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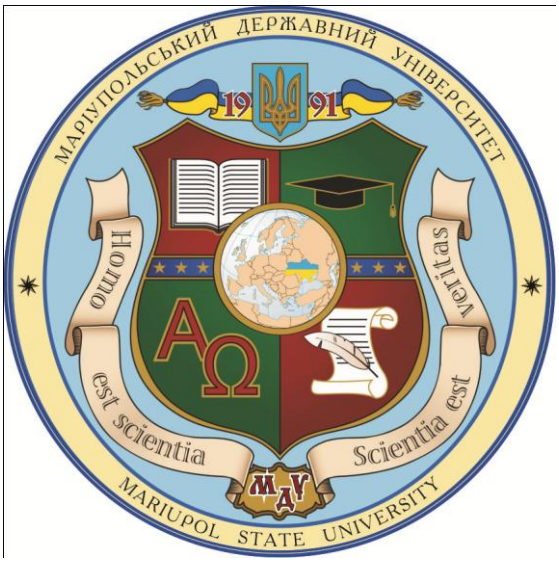

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KEY ASPECTS OF CONSTITUTIONAL AND ADMINISTRATIVE LAW

UDK 340.12

T. Z. Harasymiv

CURRENT UNDERSTANDING OF THE SOCIAL PERSONALITY TYPE

The article deals with socio-historical nature of personality, its formation and development through individualization and actualization of social relations, it shows ways of socialization in a historical as well as contemporary context, highlights the basic issues of personality formation as interpreted by representatives of sociological schools and directions given consideration to the philosophical tradition of studying a man.

Social personality type is a characteristic of the individual on the part of its socially important components, i.e. those qualities that are common to most people of a particular social community (typical nature of a particular social system) and are caused by mandatory requirements on the part of a particular socio-economic system.

Social personality type is a «model», «norm» of behavior as well as the matrix, which serves as the basis for the formation of individual personality traits of a particular socio-historical era.

The model of social personality type is a means to determine the level of the person's socialization and the criterion of adulthood.

Social personality type is a historical phenomenon that emerges and changes in the process of dynamic adaptation of human needs to a certain way of life.

Under the conditions of transformation of society, when the new and the old simultaneously coexist, a new social type of personality is formed, which is characterized, on the one hand, by unconscious assimilation of archetypes of the old society that is already dying, and on the other hand by the new values, interests, brought about by the new life space.

The simultaneous existence of many values, none of which are clearly structured regulatory model complicates the perception of social norms, making the process of socialization more difficult. These conditions require new «technique of existence», which means that planning activities in the social sphere requires from a person, firstly taking account of rapid changes in social reality, and secondly, high personal tolerance of uncertainty. This «technique of existence» involves consideration of personality formation as its re-socialization, as a process which results in the formation of the ability to navigate unpredictable situations.

The regularity of social personality type formation must be considered at all levels of the focused education process.

Key words: *human, personality, individuality, socio-natural determinants of personality formation, civilized paradigm.*

UDK 34:339.543(045)

M. Dela

REPRESENTATION IN CUSTOMS MATTERS IN POLAND

There are very few factors, which as positively affect relations between countries as bilateral trade. Mutual benefits arising out of export and import of goods, mitigate disputes and encourage nations to strengthen cooperation at the same time averting from political and military conflicts. International trade is, however, subject to many customs regulations, which if not acquainted with, may effectively hinder mutual cooperation. In such situation, of assistance are specialized entities, i.e. customs agencies which relieve importers and

exporters from carrying out activities before customs authorities. The author in detail discusses the provisions of Community and Polish customs legislation concerning representation in customs matters. Moreover, the author analyzes different types of representation, mode of granting power of attorney, as well as effects of granting power of attorney at public and private law level. In addition, the author describes the profession of customs agent, agent's qualification, powers, duties and responsibilities. The risk borne by the principal in the event of errors made by the representative is also described.

Keywords: *customs representation, customs agent, customs agency*

UDK 342.721(477)(045)

M. O. Lyubchenko

CONSTITUTIONAL-LEGAL REGULATION OF A UKRAINIAN CITIZEN'S RIGHT TO ENTER UKRAINE

The article deals with the analysis of the theoretical and legislative aspects of the constitutional and legal regulation of a Ukrainian citizen's right to enter Ukraine and the substantiation of the suggestions concerning the improvement thereof.

The article reviews the history of fixing one's right to enter his/her country in international instruments and the national legislation and analyzes the correlation between the terms «return» and «entry» as well as the word combinations «right to enter own country» and «right to enter the country a citizen of which the individual is» used for the formulation of the said right.

It is noted that the Universal Declaration of Human Rights dated December 10, 1948 was the first international instrument declaring the right of every person to return to his/her country. Later on it was reflected in universal and regional international legal instruments on human rights.

It is emphasized that the right of a Ukrainian citizen to enter Ukraine was duly regulated only after it declared independence while this right was restricted in a certain way in the USSR legislation.

The article states that the right to enter Ukraine was fixed in the Ukrainian Citizens' Right to Leave Ukraine and to Enter Ukraine Act of Ukraine dated January 21, 1991 for the first time at the legislative level. According to the first part of Article 1 of the said Act, a Ukrainian citizen is entitled to enter Ukraine. The use of the term «entry» and not the term «return» in the Act is considered reasonable since it provides also this right for the Ukrainian citizens who were born abroad and have never been to Ukraine.

It is noted that this right was subsequently fixed in the Constitution of Ukraine dated June 28, 1996. In accordance with the second part of its Article 33, a Ukrainian citizen cannot be deprived of the right to return to Ukraine at any time.

The documents confirming a Ukrainian citizen's right to enter Ukraine are considered.

The matter concerning the possibility to restrict this right is analyzed. Attention is paid to the provisions of the fourth part of Article 2 of the Ukrainian Citizens Exit from and Entry to Ukraine Procedure Act of Ukraine according to which the right of a Ukrainian citizen to enter Ukraine cannot be restricted under any circumstances. Arguments are offered that this version of the said provision is contrary to the second part of Article 64 of the Constitution of Ukraine in accordance with which the said right may be restricted in case of martial law or state of emergency.

The conclusion is drawn that in our country they pay attention to the constitutional and legal regulation of a Ukrainian citizen's right to enter Ukraine. The offers concerning the further improvement thereof are substantiated.

Keywords: *the right to enter the country, freedom of movement, constitutional-legal regulation, a Ukrainian citizen, national legislation, international instruments.*

UDK 342.7(477)(045)

O. M. Peresada

CONSTITUTIONAL MODERNIZATION AS MEAN OF CONSTITUTIONAL INTEGRATION OF UKRAINE IN CONTEXT OF GLOBALIZATION PROCESSES IN PROVIDING HUMAN RIGHTS AND FREEDOMS: EXPERIENCE OF POST-SOVIET COUNTRIES

The article refers to defining a meaning of constitutional modernization as the way to reach compliance of constitutional norms in area of human rights and freedoms with European standards in context of integration process and participation in legal globalization. Reformation of Constitution is one of the basic mechanisms of developing and improving means of regulation of jural relations in all important areas of public life. The importance is based on the particular conditions in which norms of fundamental law are functioning, as they are much more stable and have an exceptional legal power in comparison to regular national law. National law is based on the norms of Constitution and must not be in contradiction with its demands.

The article deals with experience of post-soviet countries in reforming (modernization) of their Fundamental law in part of human rights and freedoms on their way to integrate with European Union. The article refers to Poland and Baltic countries as examples because these countries have some particular common features in legal, historical, social, cultural and other issues with Ukraine and their experience can be considered as the source of knowledge on Ukrainian way to the European Union.

Certain success and some problems in this area have been highlighted in the article. Constitutions of Poland and Baltic countries have been improved (modernized) by including basic human rights according to international legal acts, especially personal and political rights. Very important issue is that the rights have been given a support of actually functioning mechanism of their realization. That is important as social human rights has been narrowed, but unlike soviet constitutional norms, they are no longer fictional. The con of the constitutional modernization can be pointed out in incomplete detailing of such important issues like household suffrage or local government.

Based on the analysis of post-soviet countries experience recommendations for Ukraine in matters of constitutional modernization in context of European integration have been developed. The most effective way of modernization of Ukrainian fundamental law is extracting most important issues in human rights and freedoms and making them less detailed but giving them more actuality by detailing the mechanisms of their realization. Also to protect constitutional norms from impulsive or politically encouraged changes it would be useful to implement staged constitutional reformation.

Key words: *Constitution, modernization, human rights and freedoms, changes of constitution, reformation, integration.*

UDK 341.2(045)

V. V. Polshchykov

CURRENT UNDERSTANDING OF ADMINISTRATIVE RESPONSIBILITY AS A FORM OF LEGAL LIABILITY

The article examines current understanding of administrative responsibility as a form of legal liability. Available analysis approaches of different scientific schools to the problem of determining the nature of administrative responsibility.

Describing the concept of administrative responsibility, states that the institution is a

form of response competent public authorities on administrative violations, which finds its expression in the conviction wrongful act («negative assessment») and applied to the offender appropriate punitive administrative sanctions.

It is noted that the application of administrative penalties for the publication of enforcement must act - a resolution that determined the guilt of the subject and his behavior negatively estimated, whereby the perpetrator to the relevant administrative punitive sanctions.

Analyzing the current administrative legislation, it can be concluded that the imposition of an administrative penalty is final measure, among other measures of administrative coercion, as it materializes legal assessment, which was given the offense and the offender in the course of the proceedings and make it to an appropriate resolution. As a result of an administrative penalty, wine undergoes certain burdensome consequences of material or moral character.

Keywords: *administrative responsibility, legal liability, administrative offense, governance, legal guarantees.*

UDK 342.7(477)(045)

S. V. Stepanova

THE PROBLEMS OF APPLICATION OF THE CONVENTION FOR PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AND THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS

The problems, which appear before Ukraine in the process of implementation of the provisions of the Convention for Protection of Human Rights and Fundamental Freedoms and the practice of the European Court of Human Rights to the current legislation of Ukraine on protection of constitutional civil rights and liberties, the research of problems of their application in judicial proceedings and determination of the effective measures for improvement of application of the Convention and the resolutions of the European Court foremost by the courts of Ukraine, are brought up in the paper.

The paper consists of the introduction, the definition of the problem in general, the analysis of the latest research and legal principles, which the solution to such problem is founded in and which the author relies on, the highlighting of the prior unsettled parts of the general problem, which the mentioned article is devoted to, the conclusions, and the list of references used.

The relevance of the problems set in the article is connected with compulsory use of the Convention for Protection of Human Rights and Fundamental Freedoms and the practice of the European Court of Human Rights as the rule of law. The aim of the paper is to research and to solve these problems. The set problems give an opportunity to further improvement of the remedy devices to a fair trial. The rules of law quoted in the article reflect the recent positive steps of Ukraine towards the implementation of the provisions of the Convention for Protection of Human Rights and Fundamental Freedoms and the practice of the European Court of Human Rights.

In the conclusions the author gives her suggestions as for the improvement of implementation condition and application of the Convention and the practice of the European Court in the national legislation and national judicial practice.

The conceptual issues and conclusions of the research may be used: in scientific research – for further development of theoretical and practical issues in the field of usage of the Convention and the practice of the European Court; in law-making – for formulation and detailing of suggestions as to improvement of the legislation of Ukraine; in law enforcement - for improvement of work of the governmental authorities regarding implementation of the principles of the rule of law; in teaching and learning activities – for teaching of the courses

«Constitutional Law of Ukraine», «International Law», «Criminal Process». The findings are also useful for all people, who are interested in current problems of constitutional and international law and protection of human rights.

Keywords: *European Convention on Human Rights, the decisions of the European Court of Human Rights, the practice of the European Court of Human Rights, the application of the European Court of Human Rights.*

UDK 342.7(477)(045)

I. S. Khobbi

MAIN PROBLEMS OF INFORMATION HUMAN RIGHTS' PROVISION IN THE CONTEXT OF UKRAINE'S EUROPEAN INTEGRATION

The article deals with the problem of providing basic information rights in Ukraine, the solution of which depends on the reform of information legislation and the Constitution of Ukraine, in particular its second section. It is noted that without their effective realization and protection can not talk about building the Information Society, which would correspond to European standards and values.

The main problems include the chaotic development of information legislation before the adoption of the current Constitution of Ukraine, which led to a large number of laws and regulations in information relationships that have no clear hierarchical compliance and not coordinated, resulting in varying definition and interpretation of many terms of conceptual apparatus.

The next problem is the lack of legally regulated and the functioning of the Internet, including undetermined legal status, rights and duties of subjects of information relations in that network, the procedure for their identification with a view to bringing to justice or redress.

This is such a problem for information rights as uncertainty of mechanisms to ensure accountability for violations of information legislation. Most laws regarding data indicate only the presence of such responsibility, sometimes even list the types of liability, but usually not clearly indicate what exactly the infringement, mechanisms to ensure accountability and not known of, to whose competence refers ensure accountability for violations of information legislation, particularly in the virtual space.

It is noted that in the settlementat of this issue to avoid total restriction of information rights on the network, such as over-blocking, filtering and markihg information, and it is reasonable to strengthen intergovernmental cooperation and mutual assistance of relevant authorities, in particular within international and regional organizations to unify the rules of use networks, liability for breach of these rules and the protection of legitimate activities in it.

These problems can be overcome by adopting the Information Code, which besides general and special parts should have a section on mechanisms for the protection of information rights contain an exhaustive list of conditions referring information as restricted access and the provision of appropriate stamps and clear list of conditions limiting information rights specifying appropriate mechanisms and timing of the restrictions. In addition, it is advisable to introduce the Information office of the ombudsman for the full and effective protection of the right of access to information and other information rights.

Keywords: *information rights, information law, information society, information code, Informational Ombudsman.*

UDK 342.745

V. S. Shestak

THE MODERN STATE AND PROBLEMS OF DEVELOPMENT OF ART IS IN UKRAINE: THEORETICAL AND LEGAL ASPECT

The article is sacred to the modern state and problems of development of art in Ukraine. The process of development of public relations in our country foresees the mediating of him legal facilities setting of which - to further this development on soil of right. A culture as special phenomenon of human civilization is one of main factors, which determine spiritual development of nation, come forward as an index of originality, assist becoming and development of the legal democratic state, to the construction in the country of civil society. Thus cultural function as a type of activity of the state, his organs and other authorized subjects, that directed in support realization private persons them spiritual (non-material) interests, comes forward as a separate object of regulative influence from the side of administrative law. Realization of the role this industry in relation to a cultural function contacts with her system influence on corresponding public relations in this sphere, which takes place due to those legal phenomena which form the mechanism of the administrative-legal providing. The exposure of general properties and personal touches of art, finding out needs in the scientific working and practical realization, what forms (specific displays) it realizes in. The exposure of the indicated lines of art and his kinds will allow more fully and thoroughly to correlate them with those forms and methods which can be realized in relation to them from the side of administrative law.

To the basic stages of origin, development, becoming and completion of artistic activity it costs to take the stages: forming of subject of creative activity; providing of presence of methods and methods of creative activity; providing of realization (realization) of creative activity; use and maintenance of work of art.

Existence of art, his development, present a prolate in time spiral, and the process of development of art has cyclic character. It accents attention on that the state can not be stopped or temporally stop to carry out the corresponding providing in relation to an art and his stages, so in general cultures.

In relation to the decision of question of correlation of centralization and decentralization in the administrative-legal providing of development of art on the decision of which the structure of the investigated mechanism depends, then it is possible to draw conclusion, that expedient and necessary in activity on providing of art and organization of artistic activity there is a transition from an especially state (centralized) model to the mixed model - model of the state-public providing (management) an art, within the limits of which the state must be acknowledged by the basic subject of the administrative-legal providing of development of art, but such which operates in close intercommunication and co-operating with other public subjects of art and artistic activity.

The mechanism of the administrative-legal providing of development of art finds the objectification in two basic aspects (to legal framework and activity on organization of relations which arise up in the field of art). Perfection of separate constituents of this mechanism must result in perfection of his functioning on the whole. His conceptual model of forming contacts with the mutual concordance of public and private interests in the field of art which finds the embodiment in development of this mechanism as a state-public mechanism of providing of development of art. A necessity is further development and realization of public policy at industry of art which foresees working out in detail of the operating Law of Ukraine provisions «About a culture» in other laws and subordinate legislation normatively-legal acts : in more clear and complete fixing the system of organs of management a culture and organization of cooperation needs between them; separate attention is deserved by the decision of question of material support and financial providing

of culture.

Keywords: *the state, right, society, culture, cultural function, art, artistic activity, law, function, legal form, lawmaking.*

CURRENT PROBLEMS OF FINANCIAL, CIVIL AND ECONOMIC LAW AND PROCESS

UDK 349.6 (477)(045)

Y. V. Koveino

ACTORS ON THE IMPLEMENTATION OF FORESTRY PERMANENT AND TEMPORARY FOREST

The article of normative - legal review of forestry species actors, namely permanent and temporary forest users. The attention is focused on the features of the regulatory framework, the content of the order and forestry relevant subjects of permanent and temporary forest management in modern conditions.

Forest management is the implementation of measures for conservation, protection, management and expanded reproduction of forests. Forestry is part of the national economy of Ukraine, because it provides a rational use, protection and reproduction of forest resources, which are strategically important for the state, which have multi-value, perform as social, economic and environmental functions.

The current state of forest management system needs further reform to ensure the competitiveness and innovative development of the forestry sector and the country as a whole

Under the Forest Code, as the main instrument that establishes the basics of driving and forestry, stated that the right to use forests in Ukraine is in the order of permanent and temporary use. In the permanent use of forests on state-owned lands to forest management without time-limit provided specialized forest enterprises and other public enterprises, institutions and organizations that have created specialized forestry units.

The subjects of legal temporary use of forests are: forest owners or authorized persons; enterprises, institutions, organizations and citizens of Ukraine, foreigners and stateless persons, foreign legal entities. Temporary forest user may not transfer forest land for temporary use to others.

Thus, analyzing the existing forestry legislation see some distinction regarding the subject composition forestry. Species composition forestry subjects, their basic rights and duties of states primarily in the Forest Code - mainly normative act regulating the content of forestry, basic rights and duties of forestry relevant actors, including permanent and temporary forest users. At the present stage of development of the country, there are certain problems in the forestry sector, including the relative activities of forestry. In this regard suggested (during roundtables and conferences on topics specified) and recorded in relevant solutions to the problems concerning forest management and forest industry under reform Reform Concept for Forestry and Hunting of Ukraine. Practical aspects of forestry subjects need further elaboration.

Key words*: forestry, forest management, forestry entities, permanent and temporary forest.*

UDK 347.912.15

R. V. Kolosov

THE TARIFF FOR JUSTICE OR JUSTICE FOR THE ELITE (SCIENTIFIC AND PRACTICAL COMMENTARY OF THE LAW UKRANE «ON COURT FEE»)

The article is devoted to scientific and practical analysis of the law of Ukraine «On court fee» and identify its features in comparison with the Decree of the Cabinet of Ministers of Ukraine «On state duty». The focus of the study is on changes and innovations in the legislation on court costs.

The paper explores the preconditions of acceptance of the law of Ukraine «On court fee», the article describes methodological approaches to calculation of court fees, which are determined from the minimum wage and the amount of the claim, clarified the object of levying the court fee, is determined the procedure for payment, the grounds of arranging on the installment system and postponement of payment of judicial collection are analyzed.

The author came to the conclusion on a significant increase in the rates of court fee, which significantly restricts access to justice. This occurred by increasing the minimum and maximum limits of the amount of court fee and expansion of the levying court fees. On the one hand, should encourage the parties to implement the legislation, the agreement or customs of business turnover, and on the other hand, relieve the courts, and it is possible to expedite the examination of cases in administrative, commercial and civil litigation. The main achievement of the adoption of the law of Ukraine «On court fee» is the disappearance of this type of legal expenses, as the information-technical support of the judicial process, which has greatly simplified the procedure of payment of court fee. As a result, the court fee will be one payment, which must be paid when applying to the court.

Analyzed in the work and recent changes in the law of Ukraine «On court fee», which the legislature has drawn a clear differentiation of the rates of court fee depending on the nature of the dispute (property or moral) and the identity of the claimant or applicant, for physical persons is determined by a much lower rate of court fee. Importantly, this research is of interdisciplinary nature, and the author makes an attempt to explore the legal basis of the payment of court fees in administrative, commercial and civil proceedings.

Keywords: *court fee, state duty, court costs, justice, access to justice.*

UDK 347.73

S. V. Sarana

CONCEPT AND ESSENCE OF SPECIAL JUDICIAL PROCEDURAL TAX REGIME

The article deals with the scientific understanding and further the law on special judicial procedural tax regime in the tax legislation of Ukraine. The author of special judicial definition of procedural tax regime, formulated on the basis of its main features and reveal its essence and composition.

Signs of special judicial procedural tax regime are: 1) be in the context of procedural regime; 2) procedures specific judicial procedural regime with procedures derived from the common-mode nature create their own procedures in cases where such procedures are generally absent or unable to provide procedural regulation within the special tax regimes; 3) special procedures judicial procedural regime can not cover all procedural aspects of the implementation of tax general obligation

Special judicial procedural tax regime - a tax regime that is secondary (derivative) with respect to the total tax and procedural regime aims to establish operational requirements by

using the principles, means, methods, guarantees total tax and procedural regime and the establishment of their own on their additions to tax and procedural relations concerning special tax regimes, thus not covering all procedural aspects of the implementation of the tax obligation in general and placing procedures are not inherent in the special judicial procedural tax regime.

The essence of this regime is to ensure judicial procedural regulation of tax relations that develop within the special tax regime with regard to features that are peculiar to the last.

The special judicial procedural tax regime include procedures for order entry status, registration and terminated and accounting, preparation and submission of reports in modes simplified taxation system and accounting, offshore, production sharing agreements, special tax treatment in the field of agriculture and forestry. This mode provides offshore special procedures for control and special tax regimes technological and scientific parks though not contain the relevant procedural rules in the future may have a procedure that will be assigned to special judicial procedural tax regime.

***Key words**: tax mode, judicial procedural tax mode, special judicial procedural tax regime, concept special judicial procedural tax regime, composition of special judicial procedural tax regime.*

UDK 347. 2/3

M. M. Toporkova

FEATURES OF LEGISLATION SYSTEM ON REGULATION OF RELATIONS WITH NATURAL GAS SUPPLY TO HOUSEHOLD CONSUMERS

In recent decades, most rapidly in the structure of world energy consumption of energy proportion of natural gas is increasing. Due to such properties as: high caloric content, ease of use and cleanliness of combustion. Demand for natural gas from consumers is growing, especially in the high level of demand for natural gas in a commercial-residential sector. In the process of natural gas consumption new conditions, which really put the task of creating a sustainable system of natural gas supply to consumers are formed. One of the challenges in creating a stable system of natural gas supply to consumers and address emerging issues in the field of gas supply is the formation and improve the existing regulatory framework governing the relationship between consumers, suppliers and gas producing organizations.

Considering the fact that consumer natural gas market in Ukraine is quite developed and continues to develop, and natural gas will continue to be a strategic raw material that significantly affects the economy, the work points to the necessity of strengthen the role of civil regulation of its mechanism.

The article states that the current legal acts for regulation of relationships to supply natural gas to consumers are not able to regulate relations concerning the supply of specific goods such as natural gas to household consumers.

The paper analyzes the current legal acts which regulate relations in the supply of natural gas and their classification established by legal force. Also it is determined that the introduction of ownership's freedom including energy contributed to the formation of the contract as a full source of civil law.

Based on research amendments to the Civil Code of Ukraine in terms of securing the structure of the contract for the supply patterns of energy and other resources through the attached network are introduced in this article.

The article states mode of natural gas supply for consumers, especially for household consumers, has an impact not only on the characteristics of gas supply, but also on the procedure of forming the contract conditions.

***Key words:** contract, household consumers, natural gas, housing services, energy resources.*

MODERN TRENDS OF THE DEVELOPMENT OF INTERNATIONAL LAW

UDK 341.2(045)

O. M. Atoyan

THE EUROPEAN STANDARDS OF ENVIRONMENTAL EDUCATION

In the article the content and characteristics of European standards of environmental education, as well as the best ways for their implementation in the national legal system of Ukraine.

It is noted that standardization of environmental education is one of the main parts of the measures necessary to help you achieve the objectives of the Bologna process. Without the standardization of educational content and learning content without standardization of educational technologies and technologies for determining the quality of education and vocational training education idea of European integration can only remain unfulfilled slogan. It is assumed that to achieve the goal of the Bologna process is possible in Ukraine within the address such major challenges as the introduction understandable to European System of diplomas, degrees, academic qualifications, the introduction of two-tier higher education system, the formation of the European system of quality standards of education and professional training using comparable criteria, mechanisms and methods for assessing and removing obstacles to the mobility of students, teachers, researchers and managers in the field of education.

Determined that the most important methodological problem of implementing European standards of environmental education against the background of the various national union of education and science in the European space facing the differences in the perception of Categories educational community directly-conceptual apparatus of international educational standards. According to the same position, they are interpreted as a general guide for self-assessment opportunities to enter into any socio-educational niche. The opposite view presents them because of the prevailing technocratic paradigm in society because they are associated with the canons and dogmas authoritarian pedagogy. According artists topics of international educational standards is a kind of pointer in the area of operation and development of the education system as a whole and is a set of social norms requirements to level of education, training graduate to the actual educational system.

Keywords: *education, European educational standards, EU law, implementation, interstate European integration.*

UDK 341.2(045)

M. O. Baimuratov

CURRENT TRENDS OF LEGAL SUPPORT PROVIDING EDUCATIONAL SERVICES IN EUROPEAN COUNTRIES

The article examines current trends legal provision of educational services in European countries in the context of the intensification of European interstate integration in the educational field.

It is noted that the basic principles of the formation of European legal standards in the provision of educational services in the aggregate represent their methodological foundation. National education legislation of the country strategic course which is striving for EU

membership must meet the methodological basis of common European regime of educational services and its international law, constitutional law and profiled-legislative support for law-making, legal-technical and enforcement levels of functioning legal system.

Established that proper implementation of European educational standards in public life cannot be achieved solely by legal means. Along with the adoption of relevant laws and regulations, the current state of social development objectifies the need for appropriate economic, political, socio-cultural, organizational and institutional provision of educational services in accordance with European standards in this area.

Proved that only a systematic set of activities can lead to the expected result - ensuring the quality of educational services in Ukraine in accordance with the regulatory standards of developed European countries, embodied in international instruments and European Union law.

Keywords: *education, European educational standards, EU law, implementation, interstate European integration.*

UDK 341.2(045)

Y. V. Hodovanyk

THE CHALLENGES FOR EFFECTIVE IMPLEMENTATION OF EUROPEAN EDUCATIONAL STANDARDS IN UKRAINE

The article deals with the legal problems of implementation of European educational standards in the national legal system of Ukraine at the present stage of its interstate integration and implementation of strategic course to join the European Union.

Ukraine to take account of the international context of content and ways to ensure the right to education actualized primarily due to the European integration guidelines development. Meanwhile, members of the national legislation of the European community are fully subordinated to common European standards. In many areas, such as the level of higher education, has initiated the process of harmonization of national legislation (the so-called Bologna Process) to form a pan-European educational area with a common understanding for Europeans right to education. Therefore, the definition of international and European determinant of national legislation in the field of education is crucial for Ukraine in the process of national standards for the right to education.

Specifies that the success of European integration in education is largely defined by EU law, which is a unique political and legal phenomenon and generates efficient organizational and legal means to achieve the objectives of the Union. A special attraction of EU law study adds its dynamism, the continued development of EU law demonstrates the continuity of the search for new and evolution have used the forms and methods of interaction of the Member States.

It is vital for the development of the market of educational services in the European Union with the basic principles of the Bologna process, which are embodied in the educational right of individual EU member states, in particular the principle of continuing education rights throughout her life, and the principle of open borders, providing for mutual recognition of certificates and diplomas in the member states of the European Union and the free choice of employment scientific and teaching staff. In turn, the system of international cooperation in the provision of educational services in the EU reflects the practical aspects of the Bologna process, which are in the internationalization of modern education and the creation of international organizations in the field of education, providing interaction of specific providers of educational services to various European countries.

Keywords: *education, European educational standards, EU law, implementation, interstate European integration.*

UDK 352.07:342.553(045)

S. V. Papayani

THE INTERACTION INTERNATIONAL AND CONSTITUTIONAL LAW IN THE PROVISION OF EDUCATIONAL SERVICES: PROBLEMS OF THEORY AND PRACTICE

In the article the theoretical and practical problems of interaction and relationship between international and constitutional law in the provision of educational services, an attempt to search for the best ways of implementing the international legal standards for the provision of educational services in the national legal system.

Determined that today international law are legally binding for States only with the consent themselves, despite the fact that formally there are precedents where international law apply to other states without their formal consent. On the other hand, this «consent» is not possible without some correction of national law. However, there is no doubt that the processes of legal globalization is not only the relationship between international and national law, it is also a relationship between the different national legal systems. This should be taken into account when considering the legal processes of globalization from the perspective of their impact on the norms of international and national law. However, under international law should be understood as a reflection of international relations especially specific form of legal acts - treaties and agreements, codes and charters, resolutions and decisions of international organizations.

The author believes that Ukraine has no choice if it wants to integrate into the modern global world and a common educational space, it will have to admit to its territory of its subjects. This automatically entails the establishment of a favorable legal regime for their activities. In other words, globalization as the principle of cultural, legal, technological, financial and economic development of different countries according unification and harmonization, not only forms of economic activity, education systems, methods of management, scientific knowledge, even consumer culture, but also the law, and state and political institutions of different countries. Ukraine at the beginning of XXI century became part of the world that is rapidly unified and harmonized legally.

Keywords: *educational services, education, legal security, international law, constitutional law, implementation.*

UDK 341.2(045)

G. Y. Tykhomyrova

LEGAL SUPPORT SERVICES IN EDUCATIONAL GRANT OF UKRAINE AND EUROPEAN UNION: COMPARATIVE LEGAL ANALYSIS

In the article the problems of legal provision of educational services in Ukraine and the European Union. A comparative legal analysis of the general principles of education legislation in European countries.

It is noted that the Constitution and laws of the Member States of the European Union adequately reflect the generally accepted international definition of the right to education and basic European principles and standards of education. At the same time, educational legislation of the Member States always takes common standards, the source of which is the supranational EU law-making institutions. In the context of European integration aspirations of Ukraine, this means the need for further adaptation of the national legal system of our country to European legal standards in providing quality educational services, the level of which meets the objective needs of a modern European society.

Determined that the services in European law covering a fairly broad and diverse area of economic activity, which requires taking into account the specific characteristics of different types of services for effective regulation. However, it should be noted that there is no single definition of services in EU law. Also not fully disclosed the content of the freedom to provide services and not clearly delineated the scope of the freedom to provide services. It should also be emphasized that the legal regulation of the freedom to provide services consisted mainly due to the practice of UST. The Court of Justice plays a crucial role in the liberalization of service, in particular – educational services in the European market education. In the formation of the Court of the EU TFEU provisions on the freedom to provide services were broader interpretation, was formulated the principle of direct effect of the Treaty, dedicated service, and the principle of non-discrimination; characteristic features specified services; clearly defined ways of providing services. It was also clarified the scope of the freedom to provide services; the content of freedom in terms of the nature of prohibited restrictions. Despite the high level of liberalization of services within the EU, the freedom to provide services are still relevant and legal regulations in this field continues to evolve. However, it is noted that each state chooses its European way of development of the constitutional right to education and specific options for providing quality educational services.

Keywords: *education, European educational standards, EU law, implementation, interstate European integration.*

UDK 341.22(045)

O. V. Filonov

HISTORICAL AND LEGAL ASPECTS OF THE STATUS OF ARCTIC TERRITORIES

The article studied the historical - legal aspects of regulation of the status of the Arctic territories; describes the concept of «Arctic» and «shelf»; the basic sources of regulation of the status of arctic areas and defined their essence.

Noticed that one state claims to dominance in the Arctic region do not always find the proper justification and are not recognized by other members of the international community. Legal statusof Arctic territories long time was based only on the national legislation of the most interested in pursuing a differentiation states, but later was based on the principles that laid on the basis for universal international legal document - the UN Convention on the Sea Law 1982. In addition, the beginning of XXI century was marked by the appearance of specific phenomena - Appeal states the results of natural science research to justify their own position. We believe that in the development of the Arctic' infrastructure this trend will persist and spread. This makes it relevant to develop effective international legal measures to inadmissible dominance of the state in certain regions that are important for many countries which might be the direction of future research.

Keywords: *Arctic, sector, the United Nations Convention on the Law of the Sea, shelf, natural resources.*

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V. D. Shapoval

INTERNATIONAL STANDARTS OF CITIZENS' RIGHTS REGULATIONS FOR LEGAL AID

The significant difference of international legal instruments of human rights by other international agreements is that the obligations imposed on the state regulate relations not only with other states, but they also aim to protect the rights and freedoms of citizens of the particular state. However, in many countries issues with the development of constitutional law, and most of all its implementation are not in the best condition. To have an idea of the international activities relating to the protection of human rights, it is necessary to note that the basic acts regulating civil and political rights at the international level are the Universal Declaration of Human Rights of 10 December 1948, the Covenant on Civil and Political Rights of 19 December 1966, the Convention on the Prevention of Genocide and Punishment of 9 December 1948, the Convention for the Suppression of the Crime and Punishment of 30 November 1973, the Convention against torture and other cruel, inhuman or degrading dignity types of addressing and punishment of 10 December 1984, the European Convention on Human Rights and Fundamental Freedoms of 4 November 1950.

The European Convention on Human Rights and Fundamental Freedoms provides not only the most successful in the world system of international law to protect human rights, but it is also one of the most advanced forms of international legal procedures. For most people the Council of Europe is associated with human rights. Inspired by the provisions of the Universal Declaration, the Council of Europe adopted the Convention for the Protection of Human Rights and Fundamental Freedoms - this is its full name. The document was opened for signature in 1950. The three main features make the Convention particular important:

the rights and freedoms of every person guaranteed by the parties, or as they are called in the international legal language, «Parties in the agreement»;

- for the first time in the international treaty on human rights the specific mechanism to protect them was established;

- Parliaments and judicial bodies obtained solid foundation in the field of human rights for making and interpreting laws.

In the recent years the last feature has been of particular importance with the accession of new democratic states of Central and Western Europe to the Council of Europe.

For Europeans who sought political unity, human rights have become an important priority. In May 1948, representatives of many organizations that sought to European integration, met in the Hague Conference on International Committee of movements for European Integration. In London On May 5, 1949 it was signed the Act according to which ten states formed the Council of Europe. There were high hopes that one of the primary tasks of the Council would be the development and implementation of Convention on Human Rights not only for Europe but for Ukraine as well.

Key words: *United Nations General Assembly, the Constitution of Ukraine, citizens' right to legal assistance, the international community.*

CURRENT ISSUES OF LAW ENFORCEMENT, CRIMINAL PROCEEDINGS AND FORENSIC SCIENCE

UDK 343.341(477):323.28(045)

M. M. Kucheruk

PREVENTIVE COUNTER-TERRORIST EXPERIENCE OF CIVILIANS AS A CONDITION FOR PREVENTION OF TERRORISM

The article deals with preventive antiterrorism experience of civilians as a condition of preventing terrorism. Relationships of key aspects of anti-terrorism are showen by the analysis of scientific literature: counter-terrorism, prevention of terrorism, preventive counterterrorist experience of civilians. Proposed definition of preventive counter-terrorist experience of civilians is based on the synthesis of theoretical ideas, and the core of this concept and structural features are taken.

Preventive counter-terrorist experience of civilians (hereinafter - PCE) is an integrative personal growths consisting of motivational, cognitive, operational-active, emotional-value and reflective components being as prerequisite of prevention of terrorist acts, fighting their dangerous activities and ensures human security in extreme situations. It should be emphasized that all PCE components have spirituality. The basis of the motivational PCE component are primarily consist of individual needs in terms of their safe life; internal motivation to work on prevention of terrorism, through information and communication technologies (ICT); preventive counter-terrorism training direction interest; the wish for peace, for new knowledge and skills on prevention of terrorism; the belief that the terrorist activities threatening to the security of the state and the public; work on cooperation with the special services which professional task is counter terrorism and etc. The cognitive component - is a set of civilian knowledges, which are vital necessary to prevent terrorist acts. Structural and semantic parts of this component are following: knowledge of the conceptual signs of terrorism, the knowledge of the causes of the emergence of terrorism and ways to overcome them, knowledge of specific ways to counter this dangerous phenomenon and other knowledge in order to overcome it, produced by mankind against terrorism. Such knowledges forming in people's minds cognitive constructs - circuits, antiterrorist content models, on the one hand, they are necessary for the perception and understanding of the amount of information on terrorism and counter-terrorism activities, and on the other hand - they sets an individual behavior program in situations of preventive counter-terrorist activities. Through cognitive PCE component person is aware exactly what threats to society and humanity as a whole are carries by the terrorism, what features of modern terrorism, how to prevent terrorist demonstration and others. The level of preventive counterterrorism experience of the individual depends on the level of mastery of relevant knowledge. On the basis of its knowledges specific skills, abilities are formed (they represent other operationally-activity component): using of such knowledges citizens learn to analyze the level of terrorist threat in a particular region, understand and assess the information on terrorism, to compare the actions of terrorists, solve social conflicts and others.

Operational-activity PCE component consists of a number of skills, abilities, competencies required for the organization of practice activity (reproductive and creative) in order to prevent acts of terrorism and its prevention. Elements of this component allows to build constructive relationships with others, resolve conflicts, to seek compromise solutions of problems etc. Emotionally-value PCE component is an idea about social norms, personal psychological characteristics (stress resistance, absence of conflict, positive emotional relationship to the world, emotional honesty, tolerance) values, expressing the emotionally-value state of the person in situations of terrorist threats. The development level of this

component depends on tolerant human behavior in society, the choice of active life position, internal rejection of aggression, terrorism and etc.

PCE reflective component provides for self-examination subject as a carrier of counter-terrorism experience their own intentions, antiterrorist ideology, emotional reactions, attitudes to reality, mechanisms of decision making under terrorist threat, behavioral patterns, preventive activities, terrorist attacks prevention and the products of this activity in order to rethink their mental states, modes of action, actions, results etc.

***Key words**: terrorism, prevention of terrorism, preventive counter-terrorism experience.*

UDK 343.123

V. L. Ortynsky

EFFECTIVENESS AND EFFICIENCY OF SOME PREVENTIVE - COERCIVE MEASURES OF CRIMINAL PROCEEDINGS

With the adoption of the Criminal Procedure Code in 2012, has undergone significant changes institute preventive measures, new types of preventive measures which led to the relevance of the study features the application of preventive measures. This article deals with the peculiarities of preventive measures for persons suspected, accused of committing a crime.

Preventive measures are a significant part of criminal proceedings ensuring. They are aimed at preventing possible counteraction on the part of the suspect, the accused against criminal proceedings, and are an effective means of correcting misconduct of these participants in criminal proceedings.

The adoption of the Criminal Procedure Code of Ukraine in 2012 led to significant changes in the institute of preventive measures, brought up new types of procedural coercion (personal liability, personal surety, bail, house arrest, detention). The aim of the preventive measure is to ensure the implementation of the procedural obligations entrusted to the suspect or the accused.

In pre-trial proceedings preventive measures apply only to the suspect and the accused, and in the court proceedings - to the defendant and the convict. They are specific preventive-coercive measures aimed against actions of these individuals that threaten the interests of the criminal process and that they may commit during the investigation of crime and the criminal proceeding, and they are measures of elimination or restoration of the procedural and legal status. They are used to create effective conditions for the functioning of criminal justice, but their use is permissible only in cases, within limits, and in the manner prescribed by law.

The peculiarity of legally securing the grounds to use preventive measures is that the rule of law reflects not the factual circumstances, but only the general criteria for the establishment and evaluation of facts. It is the objective to use the preventive measure as a future result that contains a reference to signs of evidence that trigger the application of this measure. The legal definition of the objectives of preventive measures includes a causal link between the actual data justifying the application of these measures and necessary outcome of their application. In each case, the judge, the court, when deciding on a preventive measure, using the criteria established in the law necessary for its application, are able to analyze the legal significance of the evidence on which they must operate.

***Keywords:** criminal proceeding, criminal coercion, preventive measure, types of preventive measures, grounds for preventive measures, the suspect, the accused*.

TRIBUNE OF YOUNG SCIENTIST

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S. K. Baregamian

REGULATION OF THE CONSTITUTIONAL RIGHT TO LABOUR IN UKRAINE BY THE NATIONAL LEGISLATION AT THE PRESENT STAGE

The article analyzes the national legislation of Ukraine regulating the right to labour. Different scientific views concerning this problem are reflected.

Labour law is the main branch of the legislation governing relations in different areas of labour. It explains the subject of labour law, the importance and value of social and labour relations that are governed by norms of this branch. The main act regulating social relations in the sphere of labour is the Labour Code of Ukraine (Labour Code), adopted December 10, 1971.

After collapse of the USSR, in connection with transition to a market economy, the emergence of different forms of ownership, and also for the purpose of improvement of the policy directed on strengthening of social protection of citizens also formation of the modern labour legislation of Ukraine on the basis of the operating Labour Code begins.

Developers of the legislation of Ukraine are guided by the provision of the international acts, bringing the national legislation into accord with the international labour standards for the purpose to promote economic and social progress, achieving social justice, improving working conditions and human rights.

In addition to legislation, the labour relations are regulated by subordinate normative legal acts of the President of Ukraine, the Cabinet of Ukraine, the central executive authorities and local regulatory legal acts.

Ukraine is at a new stage of the development today and therefore the existing legislation in all spheres of public life has to be improved and brought constantly into accord with requirements of time. It should be noted that for the last 15th years over 60 laws on modification to Labour Code thereof from 265 articles and a preamble which contained in the first edition of Labour Code, the 235th articles of the code significantly changed were adopted. It explains need of adoption of the new Labour code.

Development of the concept of the new Labour Code of Ukraine and of the Code – the heavy work. It is caused by a number of circumstances, in particular, complexity of economic and social situation in the country.

Keywords: *constitutional right to labour, national legislation, labour legislation, legal acts, legal regulation.*

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