfare of rural inhabitants attached to land Didych, Editorial Board.*

UDK 340.112(045)

Y. M. Chernykh

CATEGORY OF «LEGAL LIFE» IN MAINLY CONSTRUCTIVE MOMENT

The article deals with theoretical problems of the category of «legal life», which in the last decade has received considerable support of the Russian and Ukrainian scientists. This category aims extremely comprehensive reflection of all manifestations of the existence of law as a specific form of social life. The peculiarity of such approach is that the category of legal life includes not only positive, but also negative manifestations of a legal nature (illegal). The article demonstrates that very large ontological problem, consisting in an attempt to fit into a single concept, all that is connected with legal regulation, generates epistemological problems: a mix of different cognitive strategies and instruments; the discrepancy with the philosophical models of law; violation of rules of design for scientific categories, which is a result of underestimation of the axiological strategy. These results in a value inconsistent category, whose methodological centre of conflict is the element of illegal. The actual negative effects of the derived category are so formal, value-free, within the guiding methods becomes sociological concept rather than legal one. It is noted that due to the presence of negative effects in the structure of categories it has no criteria that can unite all its elements, which violates the principle of the structure of scientific concepts. However, the elimination of the element of illegal doesn't sow the category, since it deprives it of the general idea, a reflection of legal reality as the most social type of life in all its fullness and contradictions. Attention is drown to the divergence of views regarding the characteristics of systematic category and legal life, and weakness of arguments about their advantages before other similar categories.

According to the author, categories of legal life provide us with an example that between law as a phenomenon of spiritual culture and the actual environment of its existence there is value inconsistency in the form of illegal, which does not allow to fully reconcile them in a single concept. The aim of the unification in the same legal category of the perfect sphere, of the legal prescriptions and imperfect world, which is converted by the law is attractive, but, in the author's opinion, is unlikely to be achieved. The findings of individual lauthors about significant heuristic potential categories of «legal life» against the background of methodological and constructive comments seem hasty.

Keywords: *legal life, law, entity in law, values of the law, illegal.*

KEY ASPECTS OF CONSTITUTIONAL AND ADMINISTRATIVE LAW

UDK 342.722

A. S. Zhuravleva

GENDER POLITICS IN UKRAINE

Gender equality is a component of the general principle of equality as a principle of building a democratic society. Directly in Ukraine gender relationship have not yet reached the level of legal regulation in the countries of Western Europe and South America, but Ukraine is the right way , developing its legislative framework, as well as forming a doctrinal thought. The problem of equality, especially men and women in Ukraine is not an exhaustive study of these authors. In the life, mainly the weakest parts of the population are women remain unprotected, especially at the level of everyday life and family. All this causes a need for further research and development efforts in the direction not only of legislative support, but also a practical guarantee of equality of human beings and their individual rights regardless of gender. This article discusses the basic problems of the gender policy in Ukraine and to identify ways to address them.

Achieving gender equality, the alignment of rights and opportunities for women should not come at the expense of that of men. The gender approach is aimed at improving the situation of women and men.

The modern gender system of society is asymmetrical and discriminatory. To overcome the negative phenomena in the system of gender relations and the regulation of its further development was necessary in the design of sound, science-based gender policies covering all levels of government - from the government to the municipalities, as well as mechanisms for its implementation. The development of gender policy should be based on a thorough gender analysis, which includes scientific and practical aspects.

***Keywords**: gender equality, discrimination, gender politics, rights of women, right of men.*

UDK 343.9

D. G. Zabroda, O. O. Kashkarov

MINISTRY OF INTERNAL AFFAIRS UKRAINE AS A SUBJECT OF STATE ANTI-CORRUPTION POLICY

Ministry of Internal Affairs of Ukraine is an active participant in the processes of the state anti-corruption policy , which , within its competence , draft anti-corruption legal acts , proposes such acts developed by other entities of the state anti-corruption policy, provides support during their consideration and adoption in parliament, the Secretariat of the President of Ukraine , Government etc. ensures the formation of sectoral anti-corruption policy by defining its content, activities and methods of implementation , involve the public in these processes.

MIA is one of the main actors implementing the state anti-corruption policy. It includes established appropriate structures that are assigned responsibilities for the prevention, detection, suppression of corruption offenses; implement legal liability on persons guilty of committing. They interact with other law enforcement agencies, state and local governments that oppose or are involved in combating corruption at all levels, to prevent corrupt acts in the middle of the MIA; participating in legal education and the education of the population; perform other tasks prescribed anti-corruption legislation.

Important role in the implementation of anti-corruption activities play a Minister of the Interior, the Ministry Collegiums', Board (Main Board) Ministry of Internal Affairs of Ukraine in the areas of Anti-Corruption Bureau for Main Board Combating Organized Crime, state service undertaken against economic crime units, internal security personnel departments and heads of departments and the police.

Activities to create and implement Internal Affairs of Ukraine the state anti-corruption policy promote higher education system and the Research Institute of Ministry of Interior, as well as some civil society.

Keywords: *state anti-corruption policy, corruption, Ministry of Internal Affairs of Ukraine.*

UDK 342.4(045)

S. S. Kvach

CONSTITUTIONAL BASIS OF NATIONAL INSTITUTE OF LOCAL GOVERNMENT IN UKRAINE

The article tackles the problem of constitutional support for the Institute of local democracy in Ukraine. The author analyses correlation between the notions of Constitution and The Main Law. The article represents the results of systemic analysis of the main constitutional regulations and determines their role in the formation and functioning of local governments.

The author attracts special attention not only to the Municipal Law, but also to so-called «non-profile» constitutional regulations in Ukraine. This, in particular, the Constitution of Ukraine on Human Rights, which largely determine the municipal legal status and rights of citizens, the constitutional provisions relating to the establishment of administrative- territorial structure, defining the territorial limits of jurisdiction of local and regional authorities, the rules on constitutional recognition judiciary, which plays an important role in ensuring local authorities and others. In addition, significant influence on the institution of local democracy have a general constitutional principles and constitutional doctrine, which is reflected in all the array of constitutional law.

The work also focuses on the importance of guaranteeing of the process of concordance between the Municipal law of the Constitutional Court of Ukraine with its Constitution. The author stresses institutional character of the Constitution as the main source of National Law, that determines correlation between the whole system of sources of the National Municipal Law. With the help of a practical example the author proves that nowadays Constitutional regulations concerning the hierarchy of sources of Municipal Law need improvement.

Keywords*: constitution, local government, constitutional regulations in local government.*

UDK 342.56

I. V. Kostyuk

CRITERIA OF CLASSIFICATION OF CONSTITUTIONAL-LEGAL PRINCIPLES OF ORGANIZATION AND ACTIVITY OF HIGHER COURTS OF GENERAL JURISDICTION

Scientific article propose to describe criteria of classification of constitutional-legal principles of organization and activity of higher courts of general jurisdiction, and the

Higher special court for civil and criminal deals in particular. Constitutional-legal principles of organization and activity of higher courts of general jurisdiction should be classified on the base of analyses of different approaches in schience to the principles of justice, be cause system of constitutional-legal principles of organization and activity of higher courts of general jurisdiction is normativelly not defined, also as system of principles of justice. Author has given the meaning of principles of organization and activity of higher courts of general jurisdiction through principles of court activity, that are divided into three groups:

1) general constitutional principles of justice;

2) general interspherical principles, that determine common basis of court organization and legal status of judges of courts of general jurisdiction;

3) special principles of civil, criminal and business courts activity.

Principles, concerned by author to proposed in the article criterria of classification on the basis of norms of constitution of Ukraine, Low of Ukraine «About Court Organization and Status of Judges», other normative acts. In Particular, author included to the first group of constitutional-legal principles of organization and activities of the higher courts of general jurisdiction principle of legality of court activity, principle of justice activity only at courts, principle of direct participation of people in justice provision, principle of warranty for court protection, principle of equality to the law and court, principle of transparency and liberty of court process, principle of obligatory of court decissions. Second group includes principle of independence of court, principle of warranties to self-management of courts, principle of competitiveness of partys, principle of provision of appeal and cassation of court decision, principle of usage state language in court process. Third group of principles includes principle of provision of proof of guilt, principle of support of state prosecution at court by prosecutor

***Keywords**: principles, the judiciary, the judicial system, specialized courts.*

UDK 342.922

V. I. Kurylo, A. V.Samokhin

THE LEGAL REGULATION OF EXPERT ACTIVITY IN UKRAINE: THE PROBLEMS AND THE PROSPECTS

In the article the problems and the development of legal regulation of expert activities in Ukraine are examined.

Issues of administrative regulation expert activity were seen in the works of local and foreign scientists in the field of administrative and criminal law: V. Averyanov, I. Aliyev,V. Bakhin, Y. Dodin and others. Actuality of this article is due to the fact that in a special literature expert legal regulation of activities traditionally considered mainly in the context of judicial investigation or forensics. Forensic activity is regulated mainly rules of criminal law, administrative law, business law, and civil procedure. In particular the relevant provisions are contained in the Criminal Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine, the Economic Procedural Code of Ukraine, the Civil Procedural Code of Ukraine.

The purpose of this article is to analyze the current legislation of Ukraine concerning assessment of the current state and future development of domestic sources of legal framework providing expert activity, the study of theoretical problems doctrinal and legal definitions of expert performance and expertise.

Based on the research of the relevant provisions of legal acts and exercise expertise, scientific analysis of the following views regarding the place and role of forensics seems possible to draw the following conclusions and suggestions. New types of expertise that are not judicial expertise in nature are due to the development of modern public relations trends.

Expert activity went beyond forensics expert and legal regulation of activities carried out by the many rules laid down in legal acts of procedural and substantive laws of the various areas of law. The current legislation of Ukraine provides the legal regulation of non judicial kinds of expertise as scientific research and technical expertise, environmental assessment, examination of the documents, the public examination of the executive authorities, public examination of land records, state expertise on energy saving.

Evaluation activity has common features with the expert work. It seems appropriate to offer an introduction a few definitions, such as expert activity and expert services. Expert activity is an activity authorized entities, aimed at providing expert services. Expert services - it is based on special knowledge to provide informed opinion on the subject of review.

Keywords: *expertise, forensic examination, expert activities, expert service, legal regulation of expert activities in Ukraine.*

UDK 343.13

V. I. Kurylo, O. M. Sobovyj

THE ISSUE OF EFFICIENCY INSTITUTE OF DISCIPLINARY LIABILITY FOR VIOLATION OF ENVIRONMENTAL LAW

This article examines the effectiveness of the institute of disciplinary liability for environmental offence. The role and importance of this kind of legal responsibility in ensuring the sustainable use of natural resources have been analyzed. It was determined that existing environmental legislation should be more clearly in defining the role and place of the disciplinary action in the other types of legal liability for environmental violations as disciplinary responsibility largely depends on a clear definition of the rights and responsibilities of officers and other employees of the health environment. They must find their place by fixing in standards, regulations, policies, guidelines and other local acts.

The grounds and procedure for application of disciplinary liability in the field of environmental protection is not much different from its using in other areas of public relations. However, it would be extremely right underestimate this kind of responsibility to counter the environmental offense. Institute of disciplinary liability is quite an effective tool of environmental disciplines, using of which sometimes gives even greater effect than other types of legal liability.

The purpose of this article is to determine the role of disciplinary sanction in ensuring the rational use and protection of natural resources.

Discipline responsibility is the legal responsibility, which is used in order to subordinate work (service) employees and employees of enterprises, institutions and organizations regardless of ownership for committing offenses related to employment, if the data misconduct because of their relatively smaller hazard can not be classified as administrative offenses or crimes.

Primarily this is due to the significant degree of efficiency disciplinary response, workers` interest in eliminating the consequences of environmental offenses. Value of disciplinary liability is due to the fact that it is aimed at providing organization and discipline in the workplace, in the area, which is the epicenter of the environmental controversy. It should also be noted that disciplinary liability has one characteristic feature: its application to some extent due to the interests of the institution, enterprise or organization.

Keywords: *environmental violations, disciplinary liability, legal liability, protection of the environment.*

UDK 342:95

R. V. Myronyuk

FEATURES JUDICIAL REVIEW CASES ON ADMINISTRATIVE VIOLATIONS IN ADMINISTRATIVE PROCEEDINGS

This article investigates the legal framework and procedural order of judicial review cases on administrative violations in administrative proceedings.

It is shown that the procedure for judicial review of statutes in the case of an administrative offense involves the following steps: formation of the claim and lawsuit against the administrative claim, discovery proceedings in the administrative case, preparation of cases for trial, the trial of proceedings, a judicial decision on administrative matters. The analysis of each of these stages, identified problems that occur in the order of proceedings within them.

Expressed and reasonably specific proposals for improving judicial review cases on administrative offenses by administrative procedures and improve the practices of the courts to hear this type of case. In particular, the statutory provision requires the cashier, according to which if his administrative claim, the court may adopt a resolution to declare unlawful the decision the subject of authority in the case of administrative liability and remand the case for retrial , or decide on merits.

It was concluded that since the jurisprudence on this category of cases is not formed, the need to develop the procedural aspects of the implementation of the administrative proceedings in cases of appeal against decisions, actions or omissions of public authorities in cases of administrative liability.

Keywords: *administrative law, administrative case, the case of an administrative offense, the judicial review proceedings.*

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L. I. Myskiv

REORGANIZATION OF THE CENTRAL BODIES OF EXECUTIVE POWER ON THE FORMULATION AND IMPLEMENTATION OF THE STATE POLICY IN THE FIELD OF EDUCATION IN UKRAINE

The stages of the establishment of the central bodies of executive power on the formulation and implementation of the state policy in the field of education in Ukraine are examined in the study. The genesis of the powers and functions of the central bodies of executive power on the formulation and implementation of the state policy in the field of education in Ukraine from 1991 to 2011 is revealed.

Noted that the process of restructuring and transformation of the central bodies of executive power on the formulation and implementation of the state policy in the field of education, including the higher education, during the years of independence was accompanied by its complication and extension of its sphere of regulatory influence. Initially, the USSR Ministry of Education and Ministry of Higher Education of the USSR were merged into a single Ministry of Education, then to the jurisdiction of the Ministry of Education were included (except education) research, innovation science and technology and intellectual property, because education, especially the higher education is closely connected with the latter, on the one hand, the development of science and technology contributes to improving the forms, methods, ways and means of education, on the other hand at the base of the higher educational establishment are trained scientific personnel. Finally, the scope of the

regulatory impact of the Ministry of Education include issues of youth and sport, because the cultural and physical education of youth, ensuring of its spiritual development, physical health, discovering their abilities and talents, is one the priority tasks of educational-training institutions, including universities, in this case, by the way, the attention was paid during the Soviet era.

Therefore, we can conclude that the central body of the executive power in the sphere of education, science, intellectual property, Youth and Sports of Ukraine has comprehensive character, since its control is spread over the closely related areas of public life.

***Keywords**: reorganization, education, higher education, the central body of executive power, objectives, functions, powers.*

UDK 35.08:342

I. L. Olijnyk

FOREIGN EXPERIENCE OF PERSONNEL POLICY IN THE PUBLIC SERVICE: FORMATION THE CORPS OF LEADERS

Efficiency and performance of all levels state administration bodies depend on their chiefs, because the very chief organizes the work of the structural subdivisions of the body and assures its activity in general, the chief is vested with the biggest range of official and power authority in the subordinate government body and has the great impact on all spheres of this body performance. Furthermore, the chief of civil service in the government body faces the double task: organization of efficient maintenance of statutory, specific and intrinsic to the very government body functions and missions and assurance of protection and observance of rights and legitimate interests of citizens and organizations.

In this regard the paper considers the issue of forming the corps of governmental bodies chiefs, who have status of civil servants. The international experience of the personnel policy in the public service has been analyzed also.

It is concluded that in the Ukrainian personnel policy of the civil service may be used the international experience of the acceptance and movement of civil servants. An important element of this process should be clear requirements for candidates for any public office, publicity and publicity of selection, creating a real competitive operating system and so on.

However, when «borrowing» elements of international experience should be considered: the importance of testing different models as an experiment, develop mechanism to monitor the progress of implementation and results and so on.

***Keywords:** public service; providing cadres of the public service; state personnel policy; personnel policy in the public service.*

UDK 342.92

S. S. Ovcharuk

LEGAL REGULATION OF INSTITUTE OF ADMINISTRATIVE PROCEDURES IN FRANCE

Modern French administrative law is a product of two centuries of development of the system of government. The administration of its activities related to the law and is responsible for the abuse of power and other illegal acts, and the damage it caused. French administrative law is characterized high legal culture, careful elaboration of procedures and rules of conduct of officers of certain legal norms, and entire institutions. A significant role in

the development of administrative law in France belongs to the administrative courts, which have played a crucial role in the formulation of the rules of administrative law.

Analysis of Art. 6 and Part 2 of Art. 19 of the Constitution of Ukraine gives reason to conclude that Ukraine legalized institution of state government, whose representatives instead of the duties and responsibilities have power, authority and competence. It is quite clear that the absence of duties and responsibilities in no way contribute to the implementation of the provisions of Art. 1 of the Constitution (Ukraine is a democratic, social and legal state) and the provisions of the preamble, which is due to the obligation to take care of power dignity of human life, protection of rights and legitimate interests. At the same time, the French Constitution in 1958 (as amended as of July 23, 2008, based on the Declaration of Human Rights) contains a provision that the respect for the legislative and executive branches depends meet citizens and therefore these bodies are obliged to uphold the Constitution and the common good.

Analysis of the administrative law of Ukraine shows that the comparative method in view of the principles of Soviet domination of legal science, from 1917 to the present time, is ignored, as is confirmed firmness legal structures that legalized «power without responsibility and liability». The subject of administrative law in amended in 1938 (the regulation of social relations in the sphere of the executive branch - rather than rigid rules regulating its activity), the Institute of administrative Responsibility (instead of the classic European legal doctrine, in which the institution is a responsibility of public administration to private individuals), etc. Moreover, the facts show blatant disregard of the positive experience of other countries, including the distortion of the principles of administrative law.

The taxpayer pays tax. So he, as a citizen of legal state, has every right to ensure that state officials are held accountable for the use of public funds, efficiently perform their functions and their respective responsibilities.

French principles of administrative law, including procedural rules of public administration, deserve reasonable respect, which indicates that Ukraine, which declared it a democratic, social and legal state, is obliged to adopt a positive experience of the French administrative law.

Overcoming the growing crisis in the Ukrainian economy, the creation of decent conditions of human life, the real protection of the rights of man and society can be implemented at the expense of thorough revision of the Constitution and existing legislation ; basis of these changes shall be the clear definition of roles, responsibilities and accountability of state bodies and officials that represent them

Keywords: *administrative procedure, law institute, institute of administrative procedures.*

UDK 340.11(045)

Y. P. Patsurkivsky

THEORETICAL PROBLEMS OF UNDERSTANDING THE ESSENCE OF THE LEGAL REGIME OF CATEGORY

This article investigates the problem of understanding the concepts of the legal regime in the general theoretical and sectoral sense. Identified by their common and distinctive features. It is concluded that the formation of the legal regime is a special way of legal regulation. Based on the research formulated the concept of the legal regime. Legal regime should be understood as a special order of legal regulation, expressed in a combination of legal resources: permissions, prohibitions, positive prescriptions, which creates the necessary social status and well-defined degree of favorability or not favorable to the interests of legal subjects.

The main features of legal regimes: established in legislation and provided by the state; are designed to specially regulate specific groups of public relations, allocating time and space within certain subjects and objects of law; is a special procedure regulation, which consists of corporate assets (permissions, prohibitions, regulations) and characterized by their special blend; create a well-defined level of favorable or not favorable to meet the interests of individual entities.

The concept of «legal regime» can not be equated with the term «mechanism of legal regulation», which is a system of legal remedies, organized the most consistent way to overcome the obstacles that arise on the way to meet the interests of legal subjects. If the mechanism of regulation - a legal category that shows how the legal regulation, the legal regime - a meaningful description of specific regulatory tools designed to organize a sphere of human activity.

Keywords: *legal regulation, legal regime, sectoral legal regime means of legal regulation, the legal regime of the object.*

UDK 351.810:340

A. L. Petrytskyi

ACTUAL PROBLEMS OF LEGAL SECURITY OF PERSONAL DATA PROTECTION

The article presents the analysis of the legal security of personal data protection. It is claimed that in this area should seek the origins of many organizational problems of the mechanism of protection of personal data, since a successful strategy for information security can not be built on a weak legal framework.

The shortcomings of the Law of Ukraine «On the protection of personal data» are highlighted. The current wording of the Law is characterized as having a large number of defects that significantly reduce the effectiveness of legal regulation in that area. Attention is drawn to a number of conflicting and controversial provisions of the Law, as not including in the range of legal entities, governed by the Law, the state; attributing all, without exception, the types of personal data to undisclosed information and more. Specifies that the legal protection of personal data is characterized by a wide range of content and structural deficiencies that require prompt removal.

The conclusion about the need to update the Law is based on objective trends of the information society, the provisions of international legislation and requirements of legal technique. This also includes the improvement of the legal terminology and harmonization of Law structure, an overview of its provisions in strict logical sequence, given their nature, content and subject areas.

Keywords: *information, privacy, personal data protection, legislative regulation.*

UDK 347.57(477)(045)

S. V. Prylutskyi

CONSTITUTIONALIZATION OF DIRECT PARTICIPATION OF PEOPLE OF UKRAINE DURING REALIZATION OF JUSTICE

The theoretical analysis of constitutional principles of direct participation of people is conducted during realization of justice. The legislative order of organization and activity of court opens up with participation of assessor in a people's court and jury trial. The

walkthrough of regulation of forming of lists of assessor in a people's court and juror. The features of home model of «court of jurors» open up, that is entered in accordance with the new Criminal judicial code of Ukraine (2012). With the introduction of so-called «trial by jury» legislators resorted only to the substitution of concepts. The former «people's assessors» was renamed to «jury» and the nature of the organization and operation of the court remained unchanged.

Drawn conclusion, that a legislator only at terminology level differentiated the forms of direct participation of people during realization of justice depending on industry of rule-making. In the field of criminal trial is a «court of jurors», in the civil justice is a court with participation of people's court and juror. At the same time, neither administrative nor economic judicial proceedings is not foreseen to some from the forms of direct participation of people during realization of justice, that limits constitutional principle of direct democracy substantially.

Keywords: *direct democracy, justice, court of jurors, associated judge.*

UDK 342.5

Z. M. Pustovit

POLITICAL AND LEGAL FACTORS THAT INFLUENCE THE RATIO OF FUNCTIONS OF THE VERKHOVNA RADA OF UKRAINE WITH THE FUNCTIONS OF OTHER SUPREME AUTHORITIES

This article analyzes the political and legal factors that influence the the ratio of functions of the Verkhovna Rada of Ukraine with the functions of other supreme authorities.

It is proved that the basic political and legal factors underlying the the ratio of functions of the Verkhovna Rada of Ukraine with functions of the supreme bodies of public authorities firstly, is the Verkhovna Rada of Ukraine place in the system of government, which is determined that the main purpose - to be the expression of the will of the people by passing laws; popularly elected parliament and its role for the formation of other authorities, etc.; availability the legislature, which is part of sovereignty delegated by the people, representative nature of this body and so on.

Secondly, the Constitution of Ukraine taking into account international experience of democracy, constitutionalism and parliamentarism has identified a fundamental principle of the organization of state power in Ukraine - principle of separation of powers which is independent and the only mechanism of state power which unites all branches of government, defined by the Constitution and laws of Ukraine various functions and powers they realize on the basis of mutual dependence, interdependence and interactions whose common goal is the realization of a single authority in the state.

Thirdly, the main factor that affects the specific the ratio of functions of parliament from other public authorities is a form of state governance which mainly depends on the source of supreme power and order formation of the government.

Keywords: *political and legal factors, the Supreme Council of Ukraine, the Verkhovna Rada of Ukraine functions, the principle of separation of powers, the form of government.*

UDK 343.13(477)

B. M. Svirskyi

DEFINITION OF THE PRINCIPLES OF RESPECT FOR HUMAN DIGNITY IN THE CRIMINAL PROCEDURAL RULES

The article examines scientific concepts of the principles of law and components of the criminal procedure principles that determine that live, health, honor, dignity, immunity, and security are recognized to be the highest social values in Ukraine.

Current legislation does not define the concept of dignity. Traditionally, it understands as ethical category, which means the respect and esteem of the individual, integral and inalienable property rights as the highest value that belongs to him from birth, regardless of how he and nearby people perceive and evaluate its identity. The author gives his definition of dignity. The author determines the concept of personal dignity. It is described as a moral and ethical category which implies respect and self-esteem of a human personality; it is an integral and inalienable personal feature being the highest value that is granted to a person at birth.

A means of protection should be understood as the individual's right to appeal against all forms of actions (inaction) of officials engaged in the proceedings, the right to apply to the courts, state agencies, local governments, non-governmental organizations. According to the Constitution of Ukraine everyone has right to seek protection of their rights to the Authorized of Verkhovna Rada of Ukraine on Human Rights, and after exhausting of all domestic legal remedies to seek protection of their rights and freedoms to the relevant international organizations.

Keywords: *principles of law, criminal procedure principles, human rights and freedoms, life, health, honor, dignity, immunity and safety of a person.*

UDK 341.018

O. G. Turchenko

RESPONSIBILITY OF THE STATE IS FOR THE SECURITY

In the article it is grounded, that consideration of safety through the prism of analysis of its separate elements with next extrapolation on all of the system incorrectly. Accordingly, except for the guided, organizational processes (ideology, strategy, tactic, technologies of safety) a necessity is research and such processes as formation of structures, chaos, order.

Present day problems occurred in international legal relation ships are being discussed the problems arise in the process of formation and development of safety system as well as in law-making and law-implementing activity of the states treated as basic international public law subjects.

The mentioned activity is being realized by the states in the bounds of world society and international organizations in the sphere of safety system creation.

Scientific research is devoted to the methodological problems of responsibility of the state is for the security from positions of systems approach in the conditions of modern European geopolitical transformations, development of new categories, their concordance with the generally accepted constructions, international documents, monitoring of modern calls and threats to national interests, counteractions to the transnational calls – the organized crime, illegal migration, trade by people, terrorism.

Has been analyzed the narrow and wide going is considered near the study of safety, sovereignty, different methods of research of the system of safety.

This article provides an analysis of the different scientific approaches to understanding the category of «national interest», to authentication of categories «interest» and «national interest» as objects of providing safety, the results of which prompted the author's concept of national interests, revealed their essence.

In addition, drawn conclusion about the necessity of consideration of state sovereignty as a measure of responsibility in an internal plan for the peoples and each, for their safety, in an external plan – for international peace and safety.

Keywords: *security, safety, responsibility for security, sovereignty.*

UDK 342.7(477)(045)

Y. S. Khobbi

IMPROVING THE REGULATION OF HUMAN RIGHTS AS A NECESSARY ELEMENT OF THE CONSTITUTIONAL REFORM

In order to better protect human rights in Ukraine, it is proposed to expand the list of rights, freedoms and duties of man and citizen enshrined in Chapter II of the Constitution of Ukraine. This problem is particularly acute in the period of the Constitutional Assembly activity, which aims to develop into the new Constitution.

According to the accepted international classification of documents, human rights are divided into civil, political, economic, social and cultural, recently singled out environmental. There are other options for classification. Around the early 70s received internationally spreading the concept of «three generations» of human rights. The first generation of rights - civil and political rights, the second generation - the socio- economic and cultural rights, and the third - the right «solidarity». Since the end of the twentieth century formed fourth, in some interpretations and fifth generation of human rights, which is associated with scientific discoveries in microbiology, medicine, genetics and so on. For example, the human right to an artificial death (euthanasia), a woman's right to artificial insemination and bearing a child for another family (surrogacy), cultivation of human stem cells from it and so on), which, however, is not unlimited (prohibition human cloning and the establishment of other legal limits).

So the list of rights can include: gender reassignment, organ transplantation, cloning (prohibited), the use of virtual reality, same sex marriage, artificial insemination, euthanasia, child -free family, regardless of the intervention life for religious and moral views; access to the Internet. But these rights are not enshrined in any international convention.

The analysis of existing international instruments on human rights allows us to make proposals for their revision considering expanding the list of human rights and the achievements of science and technology. On the basis of which to make appropriate proposals for amending Chapter of rights, freedoms and duties of man and citizen of the Constitution of Ukraine.

Keywords: *Constitution, Constitutional Assembly, human rights, the generation of human rights, international instruments on human right.*

MODERN PROBLEMS OF LOCAL GOVERNMENT IN UKRAINE

UDK 352(477)

I. A. Ghaliahmetov

PARADIGM OF THE MUNICIPAL LAW OF UKRAINE

The article considers philosophical and legal aspects of understanding of essence of the municipal law, its structure and forms, the reasons and tendencies developments. On pages of article find out the judgment methods of paradigms of the municipal law as scientific phenomenon, its concepts. The factor improving the municipal law take into account for determine its role and place in legal system of Ukraine.

Analysis of the nature of the local (municipal) government suggests that it simultaneously compare two pillars: social and state. It should be emphasized that the existence of the present constitutional division of state and local governments into two separate authorities is under a practical basis.

No confrontation between local government and central government, they work together on the basis of the principle of subsidiary - mutually complementing each other. The Constitution of Ukraine principle of subsidiary enshrined in the rules of art. 7 of the constitutional guarantee of local government. The content of subsidiary is in the process of self-organization and self-regulation of subjects of municipal relations.

Own power structures in local government is local government. Imperious activity in the functioning of local government also carried out a population - residents of the territorial community - directly through a local referendum, local elections, meetings of citizens, the people's law-making local initiative (initiation), bodies of self-organization (BSP), assembly (conference) of citizens, public hearings and public forms of treatment to local governments.

Thus, the system of local government is a manifestation of such forms of direct expression of public authorities that are missing or are associated with the system of power state. And it is the local public administration is a form of manifestation of local (municipal) authorities, and local regulations in turn a function of the local (municipal) administration and resources of the local (municipal) authorities.

Keywords: *paradigm, local self-government, municipal law, objects of science of the municipal law.*

UDK 352(477):351.88.(045)

O. B. Tsiklaury

LEGAL LEGALIZATION OF LOCAL SELF-GOVERNMENT COMPETENCE IN UKRAINE IN THE CROSS-BORDER COOPERATION

The article reveals the state of the current national legal and organizational support for cross-border cooperation in the constitutionally-legal regulation of the status of local communities and local self-government in cross-border cooperation on the basis of the analysis of inter-regional cooperation problems in modern Ukraine.

Attention is drawn that the most relevant in the present conditions of interstate integration turns out to strengthen and expand cross-border cooperation at the local level, the development of promising areas of cross-border cooperation of local and regional authorities and municipalities adjacent to the Ukraine territory.

It is concluded that the proper implementation of internationally-legal obligations to

ensure cross-border cooperation of Ukraine will strengthen European integration processes at regional and local levels.

It is need to pay more attention to involvement of local communities and local self-government in cross-border cooperation as direct and primary economic cooperation.

The absence of legal regulation powers of local communities and local self-government, and state support for the participation of these entities in the process of cross-border cooperation in Ukraine occupies a significant position among the pressing problems of today facing our state and need urgent solutions.

Keywords: *cross-border cooperation, local community, local self-government, Euroregion, interregional cooperation, the competence of local self-government, local democracy.*

CURRENT PROBLEMS OF FINANCIAL, CIVIL AND ECONOMIC LAW AND PROCESS

UDK 349.6:622.349

R. S. Kirin

PROBLEMS OF CODIFICATIONS OF INSTITUTE OF OBJECTS OF MOUNTAIN RELATIONS

Research of problems of legal nature and decision of objective circle of mountain relations for the improvement of structure and maintenance of basic codifications act of mountain legislation are executed in the article, the signs of concept «Realization of mountain business» as stages of mountain activity and object of mountain relations are exposed, the decision of objects of mountain legal relationships is set forth. The analysis of dualistic nature of mining that shows up in differentiation of objects for a legislation about the bowels of the earth as a type of the use by the bowels of the earth and for an economic legislation is executed - as a type of economic activity.

On mountain business, as type of economic activity concerning the use, guard and safety of bowels of the earth - object of right of ownership of the Ukrainian people, on the criterion of maintenance of objects(quality parameter) it is possible to distinguish the group of material welfares, that is presented by next kinds: 1) the natural blessing is the natural objects and natural resources, involved, were involved or can be involved to the processes of mountain business, including the State fund of deposits of minerals; 2) thing and property blessing are things and property in the field of mountain business, including securities, documents and property rights. On the same criterion it is expedient to distinguish the objects of mountain relations of group of the non-material blessing: 1) the intellectual blessing is results, products of mountain intellectual and creative activity; 2) informative blessing is mountain information; 3) personal non-property rights in the field of mountain business. In the group of the active blessing we will distinguish: 1) the productive blessing is services and results in the field of mountain business; 2) organizational blessing: processes and management results by mountain business.

On the criterion of structure of objects (quantitative parameter) we distinguish the groups of the objects of mountain relations integrated, complex and differentiated, on a criterion to the volume of objects (spatial parameter) are general, family and direct objects, on the criterion of vicissitudes of objects (temporal parameter) are objects of mountain relations in the field of organization, realization and stopping of mountain business.

Keywords: *mountain legislation, objects of mountain relations, codification, mountain business, mining, economic activity.*

UDK 340.12:334.735:006.032

H. V. Lavryk

LEGISLATIVE AND NORMATIVE-LAGAL ENSURING OF COOPERATION (COOPERATIVE SYSTEM) DEVELOPMENT ASSISTANCE: INTERNATIONAL AND NATIONAL LEVEL

The article investigates the place and role of international norms and standards in the legislative and normative-legal ensuring procedure of cooperation development supporting, cooperative system functioning of the whole. Very important is the creation of appropriate conditions to satisfy the economic, social and other needs of the cooperative organizations' members, to improve their economic status and further development of cooperative movement at the international and national level.

Legislative and normative-legal ensuring of cooperation (cooperative system) development assistance in Ukraine is closely interrelated with the legislative and normative-legal ensuring of those areas, in which legal relations are regulated by the European Union law. Despite the making and adoption at the national level a number of normative and legal acts, which provisions more or less are related to manufacturing or industrial cooperation of member states of the Commonwealth of Independent States, improvement of legislative and normative-legal ensuring of cooperation (cooperative system) development assistance in Ukraine takes place simultaneously with similar processes in the member states and candidate countries for membership of the European Union. It's about compliance with the requirements of enforcing the approximation to EU norms and standards, which are set to regulate components of cooperative movement, and norms, which regulate the cooperative system as a whole functioning. That approach is a pledge to the making and implementation of well-balanced, aimed at long-term cooperation (cooperative system) development state policy assistance, and also creation and effective use of completed legal construction of the last by making the package of laws as a system of separate normative acts that would codify cooperative legislation by its institutions.

Keywords: *cooperation (cooperative system), legislative and normative-legal ensuring, The Conception of the National Cooperative Movement Development, norms and standards of the EU, approximation to the acquis communautaire.*

UDK 34(3/9)

M. V. Proskurov

CLASSIC OWNERSHIP IN TRADITIONAL ISLAMIC LAW AND DEVELOPMENT OF THE TRADITIONAL SYSTEM OF REGULATION OF THE INSTITUTION OF PROPERTY IN MODERN SOCIETY BY THE EXAMPLE OF THE CIVIL RIGHTS OF EGYPT

The article highlights the development of property rights in Islamic law as an example of legislation in Egypt. Were analyzed normative legal acts regulating ownership: Sharia law and certain other laws of Egypt. Exposed not traditional approach to the regulation of property rights, especially in relation to land.

Traditional Islamic law recognized institution acquiring property ownership based on

the long-term possession by a person who is not the owner of such property. In general, the law provides that if such possession continues for a number of years , usually ten to fifteen, provided that the original owner does not take any action that may have a claim for the return of property in their possession. Although the doctrine is considered the acquisition of ownership over how alien unlawful possession, this approach is similar to the common law, as opposed to the doctrine of acquisitive prescription in the civil law. Such ownership does not automatically lead to the acquisition of property rights, but merely restricts certain actions against the owner of the first person that owns the property at the time of filing the claim. It is also worth to point out the specific approach to prescription Islamic law as part of the diversity status of the property, as this also depends on the format of the entry.

Egypt's civil law is quite complicated and at the same time very interesting to study because it combines with seemingly incompatible things that are not clear to the western doctrine at all, or not regulated similar way to the Western civil law. The main feature of Egyptian law can be called exactly harmonize with the rules of traditional norms borrowed from Western legal systems and methods of their relationship.

Keywords: *property rights, sharia law, Islamic law, the acquisition of ownership*

MODERN TRENDS OF THE DEVELOPMENT OF INTERNATIONAL LAW

UDK 340.5

Y. O. Lvova

INTERNATIONALIZATION OF CONSTITUTIONAL LAW MEMBERS OF THE INTERNATIONAL COMMUNITY: ON THE NATURE AND DEFINITIONS

The article deals with the problem of internationalization of constitutional law of the states-members of the international society. The phenomenon of instituting of the international constitutional law is examined. Also the main modern approaches to defining of global constitutionalism are observed in order to understand modern constitutional law in conditions of globalization.

Specifies that the processes of globalization and integration processes involving the internationalization of capital, production, management, culture, fashion, etc. – have expanded the horizons of international relations and became the basis for the formation of global social cohesion. However, in the current transformation of international relations, where the state must prove its relevance in comparison with other new subjects of international relations (community associations, NGOs, etc.). Remain and are updated to religious distinction and implementation of national sovereignty.

Thus, the international community of states, the question arose as to control, evaluation, supervision and management of the design and construction of new forms of international cooperation. If people learned to manage water flows, why they are able to overcome global challenges and learn to effectively manage the integration process?

These issues have contributed to the evolution of international law-making and much actualized the creation of new constitutional and legal means of managing international relations. Not surprisingly, the legal science in recent years has undergone significant modernization and internationalization celebrated not only separate legal systems, but also some areas of law (environmental, humanitarian, administrative, economic, constitutional, etc.). Transfer of constitutional provisions in international law doctrine was the impetus to

move the international legal system to a new (global) level and stage of its formation and development.

We prove that the problems of implementing effective global political power in democratic principles objectively appeared promising subject for further scientific research. Despite the large differences between the legal systems of the world, has now become clear that lawyers and scholars constitutionalists of the international community and states have put forward similar issues, problems and concerns about the development of constitutional law in the twentieth century.

Thus, the result of the internationalization of constitutional law and the processes of globalization and universalization of rights was the restructuring of public international law, the formation and separation of the field of international constitutional law at the same time with the emergence of the concept of global constitutionalism. The urgency of addressing issues related to the protection of human rights and human values and citizens at the global and supranational level outline the direction for the development of national legal systems in the specified direction.

The author believes that the international constitutional law advocates constitutional and legal basis of modern international law, and constitutional doctrine in the global environment has spawned the emergence of new areas of international global constitutional and global administrative law.

Keywords: *globalization, global constitutionalism, global law, human rights, the constitution and international law.*

UDK 351.74

К. N. Rudoi

ORGANS OF INTERNAL AFFAIRS OF UKRAINE ARE IN THE SYSTEM OF PROVIDING OF INTERNATIONAL SAFETY: CONCEPTUAL ASPECTS

Article is devoted to the conceptual bases on providing of activities of internal affairs in the field of international security. Investigated directions of activities of internal affairs of Ukraine on counteraction to the threats of international security are. The basic international principles of activities of police to provide international security are protection of human rights and freedoms, ensuring legality and observance of legal order. The propositions about the directions of improvement of activity of internal affairs on providing of international security are made.

So, it is proposed to work, including through existing integration associations (BKBOP, ATC, etc.), the issue of establishing a system of special training for law enforcement agencies and special services in the following areas: psychological support for their activities; exchange of practical experience; study of developmental processes particularly dangerous types of crime; development of analytical methods of forecasting using the latest information technology.

It is also necessary to initiate a special research program on strategic research and analysis of prospects for the development of transnational organized crime and inextricably related drug trafficking, extremism and terrorism.

For this purpose, it is advisable to set up an expert group of competent experts of law enforcement agencies and special services of the states - participants of the CIS, whose functions will include the development of techniques to counter particular risk of crime for BKBOP, ATC, etc., as well as for specific countries.

Testing of these techniques can be implemented in special training in departmental universities at regularly scheduled conferences, seminars and meetings of experts.

Advisable to consider the creation of interstate integration association in the field of

police intelligence (by analogy with the International and European working groups on secret police operations) using the capacity of relevant law enforcement agencies and special services of - the CIS member states, including through training and prediction the emergence of new challenges and threats to regional security.

Keywords: *internal affairs, international security, legal order, protection of human rights and freedoms, transnational criminality.*

CURRENT ISSUES OF LAW ENFORCEMENT, CRIMINAL PROCEEDINGS AND FORENSIC SCIENCE

UDK 351.745

R. P. Pozubanov

LEGAL PROVIDING OF OPERATIONAL SEARCH ACTIVITY: ISEXPERIENCE OF COUNTRIES OF EUROPEAN UNION

In the article the legal sources of the European union are analyzed in relation to the observance of rights for citizens during realization the police of European countries of measures, that can temporally limit rights for citizens, and also introductions of European experience in activity of law enforcement authorities of Ukraine. The article considers the theoretical principles of investigation law as an independent law branch. A new classification of investigation law principles has been offered, the essence and content of procuracy supervision as a condition to observance of law under investigation activity has been considered. Identification and securing the new principles of investigation law will contribute in improving the activity of operational subdivisions.

The European experience of police shows that a necessary condition for an effective fight against organized crime is the creation of independent, separate from other law enforcement agencies, specialized units directly subordinate to the highest political leadership of the state, to enhance their capacity and enabling legislation. So the police in European countries during the operational activities aimed at identifying and documenting evidence at various stages (including preparation and attempt) and their sources in the interests of criminal justice recognized its components.

Due to the fact that in a direct contact with crime effectively solve tasks is possible only in strictly regulated by law form is extremely difficult, preventive legislation in those countries and Operational Activities police regulate fairly flexible. So at the level of the Constitution of the country is determined what the police should not do in order not to violate the constitutional rights of citizens. In some other laws, however, set a specific list of search operations and assets belonging to the powers of the police. In addition, the case- law rules (whether of the generalized jurisprudence), defines the general terms of operative- investigative prevention and suppression of crime. Some questions about the organization and tactics of police in the investigated direction, depending on the type of search operations and the nature of its intervention in the relevant human rights diligently and promptly regulated at the departmental level, such a flexible approach to the timely departmental and interdepartmental regulatory control of operational activities could be introduced in Ukraine.

Key words: *legal providing, operational search activity, law enforcement authorities.*

UDK 351.74

D. S. Savochkin, V. G. Petrycheko

SYSTEMATIZATION OF THE PRINCIPLES OF THE EXECUTION OF SPECIAL OPERATIONS BY THE LAW ENFORCEMENT

The article analyzes the principles of execution of special operations which are closely connected with the analysis of social guidance principles and laws, regular occurrences of society functioning in emergency situations. It has been stated that the process of democratization that occurs in society, and intention of our state to reach a level of civilized country that would meet European standards, lead to reconsideration of the entire activity of law enforcement in emergency situations.

The principles of special operation determine requirements to its structure, organization and process of implementation, the directions and limits of its execution. Characterizing a particular principle, it is necessary to consider its interconnection with another principles, such as special operations as well as social government and dependence on them.

After systematization it has been concluded that the principles of special operation must: have legal registration, that is to be set out in the regulations, as far as each of them is used to execute definite organizational-legal, organizational - managerial, and organizational-tactical tasks; consistent with the objectives of the special operations realization and show definite connections between them, be based on social legal relations, arising during realization of special operation; to provide civilized and legal conduct of the special operation and consider its time and territorial aspects.

Keywords: *law enforcement bodies, emergency situations, principles, special operations, service and military activity.*

TRIBUNE OF YOUNG SCIENTIST

UDK 342(477):341(045)

M. A. Abdalkazym

RELATIONSHIP OF THE NATIONAL CONSTITUTIONAL AND INTERNATIONAL LAW: TOWARDS UNDERSTANDING OF DOCTRINAL-THEORETICAL APPROACH

The article deals with doctrinally and theoretical approaches to understanding the value of national constitutional and international law. The author shows that:

- The adoption of the new Constitution of Ukraine in 1996 significantly increased interest in issues of cooperation of national constitutional law of our state of international law - in fact, the development of appropriate state and legal mechanism to provide and support such interaction, then observed, was due to: a) objective complication content and growth of international obligations of Ukraine as an independent state (factor sovereignty of the state. - Ed.); b) the objective necessity of the formation and improvement of constitutional and legal regulation of the implementation of international law in the domestic legal array (factor of openness of the national legal perception of international law. - Ed.); c) the need to take account of the specific interaction of the international law of the different branches of

national law (factor grooves synergistic interaction of the national legal systems of international law. - Ed.);

- In general methodological and ontological aspects of the relationship and interaction problems of national law with international Ukraine is just as integral part of the doctrinally – theoretical and praxeological problem – the relationship and interaction between international and domestic (national) law;

- The interaction of international and domestic law is one of the urgent problems of not only international law but also by the legal system – in fact, it is essential for the survival, function and transformation of the national legal system in the context of globalization, as well as a powerful argument for international law giving new opportunities to interact with its main actors – as independent states and international organizations established by them for the establishment of an international global cooperation;

- In the context of globalization vast majority of supporters of the theory of monism of the opinion of the rule (primacy) of international law over domestic. Moreover, proponents of radical monism (austrian-american scientist G. Kelzen) out of the existence of one legal system with hierarchical parade – «higher law and order» (international law) and «subordinate» national law;

- Representatives of the doctrine of international law have different definitions interconnection, interdependence of international and national law – in the category of «interaction», «value» through the equal sign between «interaction» and «ratio» of international and domestic law and through the coordination of the above systems of law. The most productive of the definition seems relevant international and domestic law through the category of «interaction»;

- A comprehensive linguistic analysis of the term «software» in ensuring the interaction of international and national law, shows his multifaceted ontological, content-etymological, axiological, epistemological, teleological, functional and praxeological characteristics and direction that actually affected the significance of this category of legal science.

Keywords: *globalization, national constitutional law, public international law, cooperation of national constitutional and international law, the ratio of national constitutional and international law.*

UDK 323(560)(045)

E. R. Akhmedova

TURKEY AS POTENTIAL SUBJECTS OF FUTURE MIGRATION IN THE EUROPEAN UNION OR A SHELTER FOR MIGRANTS

The article discusses, examines and researches the status of Turkey as a possible potential source of migration for EU countries or migrants excepting country.

It is proved that in the process of resolving the issue of acquisition of Turkish membership in the European Union this state there is a number of important questions of the nature of the problem affecting migration policy.

The author argues that on the one hand, positive changes in the economy, social and political spheres indicate that Turkey has become a country that itself takes immigrants and gives political asylum. Moreover, its citizens prefer to stay in their own country than to move to a different feeling in itself an economic, political and ambient pressure. On the other hand, the results of some studies suggest that all candidate countries for accession to the EU, the highest overall immigrating belonging to Turkey at 6,2 % of the region's population. Some sources include, in this case the net annual flow of migrants from Turkey to the EU of 35 000 people. These factors generates a concern about a possible slowdown or suspension of the process of Turkey's accession to the EU.

The article states that migration is very relevant to EU policies, which have been taken many steps to develop general policies in areas such as: organizing legal migration, fight against illegal migration, strengthening of external borders, a system of protection throughout the EU and the creation of global Partnership on Migration and Development.

The main provisions of EU policies remain in place and continue his actions and control them. But at the same time, given the aging of the EU population may be needed workers working age to support the social security system. It is clear that Turkey's accession to the EU and its young population could partly solve this problem and to remain competitive throughout the EU.

The author supports the doctrinal position that in the case of EU accession, a movement of people from Turkey to the EU will have a place, but far more important in this process to understand the demographic and economic development resulting from this process than what would be the volume of migration flows. More importantly, to understand the dynamics that lead to similar results, but do not do too simplistic observation attributing the problem to the question of religion, or «genetics» of citizens of the Turkish Republic.

Keywords: *migration, migration policy, economic migrants, migration flows, European Union.*

UDK 342.821(477)

S. M. Martselyak

THE PRINCIPLE OF EQUAL SUFFRAGE IN THE ELECTION OF PEOPLE'S DEPUTIES OF UKRAINE

One of the basic principles of parliamentary elections in Ukraine at the level of general principles, direct and free elections is the principle of equal suffrage, which is a manifestation of the constitutional principle of equality and civil rights. This principle corresponds to the greatest extent in modern democratic nature of elections Institute, ensuring equal participation of voters in the formation of the state parliament. Reality also equal suffrage in the election of deputies of Ukraine requires a detailed legislative consolidation of the principles taking into account international practices and ensures compliance with its direct parliamentary elections. Issues relevant entity principles of equal suffrage in the election of people's deputies of Ukraine.

The principle of equal suffrage states that citizens of Ukraine who have the right to vote, have equal opportunities for their realization and participate in elections on an equal footing, they are guaranteed the same forms, methods and means of protection violation subjective active and passive suffrage.

The analysis of theoretical positions and ideas, norms of electoral legislation regarding the nature and content of the principle of equal suffrage in the election of people's deputies of Ukraine is made; also it was determined its advantages and problems of providing, as well as substantiated priority directions of ensure equal voting rights in parliamentary elections.

Keywords: *principles of elections, voters, equal suffrage, electoral process, people's deputies of Ukraine.*

UDK 343.23(477)"13/16"(045)

O. V. Patlachuk

HISTORIOGRAPHY RESEARCH INSTITUTE OF OFFENSE IN LAW OF THE GRAND DUCHY OF LITHUANIA

The problems of the state, law, and social life of the Grand Duchy of Lithuania were investigated for nearly two centuries. Enough to fully reconstructed the history of the principality, its social and political system. Ongoing the study of the Lithuanian- Russian law. However, not all institutions of law of the Grand Duchy of Lithuania are quite studied by scientists. Above fully applies Institute crime. There are no comprehensive studies of the crimes discussed in the various courts of the Grand Duchy of Lithuania, not the evolution of crime in the Institute of Lithuanian-Ruthenium state, not set the differences that existed between the written law rules and those rules are applied in law enforcement.

Describing the institute of crime in the Lithuanian-Ruthenium state indicates that the training on the severity of the crime reflected exacerbation of property relations. Classifying of crime was pure class character and hardening sanctions ties with the Polish influence.

Keywords: *crime, law, statute, Institute of offense, the court, the history, process, state, legacy code.*

UDK 340.114 (477.6) „1925/30”

G. O. Popova

MAIN DIRECTIONS AND FORMS OF FUNCTIONING OF JUDICIAL AUTHORITIES OF DONBASS OF THE PERIOD OF THE 1925–1930TH YEARS

In article specifics of activity of judicial authorities of Donbas during 1925–1930 are considered. The considerable attention is paid to the main tendencies, the directions and forms of functioning of vessels, prosecutor's offices, legal profession and other judicial authorities of this region during the specified period. It is noted that the role of judicial authorities was reduced usually to function of the repressive mechanism. And their social legal status corresponded to the special status of official government retaliatory and repressive body. The Soviet courts all more turned from independent law enforcement agency completely we depend on the power the mechanism of implementation of its decisions and installations. The prosecutor's office, in turn, carried out function of special supervising instance practically over all law-enforcement structures, including legal agencies. It is also noted that one of the main objectives which were assigned during the period of 1925–1930 to judicial authorities of Donbas, as well as a whole in the Soviet Union, consisted in comprehensive upholding of interests of the party government. Thus, quite mediocre part of a peculiar mechanism of execution and an embodiment in life of installations of communist party was assigned to judicial authorities.

Keywords: *judicial authorities, court, prosecutor's office, legal profession, law enforcement agencies.*

UDK 342.951

B. P. Chobitok

MILITARY SECURITY OF THE STATE IN DOCTRINE OF NATIONAL SECURITY

In article relevant aspects of formation and implementation of state policy in sphere of prevention and reaction to emergency of military nature are analyzed. Proved that theoretical and practical interest in legal issues of military security associated with the political, social, economic transformations taking place in area of national security of a state. So, driven by the need for a comprehensive, integrated, using modern methods of learning, taking into account the latest advances jurisprudence study of patterns of formation and development of the Military Doctrine of Ukraine, identify ways of improving it.

Established that current Military Doctrine of Ukraine is the leading system of views on causes, nature and character of modern military conflicts, principles and ways of preventing its, preparing state for possible armed conflict, as well as use of military force to protect state sovereignty, territorial integrity and other vital national interests.

The basic provisions of the military doctrine of Ukraine and some countries of the former Soviet Union (Russian Federation, Republic of Kazakhstan, Republic of Belarus, Republic of Moldova, Republic of Uzbekistan), which is the basis for the preparation and adoption of military-political and military-strategic decisions, developing policies and programs in the military field. It is emphasized that the main idea of the military doctrine of any country – strengthening its defensive nature and definition of officially accepted views on military construction, training and employment of the Armed Forces and other military formations for armed defense of national interests in this area. The implementation of military doctrines should be achieved through complex political, economic, social, military, informational, legal and other measures to ensuring the military security and defense. These doctrines should be the basis for preparation and adoption of military-political and military-strategic decisions, developing programs in military spheres.

Keywords: *military security, military doctrine, state policy, emergency, national security, improvement.*

UDK 341.17(4):352(045)

D. S. Shupik

ROLE OF EUROPEAN STANDARDS IN THE COURSE OF MUNICIPAL LAW ENFORCEMENT' CONSTITUTIONALIZATION

The article investigates the phenomenon of constitutionalization of municipal law and order, and the role of international standards in implementation of constitutionalization. The author examines the concept of constitutionalization, finds its basic features. The author distinguishes the overall direction of the process of constitutionalization of municipal law and defines the role of the European standards of local democracy in the implementation of these processes.

Constitutionalization of municipal law is considered as the process of fixing the rules of municipal law in the national Constitution, the process of detailing the constitutional norms, and the process of bringing the entire national system of sources of community law in accordance with the Constitution and the process of influence municipal legal norms of the constitutions of the States which entering into international legal relations on the formation of the system of international law and international standards of local self-government.

The result of the research is the presentation of the author's position regarding the

definition of the process of constitutionalization of municipal law. The author distinguishes several of the factors influence international legal standards on this process.

Key words: *constitutionalization, international standards of local self-government, constitutionalization of municipal law,; constitutional legalization.*

UDK 341.461:ЄС

O. M. Kalinina

PROSPECTS FOR TRANSBOUNDARY MOVEMENT OF COMPANIES IN THE EUROPEAN UNION IN VIEW OF RECENT LEGAL CHANGES

The article deals with the possibility of cross-border movement of companies and firms within the European Union for the implementation of freedom of establishment and economic activity. It turns to prospects for improving the European Union company law in the regulation of cross-border activities of companies with the latest legal developments and trends and with the aim to create the best general conditions for the companies throughout the EU.

In particular, it is a decision the Court of the European Union on the interpretation of freedom of establishment and cross-border activities of companies in the case of Vale from 12 July 2012. The case involved cross-border conversion company, regulated by Italian law to a company governed by Hungarian law. This case brings new prospects for companies looking to move their business to another country of the EU.

The Court of Justice concluded that the domestic legislation allows domestic companies to turn into another legal form , but does not allow such transformations to companies governed by the law of other Member States is indeed subject to Articles 49 and 54 DFYES. In addition, the Court of Justice held that: «(...) Articles 49 and 54 must be interpreted as DFYES obstacle national legislation that allows companies established under national law, convert, but you can not, in a general sense , the companies that are subject to law of other Member States, to turn into a company governed by this national legislation by introducing appropriate organizational and legal form of the company ».

In other words, the host Member State is not entitled to refuse the company of another Member State, in its quest to become the company of the receiving State, if the laws of that Member State provide for the conversion process. Still, countless questions remain unanswered, because now there is a need to implement relevant rules for their better implementation.

Keywords: *Corporate Law, the European Union, corporate mobility, Member States, cross-border activities of companies, freedom of establishment, the Court of Justice decision, merger, companies and firms, central administration, registered office, cross-border transformation.*

UDK 347.961.4(477+470)(045)

O. B. Olshanetskaya

THE NOTARIAL CERTIFICATE OF TRANSACTIONS WITH IMMOVABLE PROPERTY UNDER THE UKRAINIAN AND RUSSIAN LAWS

Conducted comparative analysis of the regulation of notarization of transactions with immovable property under the laws of Ukraine and the Russian Federation. Peculiarities and distinctive features of legal regulation of the activity of notary certification regarding

property deals in Ukraine and in Russia.

The author believes that the reform of notary institute in Ukraine compared with the Russian analogue is more efficient, and primarily aimed at facilitating the transfer of ownership of real estate in order to intensify economic and civil turnover of real estate. Mandatory notarization of real estate transactions and access to the appropriate registry notary eventually led him to concentrate control functions, which is a direct incarnation of the powers delegated by the State in the field of rule of law and protection of human participants in relations which are the subject of property rights. However, it should be noted that the Law of Ukraine «On Notary» as fundamentals of Russian legislation on notaries do not contain an exhaustive list of transactions, including real estate transactions subject to mandatory notarization. Considered it desirable to supplement the relevant regulations in this list, which will increase the degree of state control over the real estate market.

Keywords: *real estate transactions, notary, notarial certificate, ownership.*

UDK 327(4/9):004.738.5

O. M. Gavrylyuk

INFORMATION WAR AS MEANS TO ACHIEVE THE GOALS OF INFORMATION POLICY

The problem of information warfare in the context of the objectives of national information policy at the present stage of development is studied. An attempt to analyze the sources of information warfare, its causes and consequences is made. Much attention is paid to the manipulation of information to meet the objectives of the state. It is shown that origins of information war as technology evolved and was first used by the USA. It is proved that the implementation of information operations by the Russian organization requires immediate opposition from the Ukrainian state as an expression of the interests of the sovereignty and integrity of the Ukrainian society.

Keywords: *information policy, information warfare, government, media, political and communicative space, the USA, Ukraine, Russia.*

UDK 342

O. O. Yuschenko

CONSTITUTIONAL AND LEGAL PRINCIPLES OF A NATIONAL DISCUSSION AS A FORM OF THE PARTICIPATION OF CITIZENS IN THE LEGISLATIVE PROCESS OF UKRAINE

This article is devoted to a national discussion as one of the main recommendatory forms of the participation of citizens in the legislative process of Ukraine.

The author has analyzed the provisions of the legislation, which regulate the procedure of organization and holding a national discussion and given the practice of conducting national discussions in Ukraine, has formulated proposals which might be implemented in a new act on national discussion.

The implementation of author's ideas in the legislation of Ukraine would ensure improving the level of the involvement of citizens in the legislative process in the framework of national discussion.

Keywords: *national discussion, participation of citizens in the legislative process of Ukraine, forms of the participation of citizens in the legislative process of Ukraine.*

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