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CONTENTS

THE EDITOR IN CHEIF OF THE SERIES' COLUMN

CONTEMPORARY ISSUES OF THEORY AND HISTORY OF STATE AND LAW

KEY ASPECTS OF CONSTITUTIONAL AND ADMINISTRATIVE LAW

MODERN PROBLEMS OF LOCAL GOVERNMENT IN UKRAINE

CURRENT PROBLEMS OF FINANCIAL, CIVIL AND ECONOMIC LAW AND PROCESS

MODERN TRENDS OF THE DEVELOPMENT OF INTERNATIONAL LAW

CURRENT ISSUES OF LAW ENFORCEMENT, CRIMINAL PROCEEDINGS AND FORENSIC SCIENCE

TRIBUNE OF YOUNG SCIENTIST

THE EDITOR IN CHEIF OF THE SERIES' COLUMN

UDK 342.413(477)(045)

M. O. Baimuratov

THEORETICAL ASPECTS OF CONSTITUTIONAL AND LEGAL SUPPORT OF FOREIGN POLITICAL ACTIVITY OF STATE UNDER GLOBALIZATION AND EUROPEAN INTEGRATION

The article deals with the problems of constitutional and legal support of foreign policy of the state in the context of globalization and European integration interstate.

It is claimed that the success of Ukraine's foreign policy in the international arena depends on the formation of good, competent, adequate mechanism for decision-making in the field of foreign relations of the state and increase its efficiency - that it has important political and practical importance for the stable functioning of a democratic legal state and acts as an urgent problem that requires a doctrinal study and praxeological decision;

The author argues that the intensification of integration processes in international affairs, broadening and deepening of Ukraine's international relations at the international level by the international community, as well as deeper integration of Ukraine in international politics, economics and other areas of the integration of interstate cooperation, in particular within the European Union - especially after the signing and ratification by Ukraine Association Agreement with the EU - is an urgent need to improve the mechanism of coordination of the activities of state bodies and officials who have the power in foreign policy and international relations;

Proved that foreign policy is important to the functioning of the state mechanism, of which largely depends on the welfare of society as a whole and its individuals - in the ontological aspect of integration processes in the life of the international community against the backdrop of globalization of economic, political and legal order, make an increasing impact on many aspects of the inner life of modern states, and as a consequence, the results of foreign policy indicated rather more than less, in all areas of existence and functioning of society and the state - thus raises constitutional significance is foreign policy of the state and its appropriate constitutional, legislative and regulatory support

Keywords: *globalization, foreign policy, foreign policy process, constitutional and legal support.*

CONTEMPORARY ISSUES OF THEORY AND THE HISTORY OF GOVERNMENT AND LAWS

UDK 340.125

V. V. Gorlenko

HISTORY OF PHILOSOPHICAL-LAGAL DOCTRINES OF CIVIL SOCIETY

In Ukraine today is the formation of civil society. Therefore, there is a need to develop and fixation in the state program of development of a society. It is to form a complete and comprehensive state program is required when it developed to take into account the historical experience of philosophical and legal doctrines of civil society. Thus, the study of the history of philosophical and legal doctrines of civil society is important.

Ancient period or Age of antiquity lay foundations of the concept of civil society. For the first time used the term «civil society». Man, according to the philosophers mentioned period, is inextricably linked to the state, but the will of man is one of the preconditions for the existence and proper functioning of the state. A special place is occupied by the idea of the divine origin of society and the state.

A common characteristic of the Middle Ages ideas for the advantage of the religious element. Christianity is the basis for philosophical and legal thought. Jurisdiction of the Christian Church extends to all cases in both private and state-owned. The basis of social construction is God, after which followed a secular state governor (Emperor, rabbits, Prince) and spiritual leader (patriarch, Pope, metropolitan). Church considerably strengthening its position both economically and politically.

During the Renaissance to the forefront the idea of freedom and happiness of the human person, unlike the Middle Ages where the main remained the state and the church. Human dignity begins to occupy a leading position in scientific discussions. Although the state for the thinkers of this period is the key to peace, which is able to overcome the chaos of the Middle Ages.

During the Enlightenment are the further development of the idea of a fair organization of the state and the natural equality of men as were laid by the Renaissance period. Is developing and becoming theory of natural law, are valued principles that dictated the public mind, carried criticism of the church and theological ideas.

A new period characterized by pluralism. In philosophical and legal thought emerging new theory of state and law, including on the concept of civil society.

Ukrainian state since 1991 headed for active democratization of society and system of government. For this reason the development, formation, establishment and government influence on the development of civil society are more relevant than ever.

The article gives a general description of the historical development of philosophical and legal doctrines of civil society. The author infers that for the formation of civil society in Ukraine it is necessary to take into account scientific developments scholars of previous centuries. However, international experience it is advisable to adapt to Ukrainian reality, taking into account the legal traditions of the Ukrainian people.

Keywords: *doctrines, government program, civil society, law, legislation, philosophy of law.*

UDK 340.125

S. S. Kravchenko

PHILOSOPHICAL AND LEGAL APPREHENSION OF PRINCIPLES AND FORMS OF IMPLEMENTING PLURALISM: THE EXAMPLE OF THE UNITED STATES OF AMERICA

American philosophy of law in the XX century deals with most problematic issues in human rights. In the first place, these are women rights and rights of national minorities. In this connection, new philosophical movements appear, with their own interpretation of philosophy of pluralism within the pragmatic context. Among the most well-known of these movements, there were the feminist movements and the critical race theory. The philosophical heritage of the said movements is very important for development of legal systems in Ukraine and other European countries, as there are numerous discussions as to legal groundwork for ensuring and protecting rights of people from various strata of society. The problem becomes especially relevant when performing constitutional and judicial reforms.

Gradually, the American society developed a feeling of the growing injustice in practices of legal decision-making concerning certain groups of population. The thesis of American laws applied and interpreted in the course of delivery of justice more and more in favor of dominating government agencies instead of precedents and principle-based requirements, was now viewed in a different way. Events and the nature of life and legal experience have been ignored before in regard to repressed groups of population, in particular all kinds of minorities and women, and now has become the subject of public attention. Analysis and discussion of issues related to this general problematics have become of much legal value.

Requirements of both feminism and racial protests are directly opposed to the idea that one person or group has the right to impose their understanding of reality onto other people. This issue is of high priority in the U.S. public debate. Over the last 20 years the U.S. Congress and public forums held debates regarding «positive action» or «priority of minorities». No one would doubt nor deny that from the XVII to the XX century, Native Americans and African Americans were subject to most violent oppression within unjust legal standards of the dominant white culture. The agenda is now focused on the question of what legal instrument should be designed to fix the former injustice. In the debate on reparations, which resumed in the recent years, it was emphasized that in America there is a tradition of compensating damage to those who underwent a significant adverse impact as a result of brutal acts of violence, such as the recent payment of federal funds to the victims of 9/11. Yet these are one-time examples of restoration of social justice. The demands of new legal movements motivate the need to adopt and enforce laws that would set institutionally and systematically the legal and social equality of all members of society without exception. The heated topical discussions indicate that the situation is far from being solved in the positive way by now.

Philosophers and lawyers, acting within the philosophy of feminism, base their research on pragmatic ideas by Jane Addams who has worked over 20 years with famous philosophers of law, John Dewy and G. Mid and actively participated in discussions on women's rights. The pragmatic turn in feminist movement was due to the fact that the ideas of pragmatism are a kind of the opposite to the dominant forms of traditional legal reasoning, the abuse of which contributed to unjust treatment and pressure exerted on marginal and disadvantaged strata of society, including preservation of legitimately justified restrictions on the rights of women and minorities of various types. Especially popular was the postulate of the inextricable link between theory and its practical implications of responsibility for them in reality, given the inevitable and often unpredictable changes in the social and political situation. Within the context of this postulate, social reality was perceived in terms of pluralistic variability,

plasticity and capacity for positive change through human activity and intelligence. Feminists, as well as CRT, based their theory on deconstruction, i.e. rethinking the basic concepts of notions, not just on a superficial interpretation of their verbal expressions.

Historically, the American feminist movement in the context of criticism of the legal system is divided into three periods, or waves, each characterized by a particular legal idea. The first wave dated to the beginning of the XX century and including not only American, but also European public, struggled for the rights of women to participate in electoral campaigns and achieved this goal.

In this article the author gives a general characteristic to philosophical and legal views of the feminist movement and the critical race theory movement. The author concludes that the principle for implementation of legal pluralism must be obligatory consideration of interests of all strata of society in the course of law-making activities. Therefore, we can see that in the early XX century and in the middle of the XX century philosophical and legal understanding of the principles and forms of implementing pluralism were considered by philosophical movements in the context of two directions: 1. Protection of women's rights; 2. Protection of national minorities' rights. The basic postulate aimed at practical implementation of the principle of legal pluralism is consideration of rights and interests of all groups in creation of laws and regulations to prevent them from having discriminatory norms. This position must be taken into account in the course of legislative activity both in Ukraine and in other European countries.

Keywords: *Law-making, national minorities, pluralism, pragmatism, feminism, philosophy of law.*

KEY ASPECTS OF CONSTITUTIONAL AND ADMINISTRATIVE LAW

UDK 342.724

D. Achymovych

THEORETICAL AND METHODOLOGICAL ASPECTS OF THE DEFINITION OF «NATIONAL MINORITY» IN THE CONSTITUTIONAL LAW DOCTRINE

The article investigates the conceptual aspects of the definition of «national minority» in the science of constitutional law.

It is alleged that in modern constitutions reflected some conceptual approaches to the subject composition of national minorities requires their comprehensive review and scientific analysis in terms of contemporary processes of European integration in interstate implementation of universally accepted standards, principles and norms of human rights, citizen and social groups.

The analysis found that conceptually and methodologically constitutional and legal status of national minorities in modern states is based on the dialectical unity of ethnic and political discourses that collectively make it possible to allocate national minorities as special subjects of constitutional relations and as object of the constitutional regulation.

Keywords: *national minorities, constitutional law, constitutional law doctrine, constitutional status, human and civil rights, European integration.*

UDK 342.95

D. O. Bakay

REGARDING THE FORM OF STATE CONTROL OIL AND GAS SECTOR UKRAINE

The article is devoted to the consideration of forms of state control in the oil and gas sector of Ukraine as an external manifestation of the contents of the control activities of national authorities in their specific control actions. They are caused by the powers as are prescribed by the Constitution of Ukraine, laws that determine the order control activity and its legal consequences. Forms of state control in the oil and gas sector is a test, inspection, audit, monitoring, inspection and licensing.

Choosing forms of control occurs within the outlined its powers or expressly provided in the law.

The most common form of state control is a check. They have their own characteristics and variations and effect of this form of control is required a solution that takes a body of state control.

Scheduled inspections conducted by bodies of state control in accordance with the annual plan audits. Unscheduled - based on the appeal (statement, complaint) from citizen, legal person on the realization of low-quality petroleum products.

Inspection is an important form of state control in the oil and gas sector. It is characterized by operational efficiency of the inspector's action, their sufficient powers to quickly and effectively eliminate shortcomings and achieve positive results.

Revision is the form of control over financial and economic activity of enterprises, institutions, organizations in the oil and gas sector of Ukraine, compliance with the legislation on financial issues, reliability of accounting and reporting method of exposing shortages , embezzlement, theft and appropriated funds and property, prevent financial abuse of surveillance which provides a general introduction to the activities of the audited entity to provide information needed to assess his condition.

Observations relating to control measures as the results it did not apply sanctions to the audited entity.

Supervision belongs to preventive control measures because the influence measures are not applied by results of its carrying out to under control subjects.

***Keywords**: form of state control; test; inspection; revision; observation; examination; licensing.*

UDK 342.7(477)+342.72/73(438)(043.5)

S. V. Banakh

PRINCIPLES OF REALIZATION OF THE OMBUDSMAN FUNCTIONS IN FOREIGN COUNTRIES: A COMPARATIVE ANALYSIS

Aim and vision is: to provide an independent, high quality complaint handling service that rights individual wrongs, drives improvements in public service and informs public policy. Independence: In the exercise of her/his duties, an ombudsman is independent in structure and function. Ombudsman are open, honest and straightforward in all our dealings, and use time, money and resources effectively: he are consistent and transparent in our actions and decisions; he take responsibility for our actions and hold ourselves accountable for all that we do; he treat people fairly.

Ombudsman Principles: Neutrality and Impartiality: An ombudsman is a designated neutral and does not take the side of any party in a conflict. An ombudsman does not make

decisions, create or change policies or mandate actions. An ombudsman reviews each situation objectively and treats all parties equally. Confidentiality: An ombudsman does not keep records for any party. She/he does not disclose information about individual cases or visits from employees without permission from the employee and cannot be compelled to testify about concerns brought to her/his attention. (The only exceptions, at the sole discretion of an ombudsman, are when there is imminent threat of serious harm.) Informality: An ombudsman, as an informal resource, does not participate in any formal adjudicative or administrative procedure relating to concerns brought to his/her attention.

Keywords: *human rights, Ombudsman, function ombudsman, Ombudsman Principles, neutrality and impartiality, confidentiality, informality.*

UDK 341.174 (045)

I. O. Hosha

IMPACT OF GLOBALIZATION ON THE DEVELOPMENT OF CONSTITUTIONAL LAW IN THE CONTEXT OF ENSURING THE EUROPEAN LEGAL STANDARDS

The article examines the impact of globalization on the development of constitutional law in the context of ensuring the European legal standards in the modern conditions of European interstate integration.

It is proved that the development of modern Ukraine is entirely in the spirit of globalization, one consequence of which is collaboration with the European Union, which in turn requires unquestioning conditions as the work on harmonization of legislation.

Exploring the nature of the processes of interaction of legal systems suggests that the legal system detects the quality of adaptive systems, that are capable of changing the parameters of its operation, until the changes in the structure, in order to maintain the capacity of its operation and attained an adequate level of functioning.

The harmonization and unification are the main manifestations of tools and manifestation of globalization processes in law. According to the author, this refers to the corresponding trend that manifest at all levels of modern law. Globalization is thus presented as a complex diverse phenomenon, which has the character of trends that has an impact on various aspects of human activity. Beginning in the economic sphere, globalization was given appears in the field of law, gradually expanding its effect from private law to public law.

An additional push that to some extent increased the effects of globalization, especially in the public law sphere, was the establishment of local and global international organizations, and the emergence of standards in the law - first at the level of principles, and then separate rules.

It is concluded that the effects or results of harmonization is to bring the legal system into line with each other, no inconsistencies between the rules of law, and therefore, adequate functioning of legal systems in view of the changes in the harmonization.

Keywords: *globalization, constitutional law, European Union, European legal standards, harmonization, implementation.*

UDK 342.9

N. L. Guberskaya

THE ESSENCE AND STRUCTURE OF ADMINISTRATIVE PROCEDURE

The content of the notion «stages of administrative procedure» is reveal. The analysis of structure of administrative procedure is performed. The basic elements of structure of

administrative procedure are determined. There are stages and individual actions, the implementation of which is determined by the logic of the administrative and procedural activities. These elements define the structure and sequence of performing actions when dealing with specific administrative affairs. The most common stages to all types of administrative procedures should include: the opening stage of the administrative proceedings; pending administrative proceedings; stage revision of the administrative proceedings; stage of implementation of the decision.

Keywords: *administrative procedure, stages of administrative procedure, steps of administrative procedure, administrative-procedural activities.*

UDK 342.571

O. S. Lotyuk

CONSTITUTIONAL PRINCIPLES OF INTERACTION BETWEEN CIVIL SOCIETY AND ITS INSTITUTIONS WITH THE STATE

The main types of principles enshrined in the constitutional law of Ukraine governing principles of interaction between civil society and the state. The models where civil society are: a) the partners; b) the antipodes; c) exist in parallel, with minimal interaction with each other. Grounded most appropriate for the development of civil society in Ukraine pattern of interaction with the state, namely, promoting the development of the state of civil society and its institutions.

Keywords: *civil society, the state, civil society, constitutional principles, forms of cooperation between civil society and the state.*

UDK 343.163

N. S. Naulik

GENESIS OF PROSECUTION IN UKRAINE INSTITUTE OF HUMAN RIGHTS AND FREEDOMS, THE INTERESTS OF SOCIETY AND THE STATE

The article investigates the formation and development of the Institute of Prosecution of Ukraine from ancient to modern times in the protection human rights and freedoms, the interests of society and the state.

The approaches of various scholars on the stages of establishing the institute Prosecution in Ukraine, as well as the author proposed to identify the main eight stage of the genesis of prosecution in Ukraine.

Detailed analysis of each stage, and the influence of various factors on the further development of public prosecution in the protection human rights and freedoms, the interests of society and the state.

This article highlights the historical development of Prosecution of Ukraine, and the influence of the stages of development of the state, the existence of the state as such, form of government and present government regime in Ukraine.

The author identifies the need to consider the historical experience of formation and development of public prosecution in the protection human rights and freedoms, the interests of society and the state, for further effective development of this institution.

Keywords*: genesis, prosecution, system of protection human rights and freedoms, interest of society and the state.*

UDK 342.715-054.73(477)

A. P. Ogurtsov

LEGISLATIVE PROVIDING OF PREVENTION AND REDUCTION OF CASES OF STATELESSNESS OF REFUGEES IN UKRAINE

The article makes the analysis of the legislation of Ukraine directed on prevention and reduction of cases of statelessness of refugees as well as provides suggestions on its improvement.

With liberalization of the migratory legislation of Ukraine the number of foreign citizens and stateless persons, whose considerable part was formed by refugees arriving to its territory, has sharply increased. One of those effective measures to ensure the integration of refugees in the host country is their acquisition of nationality.

Some of the refugees who arrived in Ukraine were qualified in international law as stateless persons de jure, others as were qualified as stateless persons de facto.

For Ukraine the problem of legislative providing of prevention and reduction of cases of statelessness of refugees arose after its declaration of independence and it still remains pressing. However, it is not paid enough attention to the research of legislative providing of prevention and reduction of statelessness of refugees, so the main objective of this article is implementation of the analysis of those legislative measures undertaken in Ukraine to resolve the specified problem.

The law of Ukraine «On the Citizenship of Ukraine» as of January 18, 2001, has established real mechanisms of acquisition of the Ukrainian citizenship by refugees and their children. In the current version of the law the conditions to acquire the citizenship by refugees are significantly simplified. The conditions for restoration of the citizenship of Ukraine by refugees are simplified as well.

Today the legislative measures aimed at reduction and prevention of statelessness of refugees are being consistently carried out by means of creating real mechanisms to acquire the Ukrainian citizenship by these persons.

According to the author, it is expedient to make the corresponding amendments to the current law of Ukraine «On the Citizenship of Ukraine» that would be aimed at providing the possibility of acquisition of the Ukrainian citizenship by the persons, recognized as refugees in other countries and who arrived in Ukraine for good reasons.

Keywords: *a refugee, stateless person, citizen, citizenship.*

UDK 342.12:94

E. I. Saraev

ADMINISTRATIVE AND LEGAL REGULATION OF TRAFFIC IN UKRAINE

The condition and characteristics of the administrative regulation of traffic organization are analyzed in the article. Today, security and «comfort» (convenience, a minimal investment of time and minimization of harmful factors for road users) on the road network is ensured by a complex of engineering-technical, organizational and preventive and legal measures.

The latter activities (legal), in our opinion, are a necessary basis for the implementation and functioning of other. In the vast majority, the relations connected with ensuring the safety and traffic are regulated by administrative law. A content of the Law of Ukraine «On road traffic» is analyzed. Found out that in spite of the patterns of the Law contain significant for the organization of road traffic regulations, they do not determine all the issues which, in our opinion, require legislative regulation.

The concept and content of standardization and regulation of road traffic organization are installed. Administrative-legal regulation of the technical aspects of road traffic organization shall be presented in the form of two level systems.

Upper level - consists of the laws and regulations of Central Executive government (in particular, the technical regulations).

Lower level - is a set of standards. Underlined the fact that the normative-technical norms, which regulate the organization of the road, are part of the administrative-legal regulation of public relations in the field of road safety.

As a conclusion the main methods and structure of the legal regulation of relations in the sphere of organization of road traffic are described. Analysis of legislation and state standards (norms) gives grounds to believe that the traffic organization in its content can be represented as the legal form of traffic management.

The end result of such legal action is the establishment of a specific legal regime of the road.

Key words: *administrative-legal regulation, traffic organization, standard.*

UDK 341.018:34(477)(045)

Y. S. Khobbi

PROBLEMS OF IMPLEMENTATION OF EUROPEAN STANDARDS IN THE NATIONAL LEGAL SYSTEM OF UKRAINE

The process of implementation of European standards in the national legal system of Ukraine are considered.

It is noted that the harmonization process is accompanied by a number of problems, among which the following: the presence of the vast array of EU legislation in each of the industries for which the predicted convergence of regulatory and legal sources, the difficulty in selecting the sources of the EU, which must adapt their codes and laws in first; lack of coherent legal framework in Ukraine, poor regulations and their dysfunctional reception; declarative official documents in this area, inadequate to the timing of implementation of the Programme of Adaptation of Ukraine to the European Union and the lack of an effective mechanism for its implementation; virtual absence of EU Law Translation into Ukrainian and low level language and professional legal training in the field of European law makers and universities; lack of a uniform glossary of EU law, so that the drafter and the judges had any doubts as to its interpretation, particularly regarding implementation of EU regulations to Ukrainian legislation; poor information provision process of approximation in the population, especially the electoral process; no certainty of clear funding Adaptation programs, formation of its budget for the final principle.

The author considers that the first priority towards implementing European standards must be specific in terms of constitutional reforms that would allow to reform many institutions of state and local governments based on the experience of EU member states.

Keywords: *European Union, European standards, implementation, harmonization, adaptation, constitutional reform.*

UDK 342.3

R. V. Chernolutskyi

THE ROLE OF LEGAL TECHNOLOGY IN LEGISLATIVE ACTIVITIES

This paper examines the role of law (legislative, legal) technology in the law-making work. Consideration of these issues through the disclosure of the role and importance of

constitutional and legal provisions in the legal system and the system of national law.

It is claimed that the constitutional right of a State acting as the fundamental industry and profiling of the national legal system and domestic law, which contains the legal rules governing the most important, essential, basic, dominant relationship emerging between society, government and society – hence law-making stage (drafting) in constitutional law is of particular importance for the development and institutionalization of national legislation.

Attention is focused on the fact that the praxeological value and meaning of rule-making (legislative, judicial) technology found in the fact that it enables the use of instrumental and technological means to optimally regulate social relations by developing appropriate rules of conduct (law) that in constitutional law is crucial, based on its subject matter, method and characteristics of constitutional norms.

It says that it is clear from the implementation of all legislative rules (legislative, judicial) technology is on the stage of rule-making (legislative), largely depends on the quality and subsequent performance in the context of the created legal acts that will have the force of law.

Keywords: *law-making, law, legislative drafting, constitutional law, constitutional and legal norms, the legal machinery.*

UDK 347.97/99

O. V. Yatsenko

APPLICATION OF JUDICIAL DISCRETION IN THE IMPLEMENTATION OF JUSTICE: SOME PROBLEMS OF THEORY

In this article the author studies issues concerning theoretical problems of judicial discretion in the process of justice administering in different forms – civil, commercial, administrative, criminal, as well as proceedings on cases on administrative violations. One of the most controversial in terms of possibilities and limits of application of the mechanism of judicial discretion, branches of law are the criminal and criminal procedure.

Emphasizes that judicial discretion has such features: - a circle of restrictions established by the State for the implementation of the judge granted him powers wider than those that apply to other state officials; - limits of realization judge constituting his powers, including whether it can in some cases they are not used at all.

The conclusion was made, according to which legal justification of judicial discretion mechanism application can take place at the level of types of all legal processes and manifests itself in the universal, private-legal and public-legal forms.

Keywords: *judge, justice, judicial discretion, the discretionary power of the judge.*

MODERN PROBLEMS OF LOCAL GOVERNMENT IN UKRAINE

UDK 34.02

M. M. Baimuratov

DECENTRALIZING POWERS OF PUBLIC AUTHORITIES IN POLAND AS A MEANS OF FORMING COMPETENCE OF LOCAL GOVERNMENT: THE EXPERIENCE FOR UKRAINE

The article deals with the decentralization of powers of public authorities in Poland and the adoption of positive experience in this area as a means of competence of local self-government in Ukraine.

The author argues that the process of decentralization of powers of public authorities is an objective process that occurs and is accompanied by democratization of social and political life.

Based on the fact that the reform of public administration is directly related to the process of forming the responsibility of local authorities, the latter in terms of decentralization and deconcentration, form their own base of competence and powers of jurisdiction.

Specifies that decentralization involves not only government and self-management structures, but also socially active a mile wide population, including associations of people who created them for the implementation of various interests (business, student, charity, etc.).

In the formation of competence powers of local self-government in Ukraine is particularly important borrowing positive foreign experience of those countries that have already made the relevant market reforms and have a positive experience of decentralization of powers of public authorities. Therefore, the Polish experience in this matter no alternatives for our two states have approximately equal starting conditions for the start of socio-economic and socio-political transformation.

Keywords*: decentralization, deconcentration, competence, public authorities, local government, foreign experience.*

UDK 352.07(477) “1997/2012"(045)

Y. V. Boyko

DEFINING THE CONCEPT OF CONDUCTING MUNICIPAL REFORM IN UKRAINE: A COMPARATIVE LEGAL ANALYSIS

The article deals with the concept of national projects and local government reform of the late 1990s - early 2000s. Comparative legal analysis allowed to identify the main areas of common terms and disagreement on ways to reform local government embodied in these documents. In the context of the structural analysis of the texts of draft concepts and municipal reform, the author notes that most of them assumes that municipal reform can not be self-sufficient. It appears reasonable to consider municipal reform in parallel with the constitutional, administrative, administrative- territorial reform, show its relationship with the state government and other institutions of the political system of society, which is to ensure the formation not only of institutional and functional , but also the normative part of the legal system of Ukraine.

The author conducted a comparative legal analysis of conceptual proposals, which allowed to identify the main areas of common terms and differences over the proposed ways of reforming local government embodied in these documents.

It was concluded that all the modern concept of being taken separately, are not able to show the position of local government rather objectively and realistically in an absolute way . This is explained primarily by the fact that none of the concepts are not developed sufficiently and therefore can not be characterized with proper fullness Institute for Local Government.

Keywords: *concept, local government, municipal reform, constitutional reform, administrative reform, territorial reform.*

UDK 342.553

Y. O. Voloshyn, S. V. Papayani

LOCAL SELF-GOVERNMENTS IN TERMS OF EUROPEAN INTERSTATE INTEGRATION AND MUNICIPAL REFORM

The article considers the international activities of local self-governments. It studies their place and role in the European interstate integration. The detailed analysis of the legal framework governing the activities of local self-governments and their international connections was conducted. The author notes that local self-governments through their international connections become an essential factor in the implementation of foreign policy, promote the implementation of state functions in the field of international politics. The article approves that an important role in cities cooperation play an international non-governmental organization. It emphasizes the special importance of the European Charter of Local Self-Government. It proves that local self-governments are able to implement initiatives for international cooperation, using the potential of cross-border cooperation. Special attention is paid to the investigation of cross-border cooperation between Ukraine and the European Union. Ukraine has already formed a fairly well-developed legal framework for cross-border cooperation. The author notes that cross-border cooperation between Ukraine and the EU occurs in the following forms: Euro regions' activity; Neighbourhood Programme; activities of international and regional organizations and associations; interregional cooperation; Border Cooperation Programme within European Neighbourhood and Partnership Instrument. The EU has four Neighbourhood Programme, in which Ukraine participates. The analysis of the current state of Ukraine cross-border cooperation shows that there are certain problems. The author proves the necessity and advisability of high-quality municipal reform in our country. The author proposes to develop a comprehensive program to educate and train qualified managerial staff in local authorities, which could work in the field of cross-border cooperation.

Keywords: *local self-governments, European interstate integration, cross-border cooperation, European region, municipal reform.*

UDK 340.115.7; 340.132.23; 342.25

I. A. Ghaliahmetov

ACCULTURATION OF MUNICIPAL LAW OF UKRAINE

This scientific article is devoted to research of the Ukrainian municipal law and an acculturation, as inevitable part of its reforming and development. Acculturation of municipal law is a transformation, which is tested by municipal legal system from contact with EU legal system, i.e. process of acculturation can be defined as the all-directed interference of law norms or the impersonation of one legal system in another.

The formation of municipal acculturation is under ways:

- first, in form of transparent or latent adoption;

- second, in method of interplay between the theory and practice of self-government in Ukraine. It is implemented from the legal system of the Council of Europe and based on voluntary principle or as a result of compulsion;

- third, by results of transformation or interference.

Thus author drew a conclusion that integrated and synthetic acculturation of municipal law is a result of the adoption of the national legal system of general principle, norms and standards of international or national law of other countries, extrapolation or adaptation to the relations in the sphere of local and regional authorities. Type of municipal law acculturation provides for several stages of implementation that discussed on the pages of this article.

The first stage is characterized by the study of legal experience in the sphere of organization of local self-government in other countries.

The second stage is the interpretation of the mentioned experience and modelling of local self-government.

The third stage involves the synthesis of new municipal norms into the legal system of Ukraine.

The fourth stage is the ratification of international instruments (conventions) of Ukraine and the implementation on its territory of the European standards of local self-government.

***Keywords**: acculturation of municipal law, municipal reforming, transformation, adaptation, system of municipal norms.*

UDK 352.07:342.553 (045)

O. M. Horaschenkov

THE STRATEGIC SOFTWARE BY THE HEAD OF STATE OF THE DEVELOPMENT OF LOCAL SELF-GOVERNMENT IN UKRAINE: PROBLEMS OF THEORY AND PRACTICE

The article investigates the constitutional law characteristics of the strategic software by the head of state of the development of local self-government in Ukraine. Analyzed the functions and powers of the President of Ukraine in the sphere of support of the right of local communities to exercise local self-government. Based on the analysis systematically forms, methods and practical aspects of the participation of the head of state to ensure the development of local government and improving the performance of local governments. It is noted that the provision of standards of local democracy is an important activity of the President of Ukraine in modern conditions of European interstate integration and the implementation of European legal standards to the Ukrainian legislation.

***Keywords:** the head of state, strategic software, local self-government, the President of Ukraine, local democracy.*

CURRENT PROBLEMS OF FINANCIAL, CIVIL AND ECONOMIC LAW AND PROCESS

UDK 347.965.43

M. Y. Yefimenko

LEGALIZATION OF LAWYER'S POWERS IN CIVIL PROCEDURE

The success of democratic transformations in Ukraine is impossible without effective legal regulation of activities of the subjects, authorized to provide legal aid. One of these subjects is a lawyer, to whose principal tasks belong Ukrainian citizens', foreign citizens', juridicial persons', individuals' without citizenship protection of rights assistance, representation of their legitimate interests and other legal aid rendering. The tasks enumerated are also performed by a lawyer in the course of civil procedure.

Although, the activities of lawyers as participants of civil procedure contain a range of disadvantages, with adversely affect the level of public confidence. In particular, the overwhelming majority of lawyers perform the role of an observer in a judicial proceeding, what influences negatively the quality of rendering legal aid to citizens and juridicial persons as well as their legitimate interests representation and other legal aid provision.

Lawyers'activity, being a variety of social-legal activity, is performed mainly in private interests, having generally public character. Public legal tasks oblige lawyers to provide free legal service in cases determined by legislation.

Traditionally, lawyers participate in civil procedure in accordance with contractual processual representation or voluntary representation. Contractual representation is a variety of representation, the reason of appearance of which is a representative's and a mandator's will. In other words, it is based on a contract.

In a civil procedure, a lawyer is a subject of a voluntary processual representation. An obligatory condition for such position in a civil procedure acquiring is processual juridicial personality possession. Since the moment of acquiring the status of a voluntary representative in the law proceeding, the subject mentioned possesses not only general rights and responsibilities, determined by the legislation for the sphere of lawyer activities, but also special processual rights and duties.

The legalization of the powers in course of civil procedure is performed under the authority of a power of attorney. A contract about legal aid providing is a variety of a power of attorney. The asset 1007 of The Civil Codex of Ukraine presupposes the duty of a mandator to give to a representative a power of attorney to accomplish juridicial actions, enumerated in a letter of attorney. Thus, a client should confer, when necessary, a power of attorney, and it is under its authority (but not under the authority of a warrant), that lawyers, who work individually or as a member of a board, should act.

Keywords: *attorney, representation of clients, authorities, process, activity.*

MODERN TRENDS OF THE DEVELOPMENT OF INTERNATIONAL LAW

UDK 347.71:006 (100+4)

K. H. Boberska

INTERNATIONAL AND EUROPEAN STANDARDS OF ENFORCEMENT AND DEVELOPMENT OF RIGHT TO BE ENGAGED IN ENTREPRENEURIAL ACTIVITY

The article deals with international and European standards of enforcement and development of right to be engaged in entrepreneurial activity in the legislative and normative and legal acts in Ukraine with regard to European integration vector of its development.

International and European normative and legal acts that fix to be engaged in entrepreneurial activity are analyzed. Despite a significant number of works on rights and freedoms of the man and the citizen in Ukraine, there is lack of complex research on problems of international and European standards of enforcement and development of right to be engaged in entrepreneurial activity, although entrepreneurial activity forms economic power basis of each developed country. As a member of the international community Ukraine shall comply with generally recognized international legal norms and harmonize national legislation, taking into account the European partners' experience on right to be engaged in entrepreneurial activity.

With the accession to the European Union, Ukraine faces a difficult task in implementing European legal models of right to be engaged in entrepreneurial activity, as there is no unified understanding of European legal standards concerning right to be engaged in entrepreneurial activity. First, this is confirmed by the absence of unambitiguous understanding of the meaning of European legal standard of right to be engaged in entrepreneurial activity. Secondly, the situation is complicated by the formation of legal standards dealing with just two international organizations (the Council of Europe and the European Union) that have different approaches to some issues. Thus, in various European documents right to be engaged in entrepreneurial activity stands out as free entrepreneurship (entrepreneurial activity) or it is indicated the possibility of obtaining income as a result of certain activities.

So, in order to make Ukraine a European country not only in geographical context, and as a full economic partner, national legislators need to accelerate process of harmonization and ratifying certain EU legal acts in the sphere of engages entrepreneurial activity.

Keywords: *European legal standard, right to be engaged in entrepreneurial activity, freedom of entrepreneurship, standard, the European Union.*

UDK 342.15(045)

Y. A. Vasylkova

GLOBALIZATION, REGIONALIZATION AND REGIONALISM: PECULIARITIES, DIFFERENCES AND SIMILARITIES

The article is devoted to defining the terms of globalization, regionalization and regionalism. It deals with differences and similarities of globalization and regionalization, as well as with consequences that states face due to regionalism.

Active foreign policy aimed at integration processes occurring in the global society makes regions gain importance on international arena, i.e. results in regionalism. Analysis shows that this phenomenon is directly related to such important global tendencies as globalization and regionalization. These processes reflect the current trend of world development and appear to be in the spotlight of scientific debate and public attention due to opportunities and risks that they bring along.

Differences regionalization of globalization lies in the fact that:

- Regionalization usually based on legal principles in international memorandum of association. Globalism is managed by political means, dictated by power centers;

- Usually regional convergence and unification occurs between close geographically, socially and economically similar in character states. Globalization involves opposite in all aspects country and society;

- Regionalization polycentric. All partners have their share of benefits from the association. Globalization monocentric, trade expansion, based on formal equal opportunities competition turns banal exploitation of the weak by strong partners.

Current globalization and regionalization processes represent the key vector of global development. According to some researchers, regionalism is not a direct threat to statehood (sovereignty and independence) of various countries, but a tendency towards changes in the state system which could instantly respond to international and local processes avoiding damage to its economic and social life. This tendency should be taken into consideration since domestic regions provide the world politics with a new dimension.

Keywords: *globalization, regionalization, regionalism, international politics, integration processes, state sovereignty, territorial integrity, interregional cooperation.*

UDK 341.174:061.1 ЄС (045)

E. V. Hodovanyk

IMPROVING THE EFFICIENCY OF EUROPEAN LEGAL STANDARDS FORMATION AS THE DIRECTION OF POLITICAL PARTIES ACTIVITIES IN THE EUROPEAN UNION

The paper deals with improving the efficiency of the formation of European legal standards as an important direction of political parties activities in the European Union under the European modern interstate integration. Proposed conceptual vision of the political structuring of the European Parliament as an important factor in the increasing role of European political parties and their parliamentary groups in the process of law-making and the creation of common norms, principles and standards for all Member States.

Analysis of modern constitutional law features of political parties in the context of supranational political forces in the European Union. In the example of the political groups of the European Parliament demonstrated growth opportunities supranational European political parties in the law-making that brings them the functional content of the national political parties which oriented to participate in the parliamentary elections and the establishment of a parliamentary majority for their results in order to gain exposure to the implementation of Parliament legislative powers.

Based on the proposed theoretical approaches concluded conceptual nature of paramount importance improve the performance of political parties in the formation of the European Union European legal standards as the national legal systems of all Member States should be tailored specifically to these common law rules and principles.

Specifies that the relevant provisions for future party politicization institutional system of the European Union and the emergence of truly European political parties supranational character is the prohibition of membership in multiple groups simultaneously political, and most such political parties and groups should be seen as a result of the integration process

relevant and real convergence of political and legal systems of the Member States.

The author believes that current trends increase the place and role of political parties in EU lawmaking Legislative Drafting and should be taken into account by national political parties to strengthen cooperation with relevant European parties that will bring the legal position of the Ukrainian state and its separate political forces on specific sectoral issues into institutional centers decision-making in the European Union.

Keywords: *efficiency, political party, the European Union, the European Parliament, the European legal standards, European intergovernmental integration.*

UDK 341.17(4)"1951"(045)

M. Katsyn

HISTORICAL AND LEGAL SIGNIFICANCE OF EUROPEAN COAL AND STEEL COMMUNITY IN THE PROCESS OF INSTITUTIONALIZATION OF EUROPEAN ECONOMIC INTEGRATION

The article investigates the historical and legal significance of the European Coal and Steel Community (ECSC) in the process of European economic integration interstate. Particular attention is paid to the legal analysis of the provisions of the Treaty establishing the European Coal and Steel Community in 1951

The author notes that for the first time in the history of European content hosted institutionalization of European economic integration on the supranational interstate basis through the transfer of national sovereignty of member states to the supranational level to comply with a level playing field in the common market the most important at that time, economic sectors and promotion of economic, technological and social progress.

It must be admitted that the ECSC performed also important humanitarian and political function because within its institutional system of the consolidation of West African States on the basis of enhanced cooperation and shared vision of the future. This paved the way for the restoration of the status of Germany and Italy as a powerful economic and political actors that have an impact on the course of European history.

Keywords*: General Agreement on Tariffs and Trade (GATT), the Plan Schuman - Monne, the Treaty establishing the Coal and Steel Community.*

UDK 341.24:37 (045)

S. S. Kvach, E. O. Tatai

EUROPEAN AND INTERNATIONAL LEGAL STANDARDS IN EDUCATION: DEFINITIONS AND PERSPECTIVES FOR UKRAINE

The article seeks to analyse and classify the international legal instruments in the field of education. Author examined such international legal instruments in the field of education, that are obligatory for Ukraine. Author also examines international documents, that are recommendatory or have political influence on Ukraine. Author thinks that influence of the EU's documents will increase in future Ukrainian legislation. Nevertheless, interstate bilateral treaties are still important. Most of them has general character or regulates the Validation of foreign studies and degrees. Author draws attention to the insufficient amount of the researches in this sphere. Author worries, that there are many acts of international organizations aimed at improving education and internationalization, but for some reason they are not ratified by Ukraine.

Keywords: *standards of education, European standards, education law, law on education, the international treaty.*

UDK 342.7

V. M. Kursonis

NON-GOVERNMENTAL ORGANIZATIONS AND THEIR ROLE IN THE GLOBALIZED WORLD

This article examines the role and importance of NGOs as an institution of civil society in a globalized world. We investigate the legal status of national and international NGOs. Served proposals for harmonization and codification of national legislation on NGOs.

It is shown that the development of a democratic and legal state in Ukraine is accompanied by intensification and updating of various institutions of civil society, an important component element of which a certain measure of maturity of civil society are the NGOs or organizations of the third sector.

It is claimed that NGOs are united in their ranks Ukraine citizens at different levels of society (local, regional, national, international), they provide the citizens' right of association (article. 36 of the Ukraine Constitution) and the realization of their various interests. This right of praxeological aspect is systemic and allows people to unite to address the issues that they believe are socially important and can appropriately change the current state of affairs at the level of society and the state.

Expands provisions that epistemological approaches to the emergence of NGOs found that people with active social position being integrated into relevant NGOs can change social problems and deviations statutarno and functional properties of the relevant authorities and local self-created public authorities to address issues of local and national as well as international development.

It is concluded that the doctrinal and normative support of national and international NGOs is insufficient, given their initiating role and institutional activity that is largely perednormatyvnyy and long-term nature and are important in terms of the following «replenishment» array of national regulatory legislation and regulatory expansion array of public international law.

Keywords: *democratic state, civil society, civil society institute, NGOs, international NGOs, legal NGOs.*

UDK 341.4(045)

V. G. Pyadyshev

INTERNATIONAL LEGAL ASPECTS OF ELIMINATION OF CRIME IN INTERNATIONAL OPERATIONS PART OF STAFF PEACE-KEEPING

The article examines the nature and dynamics of crime officers of UN peacekeeping operations (PSO) in relation to the local population and refugees, analyzes the causes of low efficiency of the fight against these crimes, and the conclusion should be transferred jurisdiction consideration of these crimes to the International Criminal Court.

The author notes that the most important issue concerning the PSO personnel crimes against the local population, is their jurisdiction. He proposes to transfer all cases on sexual exploitation and abuse by PSO personnel against the local population under the jurisdiction of the International Criminal Court.

According to the author needs to be addressed the question of a unified legal framework that clearly needed to prosecute PSO personnel for crimes against the local population. His immediate solution and require immunity problems. Necessary to prohibit national contingents repatriation member PSO personnel accused of committing crimes against the local population - for the period until the OPM guide appeals to the UN Secretary General on the deprivation of diplomatic immunity of the member of staff. It is noted that the weakest link

in the investigation of crimes PSO personnel against the local population remains very system of investigation of these crimes.

Demands the improvement of the system and the protection of witnesses and victims of crimes PSO personnel against the local population. It seems that this system should wear self-contained nature and function separately from the system that is used as part of PSOs in the investigation of crimes committed by residents of areas PSO.

The article discusses the nature and dynamics of crimes being committed by employees of UN peacekeeping operations against the local population and refugees, the reasons of low efficiency of struggle against these crimes, and the suggestion that the considering of these crimes should be transferred to the International Criminal Court jurisdiction.

***Keywords**: local armed conflict, peacekeeping operation, the UN Security Council, the Department of Peacekeeping operations, United Nations civilian police, OPM staff crimes against the local population and refugees, the International Criminal Court.*

UDK [34-047.64]:331.07(100)МОП

G. V. Terela

LEGAL ENSURE OF EFFECTIVE CONTROL AND SUPERVISION ACTIVITIES IN THE SPHERE OF WAGE LABOR: A VIEW THROUGH THE PRISM OF INTERNATIONAL LEGAL STANDARDS

The article investigates the legal principles of supervision and control over compliance of labor legislation of Ukraine in the light of international legal standards set forth in particular in the conventions and recommendations of the International Labor Organization. The comparative and legal analysis of national legislation with these standards is done. It was found that the major international principles of effective control and supervisory activities in the sphere of wage labor is the principle of integration and the principle of prevention. Attention is focused on the fact that ratified the Convention № 81 «On Labor Inspection in Industry and Trade», Ukraine is committed to have a system of labor inspection, to the authority of which belongs not only to ensure compliance of labor laws, but also safety. In pursuance of this Convention in Ukraine the State Inspection of Ukraine for work with a large range of powers was founded. However, the actual task is to further expand its competence in order to obtain truly integrated nature, that is in the Convention and the ILO and the best recommended itself in foreign practice.

It was concluded that the most promising areas for further reform of the control and supervision activities in the sphere of wage labor are: first, the improvement of the institutional structure of supervision and control authority in order to create effective integrated inspections of work while increasing focus on preventive measures; second, review the regulatory requirements for their compliance with international and legal standards, including the recent agreement with the Law of Ukraine «On the Fundamentals of State Supervision (Control) in Economic Activities», which set forth procedures for inspection by inspectors of labor; thirdly, a further development of national legislation based on international standards and consolidation of the new Labor Code system of supervision and control over the observance of labor legislation, among which define the legal status of the State Inspection of Ukraine for work as a specialized agency of state control of the executive over offices competence.

***Keywords:** international and legal standards, legal support, control and supervision activities, labor inspection, the International Labor Organization, convention, recommendation.*

UDK 341.018:34(495)(045)

G. Y. Tykhomyrova

INTERACTION MECHANISM OF GREEK LAW AND EU LAW: POSITIVE EXPERIENCE FOR UKRAINE

The necessity of examining interaction of Greek law and EU law for Ukraine is extremely evident within the framework of those complicated and new tasks faced by Ukrainian society. The adoption of the positive experience of the Greek Republic should contribute to these problems' solving.

Ukraine as well as Greece with due regard to geographical and historical criteria is a state having the European religion, culture and traditions. Correspondingly integration into European Area is an entirely natural object. Moreover having proclaimed itself an independent state Ukraine acknowledged the formation of rule of law based on global and European democratic values to be its strategic goal. In this respect the EU is an outstanding pattern of democracy, economic prosperity of people and political stability. Therefore Ukrainian striving for accession to this Union in particular is entirely logical and justified.

The dialectical development of the civilization proves that an increasing number of states get a deeper understanding of the necessity of partaking in integration processes. Ukraine shouldn't remain isolated all the more so the state's accession to the EU will strengthen its statehood, national security, traditions, language and culture. At the same time the pragmatic value of this accession may result in increase of foreign investments as the state economic development constituent.

Greece set a perfect example for crisis ramifications in Europe. Functioning stability of the state itself as well as the EU was at risk. The crisis pointed out an acute need for a substantial strengthening of national and law state positions, improvement of the quality of national legislation which will be able to withstand similar economic strokes. It's evident that such objectives become questions of the present interest for Ukraine.

Keywords: *harmonization, european integration, Greek law, EU law.*

CURRENT ISSUES OF LAW ENFORCEMENT, CRIMINAL PROCEEDINGS AND FORENSIC SCIENCE

UDK 343.37

A. M. Nazarenko

COMPARATIVE LEGAL ANALYSIS OF LEGISLATIVE RECOGNITION OF THE AGGRAVATING CIRCUMSTANCES THEFT «WITH PENETRATION INTO THE DWELLING, OTHER PREMISES OR STORAGE»

The article studies the international experience of providing the legislative framework for a qualifying criterion for theft «with breaking and entering residential premises, other premises or accommodation».

It proves the reasonability and necessity of admitting the fact of theft with breaking and entering residential premises, other premises or accommodation as an aggravating circumstance. Such offences not only infringe the right for property, but also abuse the constitutional guarantee of the inviolability of residence (Article 30 of the Constitution of

Ukraine). Moreover, the above mentioned offences represent such a method of theft, which inflicts, as a rule, a greater extent of material damage. The attention is also paid to the fact that quite often it is impossible to commit theft without any efforts to eliminate obstacles. The above mentioned offences may also reflect a greater degree of anti-social activity of an individual if compared with other crimes. As a rule, such method of committing crimes is a proof of exceptional motivation of an individual committing theft and speaks of the offender's intention to take possession of property in spite of any obstacles.

The analysis of the norm under research gave us grounds for the conclusion that the wording that is stipulated by Part 3 of Article 185 of the Criminal Code of Ukraine complies at its maximum to such principle of criminalization such as the constitutional adequacy. The essence of which lies in the fact that the Constitution of Ukraine has the highest legal power in accordance with Article 8. Laws, including the Criminal Code, are adopted on the basis of the Constitution and must comply with it.

The comparative legal analysis discovered common features and peculiarities of structuring criminal-legal norms, which create liability for theft combined with breaking and entering residential premises in the legislation of different European countries, and namely: Azerbaijan, Belarus, Estonia, Spain, Latvia, Moldova, Germany, Poland, the Russian Federation, France and others.

We determined a number of countries, criminal codes of which specify methods of breaking-in, for example, with the help of a forged key, by removing a barrier or a door latch, by deceit, break-in or forced entry, locker and safe burglary, ruination of walls, ceilings, breaking doors, windows and others. It is said that the increased social threat of theft offences is determined not by the very fact of using technical tools or methods of secret stealing of property, but by the fact that a person using them facilitates his/her unlawful breaking into residential premises, other premises or accommodation, acts more insolently, makes efforts to overcome obstacles in gaining access to another person's property. Therefore, a detailed description of all technical means and methods of breaking-in burdens the dispositions of the respective norms and is unnecessary.

One more essential difference in formulations of the criminal-legal norms is using the terms «illegal» or «unlawful» in dispositions as such related to breaking into residential premises, other premises or accommodation. That is we speak of the absence of the guilty person's right to be in such a location. The analysis of the judicial practice discovered qualifying mistakes in this category of cases when, for example, a guilty person is invited to a household or lives together with the aggrieved party, has keys or free access to a household and other.

A distinct reference in the disposition of Part 3 Article 185 of the Criminal Code of Ukraine helps to avoid such problems by pointing to the illegitimacy of breaking into residential premises, other premises or accommodation. Thus, the conducted comparative analysis of the Ukrainian and foreign legislation led us to the conclusion about the advisability of applying the international experience to the issue in question.

***Keywords**: burglary in a dwelling, other premises or storage, Penal Code, aggravating circumstances.*

UDK 343.50

K. M. Ohorodnik

PENAL VALUE MOTIVE AND PURPOSE IN COMMITTING OF TAX EVASION

Penal value motive and purpose as elements of subjective side of crime in committing of tax evasion is analyzed in the article. Responsible for evasion of taxes, duties and other obligatory payments is established by the current criminal law (art. 212 of CC of Ukraine). To clarify the question of the origin, formation and content of the mental attitude of a person

for tax evasion should be to establish the motive and purpose of the crime. There is emphasized, that the correct clarifying of purpose of crime facilitates to clarify the content and direction of intent, and as a result to clarify the level of social danger of action. The last has taken into account by the Court in sentencing. There is noted, that the essence of specialty of criminal behavior includes interests, demands, motives, purpose and view of a person. Personal features of offender impact on his motivation. Motives of criminal behavior are fixed in criminal and penal actions, deform of a person of offender. A motive as a prompting of a human to commit some act, particularly a motive of crime, is a complex volitional emotional process which has place in the psychic of a person. Any motive which determines the direct of human's volition wins in the process of appearing of decision. General (which are inherent of any evasion) and specialty elements form the content of the purpose of tax evasion. These elements are due by different motivation of the crime. The general purpose of tax evasion is an aspiring doesn't pay to the state any payments. Emphasized that in case the actions of a person in direct intent when committing non-payment of taxes, duties and other obligatory payments, combined with a selfish motive, it gives reason to define a person acts as a crime under Art. 212 Criminal Code of Ukraine, the combination with other indirect intent (not selfish motives) of a crime under Art. 212 of the Criminal Code of Ukraine does not provide. We propose to consider signs of corruption offenses in the actions of a person as a feature of direct intent in the actions of the perpetrator.

***Keywords**: taxes, duties, obligatory payments, evasion, guilt.*

TRIBUNE OF YOUNG SCIENTIST

UDK 061.1€C:327(560)(045)

E. R. Akhmedova

ASPIRATION TURKEY TO JOIN THE EUROPEAN UNION: POLITICAL AND LEGAL POSITION OF EU MEMBER STATES

This paper investigates the political and legal positions of the Member States of the European Union and their political parties on Turkey's accession to the EU.

The author notes that at present there is no single European opinion on Turkey's membership in the European Union. Thus, Spain is one of the all European countries, has a very clear and unambiguously positive attitude towards Turkey's accession to the EU. It is also one of the EU member states support a population this issue in recent years has significantly increased, while most European countries have such a decline in popular support. With the full support of Spain felt a degree of reluctance to adopt the new Member State of the EU, especially among conservative politicians and certain segments of the public sector.

It is shown that in Germany there is a growing negative attitude towards Turkey's membership in the EU, especially in light of growing criticism from France, which is divided into ideological grounds between rightist and leftist parties. Together with Germany and France, the least favorable opinion about Turkey expressed Austria, for which the basic reluctance to see Turkey as an EU member state, there are cultural and historical issues than legal or technical. One of the countries that send conflicting signals regarding Turkish membership is Italy. Especially strongly minded people of this country is that in recent years demonstrates the increasingly skeptical stance on this issue, based on religious grounds and the possible Islamophobia , which can affect the «Christian public opinion».

The author believes that the adoption of the Lisbon Treaty in 2009, when launched the new legal system, whose purpose is to create a more effective and democratic European Union, its implementation and the fight against social and economic effects of the financial crisis is a major challenge for the EU. The complexity and importance of these issues are unlikely to raise the issue of further enlargement of the EU for the first item of the agenda, but the change of the base of the Treaty, which were expecting more after the eastern enlargement of the EU in 2004 and hope to overcome the economic crisis, can also act as a catalyst to stimulate debate on the involvement of Turkey to the EU.

Keywords: *Republic of Turkey, the European Union, the Member States of the European Union, the European Union's enlargement policy, accession of Turkey to the European Union.*

UDK 342.734-053.81(477)(043)

S. H. Baregamyan

CONSTITUTIONALLY-LEGAL ASPECTS OF THE REGULATION OF ENGAGEMENT AND ARRANGEMENT OF LABOUR IN UKRAINE AT THE CURRENT STATE IN THE CONTEXT OF THE LEADING COUNTRIES EXPERIENCE

The article examines the current state providing legal regulation of engagement and arrangement of labour in Ukraine in the context of the leading countries experience.

The Declaration of independence made it possible to democratize labour relations, but to strengthen the institute of social dialogue takes place too slowly. In a nowadays situation disturbs that our state as if was eliminated from accurate control of the labour sphere. The advancing growth of consumer requirements and requirements for payment work from the population together with lack of purposeful actions of rather structural changes in economy from the state and employers, inevitably generate a number of negative social consequences. Most painful of them is unemployment.

Indicated that engagement and arrangement of labour are the instruments of the most complete implementation of the constitutional right to labour, that would be form not only at the theoretical level in Ukrainian Science of constitutional and labour law, but would find practical application. Arrangement of labour is a prerequisite of the engagement, and guarantee of this phenomenon.

Problems of legal regulation in the sphere of engagement and arrangement of labour are: inconsistency of normative legal acts, existence of contradictions, financial basis and mechanism for implementing certain provisions. The complicated nature of the legislation in this sphere is not conducive to proper regulation of relations in the field of engagement and arrangement of labour in a rather difficult transition period.

Implementation of the state employment policy and arrangement of labour entrusted to the Cabinet of Ministers of Ukraine, the Ministry of Social Policy of Ukraine, the State Employment Service of Ukraine, the State Labour Inspectorate of Ukraine, local government agencies, local governments, public organizations, subjects of business activity.

It should be noted that the improvement of legal regulation of engagement and arrangement of labour in Ukraine are impossible without borrowing foreign experience of leading countries in this field.

Keywords: *legal regulation, constitutional right to labour, engagement and arrangement of labour, preventing unemployment, State Employment Service, employment policy.*

UDK 340.15: 349.6

T. V. Bezruk

THE MAIN STAGES OF JUDICIAL REFORM 1722 – 1723 IN COSSAK-HETMAN STATE

The article discusses the causes and main stages of judicial reform 1722-1723's in the Cossack-Hetman state. It is shown that the reform was provided primarily by three universals hetman Pavlo Polubotok. Analysis of the content of the legal acts allowed to formulate the goal of reform – the establishment of clear procedures for justice, for the principle of formal equality representatives of the Cossack state, the adoption of the assessors and the fight against corruption in the judiciary. Judicial reform contributed to the consolidation of the autonomy of the Hetmanate and triggered opposition from Russia's imperial government brokered the Little Russian Collegium.

Judicial reform in 1722 became one of the first attempts to introduce democratic principles of justice and the judicial system in the Cossack Hetman state. Thus democracy was limited to preserving the class structure of the courts, the interference of petty privileged stratum in the handling of cases, often they were judges in their own cases.

The Russian government has used every opportunity to deal with judicial reform, viewing it as a threat of losing their influence on the political life of the Hetmanate. To this end, in the Hetmanate was put into effect a decree of the Little Russian Collegium «On new form of proceedings».

Judicial reform provoked fierce opposition of the Russian government in Ukraine, which by means of intrigue and reports of ousted from power by its P. Polubotko contributed to his arrest and the consequent death of hetman.

Keywords: *Cossack Hetman State, Pavlo Polubotok, judicial reform, wagon, Little Russian Collegium, General military court, assessors.*

UDK 341.225.5

O. S. Blinska

THE PROBLEMS OF DEFINITION THE INTERNATIONAL MARITIME LEGAL PERSONALITY OF UKRAINE

This article investigates the legal nature of international maritime legal personality as a category of international legal personality of Ukraine. Its main purpose is to determine the essence of international maritime legal personality by analyzing the legislation of Ukraine.

Ukraine as an independent maritime state is a full member of the international community has an international as well as international maritime legal personality in its entirety.

To determine the category of the International Maritime personality we encounter on a range of issues:

a) there are certain gaps in national legislation to determine the definition of maritime personality State in its national and international aspects;

в) there are certain gaps in national legislation establishing the legal regime of important maritime spaces as the territorial sea and the continental shelf;

c) acute problem for Ukraine is undetermined maritime borders with two neighboring countries: Romania and the Russian Federation, which represents a significant threat to the national security of Ukraine, and can intensify problems of military, economic, legal, environmental, demographic and social issues.

Keywords*: legal personality, international legal personality, international maritime legal personality.*

UDK 342.25; 342.34; 352.001.36

S. V. Vyshnevsky

THE SYSTEM OF THE FUNCTIONS OF THE CITIZENS' SELF-ORGANIZATION BODIES: POPULATION ISSUES S OF THEORY

The present article investigates the main functions citizens' self-organization bodies as the subjects of the local self-government in Ukraine, theoretical and practical problems of their realizations'. It determines the place of the citizens' self-organization bodies functions in the system of the local self-government's functions. In this article we determine and analyses the main criterions of the classification of the citizens' self-organization bodies functions and also it is the scientifically grounded description of the system of the functions of the local self-government's subjects.

By analyzing the existing approaches to the classification of functions of local self-government subjects', the author perceives their division in accordance with the basic elements of municipal activity (objects, subjects, processes, methods, goals, objectives). According to the author, the municipal activities – a collection developed historical municipal experience, scientific knowledge of municipal and community practice skills, abilities, techniques, methods, targeted actions and human actions in the sphere of local self-government on local issues.

Based on the methodological approaches to understanding the phenomenon of municipal activities, the author proposes to differentiate the functions of the citizens' self-organization bodies on the following criteria: 1) objects of municipal activities of the citizens' self-organization bodies, which is a separate local issues and competences of these local self-government entities that occur in certain areas of municipal life (political, economic, social, cultural, environmental); 2) subjects of self-organization, i.e. types of the citizens' self-organization bodies and spatial levels of the establishment and functioning; 3) methods and techniques of the municipal activities, or technology of municipal self-organization, its process.

The results of research give opportunity to institute the citizens' self-organization bodies in Ukraine in accordance with internationally-legal standards in the sphere of local self-government.

Keywords: *citizens' self-organization bodies, territorial self-organization, local democracy, local self-government, the problem of local importance.*

UDK 341.32(045)

D. V. Yevenko

MILITARY ORGANIZATION OF SOCIETY AS THE ONTOLOGICAL BASIS OF MILITARY FUNCTIONS OF THE STATE: HISTORICAL AND LEGAL ASPECTS

The article deals with the historical and legal aspects to the definition of the military organization of society and the state as an ontological foundation occurrence defensive functions of the state.

The author argues that in the coordinate system of «state - a problem state - state functions» developed and formed a set of scientific knowledge, showing the stability of the state, stability of its institutions, which suggests the occurrence of certain principles, scientific

methods, institutional and organizational legal, regulatory technologies constitutional and legal maintenance of development of the state and its functioning. A special role in this process is played by public functions that are actually active, praxeological manifestation and result of the ongoing implementation of its tasks. One important function of the state, which gets her existential significance, serving a defensive function.

It is claimed that there is a defensive function and is formed by, and on the basis of the military organization of society and the state. In the state military organization must understand its armed organization, which includes militias provided state law and military administrative, military and law enforcement. By the elemental composition of the military organization of the state include the following institutions: a) the armed forces (the military component - Ed.) b) support system of military organization of the state (material and rear component - Ed.) c) the bodies and institutions of the government, political bodies and organizations that are directly involved in the defense and security (management component - Ed.).

It is noted that the systematic interpretation of the normative formulation of the military organization of the state shows its broader and deeper content, as here: a) essentially focuses on the normative aspect of the military organization of the state - the constitution of the totality of the government, military formations created in accordance with the laws of Ukraine; b) introduce a new democratic institution of civilian control of society over the activities of these structures; c) it fixed first dominant teleological - the protection of national interests of Ukraine from external and internal threats; d) shows its consistency - it is a holistic, balanced and rational system that consists of elements that are in deep and organic interrelation and interdependence.

The author notes that in the context of historical retrospectives: a) military organization of primitive society «solder» its members and acted as a catalyst precursor and the state; b) the state military organization organized society is the basis for the emergence of defensive functions of the state and the phenomenon that determines its defense.

Keywords: *military organization of society and the state, the defense function of the government, national defense, law support of regulatory defense functions of the state*

UDK 342.4(477)

S. A. Panasyuk

DRAFT LAW OF UKRAINE ON AMENDMENTS TO THE CONSTITUTION OF UKRAINE FROM 26.06.2014, AND THE PROVISIONS AND PRINCIPLES OF THE CHARTER OF LOCAL SELF-GOVERNMENT: AN ANALYSIS OF COMPLIANCE

This article examines, the text of a draft law on introducing amendments to the Constitution of Ukraine, that was introduced by the President of Ukraine Petro Poroshenko on 26 June 2014, about its correspondence to the principles of the European Charter of Local Self-Government

After the ratification of the European Charter of Local Self-Government, Ukraine has undertaken a commitment to realisation of provisions of the European Charter of Local Self-Government and for implementation of its principles in domestic legislation.

We remind that in accordance with Article 2 of the European Charter of Local Self-Government: «The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution».

Also, in accordance with Article 4, paragraph 1 of the European Charter of Local Self-Government: «The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute».

Also, article has proposal for improving the text of a draft law on introducing

amendments to the Constitution of Ukraine in order to bring them in to line with the European principles of local self-government in the context of the European integration of Ukraine.

Keywords: *the European Charter of Local Self-Government, the draft law on introducing amendments to the Constitution of Ukraine, translation of the terms, implementation of the principles of the European Charter of Local Self-Government.*

UDK 341.64

Y. S. Pasichnyk

SOME ISSUES ACTIVITIES OF THE INTERNATIONAL CRIMINAL COURT

The article aims to examine some research on the International Criminal Court as a means of international adjudication at the present stage of development of international criminal justice.

The International Criminal Court is a permanent body authorized to exercise jurisdiction over those responsible for the most serious international crimes, and complements national criminal justice authorities.

The jurisdiction of the International Criminal Court is based on the principle of complementarity, which indicates the account of the sovereignty of states. According to this principle, a person who committed a crime that should be prosecuted by the judicial system of the state of citizenship, and if non-compliance, such case would be to consider the International Criminal Court.

According to Art. 5 of Rome Statute the Court has jurisdiction over the following crimes: the crime of genocide; crimes against humanity; war crimes; the crime of aggression.

The main purpose of the international judicial process before the International Criminal Court is a dispute between States parties to Rome Statute and the person who has committed an international crime, and the parties to the proceeding are the charges by representation of the Prosecutor and the defense – the defendant and his counsel.

The article discusses the prerequisites for the establishment of the International Criminal Court, sources of legal regulation of its activity, organizational structure, jurisdiction and procedural form of justice.

As a result of the review and analysis of the issues of the International Criminal Court can be concluded that the need for its establishment was objectively determined. Organization of the International Criminal Court is carried out in accordance with the Rome Statute, and its effective functioning completely depend on cooperation from member states.

Keywords: *the International Criminal Court, Rome Statute, jurisdiction, international crime, the principle of complementarity.*

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V. I. Topuzov

THE ROLE OF MUNICIPAL LEGAL SANCTIONS IN THE FUNCTIONING OF STATE

This article describes the role of local government accountability in the functioning of the Ukrainian state. Describes the author's position on the matter, and the formation of a municipal responsibility in Ukraine. In addition, the article describes the characteristics of municipal liability. The article generated variants of the system of legal responsibility: first, it is an explanation of responsibility at the local government through the categories of science, industry kinds of responsibilities, including the «constitutional and legal responsibility»;

secondly, the recognition of municipal legal responsibility and inclusion in the scope of the term of all types of liability that are implemented at the local level; Third, recognition of municipal legal responsibility as elected members of accountability of local governments and elected officials of local self-government to the people. Also, much attention is paid to the mandatory elements of liability - sanctions. Also, the article states the problem to create a specialized law that would set a goal to consolidate all the legal rules governing the relationship of control and accountability of local government in Ukraine. Thus, we can state that municipal liability is a complex, multifaceted institution that versatility is due primarily to legal liability.

Keywords: *municipal law, municipal responsibility, sanctions, legal liability, government, deputy, constitutional violations.*

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