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The present collection of scientific papers considers problems of modern jurisprudence in the context of sustainable development of state institutions and certain areas of law. Most published researches are carried out by scholars of National University "Odessa Law Academy" within such fundamental and applied topics as "Development and improvement of existing legislation to strengthen human rights protection potential of courts, prosecutors and other law enforcement agencies", "Organizational and legal framework for state support of marine economy of Ukraine",

"Methodological basis for improvement of the civil legislation of Ukraine", "Complex research of evidence-based activity of the court (judge) in criminal procedure of Ukraine", "Innovational and organizational legal mechanism of creation and operation of communal shipping companies in Ukraine".

The collection is intended for scholars, lawyers, postgraduate students and students who are engaged in this issue.

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Chapter 1

ACTUAL QUESTIONS OF LEGAL SCIENCE IN UKRAINE

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THEORETICAL DESCRIPTION OF FUNCTIONAL CONTENT OF ADMINISTRATIVE LEGAL PROCEEDINGS AS A MECHANISM OF HUMAN RIGHTS PROTECTION IN THE FIELD OF PUBLIC ADMINISTRATION

Determination of the essential features of administrative justice is possible with the use of the category of "function." Such category as "function" defines the role of certain institution with respect to needs of certain social system of a higher level of organization.

As imagined, the main functions of administrative justice are law enforcement and ensuring functions as the main activities of administrative courts are consideration and resolution of administrative jurisdiction. Functions of administrative proceedings also include protective, predictive, stimulating, control, and others.

Thus, in the broadest sense, administrative law expresses the idea of protection of legality, rights and freedoms of every subject of administrative law, but above all – human and civil rights, i.e. it serves as a guard of the main principles of interaction between society and the state, which usually determines the protection of rights, freedoms and interests of relevant non-authority subjects of public relations.

Thus, the functional load of administrative proceedings is to establish the appropriate mechanism for law enforcement in the ensuring legal provisions on compliance of public authorities' actions in the performance of administrative functions with the rights, freedoms and legitimate interests of citizens and ensuring proper implementation of the legal status of citizens in public administration.

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MUNICIPALISM AS A PART OF CONSTITUTIONALISM

Constitutional reform in Ukraine, which continues from the moment of the declaration of independence, requires from scientists new ideas and solutions that would become the basis for solving the problems of today. Especially relevant practical task for law scholars remain questions of optimal organization of public authorities in Ukraine, differentiation (including differentiation of competence), of public authorities and local self-governments, as well as guaranteeing the rights of local self-governments. That is why the study of the problem of municipalism will not only work for practical implementation of the relevant provisions, but also for further development of the science of constitutional law and municipal law.

Municipalism as a special mode of self-government operation, provides the priority of the rights and freedoms of man and citizen over interests of local self-government authorities, limiting and self-limiting their powers in favor of civil society, and is an integral part of constitutionalism. The relationship between the two is manifested in the fact that municipalization always indicates simultaneous processes of constitutionalization in social life, while demunicipalisation indicates the processes of deconstitutionalization.

The purpose of this article is to study municipalism as a special mode of operation of self-government and municipalism as an integral part of constitutionalism.

Prospects for further research in this area are in a more detailed definition of the concept “municipalism” and determination of its main features and principles.

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THE LEGALITY AND LEGAL NATURE OF ADMINISTRATIVE COERCION

Relevant today is the problem of application of such a method of management activities as administrative coercion. The method refers to the strictest methods of enforcement, so the activities of government officials and their administrative coercion is used, usually in conjunction with other management tools.

The aim of the work is to analyze the state of rule of law and legal principles of administrative coercion on the basis of theoretical provisions of administrative law science.

Administrative enforcement as a method of governance is an extreme measure that is used only when other methods are proved ineffective. The state as a whole is concerned in reduction of the number of cases of administrative enforcement so that positive option of governance is achieved without the use of coercive measures. However, in the practice of executive bodies there are cases where proper course of public relations can not be achieved without administrative enforcement by the competent public authorities.

Also, the concept of administrative coercion should be defined as the application by the relevant actors to persons who are not under their subordination, regardless of will and desire of the latter, enforcement actions in form of moral, economic, personal (physical) and other measures provided by the administrative law with a view to protection of the public relations through the prevention and suppression of crime, and penalties for their commission.

It is possible to say that the legitimacy is a mode of regulation of society and the state, which requires an exact compliance of behavior (activity) of subjects with legal provisions and regulations. Legality is a principle of public and social life, resulting in a precise, steady and uniform implementation of law by all subjects of law, i.e. citizens, their associations, officials, state agencies, local governments. One important principle of legality is the idea of law implementation in behalf of people to ensure their rights.

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CERTAIN ASPECTS OF ADMINISTRATIVE LEGAL STATUS OF SUBJECTS OF ELECTION PROCESS

The topic of this research paper is always relevant and important. The relevance of the topic is caused by the fact that the administrative and legal status of citizen of Ukraine is a part of its overall status established by the Constitution of Ukraine, the Law of Ukraine "On Citizenship" and other legal acts. The legal status of citizens include: human rights and freedoms; complex of obligations enshrined by the Constitution of Ukraine, administrative law and other areas of law; mechanism of protection of the rights and obligations of the state and guarantees of their implementation.

According to the Constitution of Ukraine human rights and freedoms determine the content and direction of the state. In this context, one of the main and indisputable signs of a democratic state is the presence of developed electoral law, which ensures the feasibility of every citizen to exercise their voting rights, the rights of other participants in the electoral process and the availability of judicial protection of those rights. Based on the fact that the scope of justice is determined by the subject of judicial protection, and the current Constitution of Ukraine secures unlimited jurisdiction, providing that court jurisdiction extends to all legal relations arising in the country, it is extremely urgent problem of the right to judicial protection in relation to such fundamental rights, which are the voting rights of citizens and the rights of other participants in the electoral process. Also in this paper, conclusions and proposals for administrative and legal status of participants in elections in Ukraine connected with ensuring the rights of all participants in the electoral process and respect their duties in accordance with the electoral legislation of Ukraine are determined. In this respect it should be noted that to ensure the completeness of administrative and legal status of citizens during elections, their rights and obligations must be enforced by law.

The priority for the current stage of the electoral law is adoption of a single act in the field of election law – Election Code of Ukraine. It should enshrine the status of elections in Ukraine for all types of elections, including local and referendums, and determine the form and means of protection of the electoral rights during electoral process.

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FORMS OF LOBBYING OF POLITICAL RIGHTS OF NOBLEMEN IN RUSSIA (1856 – 1867 YEARS)

The purpose of the article is the determination of most widespread forms of lobbying of political interests of noblemen in Russia during the 1856 – 1867 years.

The legal forms of lobbying in Russia in the middle of XIX century are determined by an author with regard to conceptual framework of the theory of lobbying, in accordance with the subjects of lobbying, definite historical terms. They are the institutional forms which enable the process of cooperation of administrative structures and interest groups enshrined in legislation.

Telkinena T.E. came to the next conclusions. One of features of maintenance of relations of lobbying in the Russian Empire in the middle of XIX century is that legislative initiatives of the noblemen (individuals and groups) were responses for initiatives from the side of the state. That is why, depending on character and maintenance of collaboration of the state and noblemen, it is possible to distinguish separate periods, when one or other legal forms of lobbying of noblemen prevailed: 1856 – 1857, 1858 – 1860, 1861 – 1867 years.

Among such forms of lobbying of political interests of the noblemen in the Russian Empire in the middle of XIX century the author distinguishes individual lobbyists (persons who had active civil position), corporate institutes (noble meetings), class interest groups (members of province committees on an improvement of the way of life of squire peasants and selected by these temporal institutions members of Editorial commission).

Telkinena T.E. considers that the individual form of lobbying of expansion of political rights and freedoms of noblemen predominated during 1856 – 1857; in 1858 – 1860 took place association of these lobbyists in class interest groups in province committees and as the selected members of the Editorial commission; after 1861, when the noblemen felt force of lobbying, they advanced old-new lobbyists: noble meetings.

Perspective, in the point of view of Telkinena T.E., is the wide use of sources of the press of 1850 – 1860th, which, in particular, will allow deepening the conclusions in relation to the circle of lobbyists of political interests of noblemen.

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AREAS OF PREVENTING ADMINISTRATIVE DELINQUENCY OF MINORS

Today very relevant is the issue of preventing administrative delinquency of minors. In this regard, on the one hand, the legislation should be as humane as possible to juvenile offenders, and on the other hand – use the most effective ways and means of dealing with them in view of the steady increase in number of crimes among this group of subjects of administrative relations.

For a long time the activity of state bodies, mostly law-enforcement ones, was focused mainly on the identification and investigation of already committed offenses, rather than preventing them. However, it is long ago proved that prevention is the most effective and most humane way to deal with offenses. Scientists are consistent in the statement that the prevention of offenses, including those committed by minors, is the most effective means of combating child delinquency.

Accordingly, it is possible to summarize that the administrative responsibility of juveniles compared to those of adults has certain peculiarities. Firstly, they are caused by special purpose of enforcement, namely preventive (educational).

Crucially important is the psychological impact on the offender in order to make him understand the wrongfulness of his conduct and provide abstention of such behavior in future.

In applying the measures of administrative influence on minors, emphasis shifts from punishment to education, prevention and raising legal awareness of juvenile offender.

Exactly prevention of administrative offenses committed by juveniles is a humane, effective and most efficient way to reduce administrative delinquency.

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THE ROLE OF STATE IN THE DEVELOPMENT OF VENTURE CAPITAL FINANCING IN UKRAINE

The key factor of innovation development is a due level of their financing, where venture capital is one of the most important tools. At present Ukrainian venture capital market is poorly developed. That is why state regulation of venture capital has a peculiar importance.

Most of the Ukrainian academics consider venture capital regulation through strict reglamentation of venture capital funds' activity and increasing of direct public support to them; some of them also appeal to the development of public-private partnership in venture capital industry (Gudima, Laduba).

This article questions the existing understanding of the role of state in the building of venture capital financing in Ukraine. I examine arguments pros and cons of public interference in venture capital regulation in the Ukrainian context. I analyze venture capital regulation in Ukraine taking into account legal reforms in countries with strong venture capital markets, such as USA, Sweden and Israel.

I find that public interference in the activity of venture funds on the motives of market failures and social ones cannot be considered as justifiable. At the same time, it would be unreasonable to refuse completely from the public financial support of venture capital, financing of which by private subjects is undesirable from the national safety prospective.

I propose to reconsider the existing system of venture capital regulation in Ukraine, which should be based mainly on the indirect methods of state regulation: development of nonbanking financial institutions, removing restrictions on investment in venture capital funds by institutional investors; simplification of the business environment and reducing the tax burden on business.

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IMPROVEMENT OF THE LEGAL REGULATION OF PROTECTION OF INFORMATION IN ELECTRONIC PAYMENT SYSTEMS IN UKRAINE

Emergence of new forms of payment instruments (in particular, such as electronic money) is connected with the appearance of electronic commerce. This means of payment is used by parties in the field of electronic commerce and operates in payment systems forming a system of electronic payments.

However, users of these payment systems often come to the attention of various scams, because mechanisms for protecting electronic payment systems compared to traditional means of protection of financial instruments (especially such as cash) have been formed much later and are currently under development and establishment. Legal regulation of information as one of the components of the security of payment systems in Ukraine needs constant development in accordance with modern requirements.

The study found that a promising trend in improving the legal regulation of electronic commerce in Ukraine is the formation of regulatory and legal framework using the latest mechanisms of protection of electronic payments. One of these mechanisms currently is cryptographic methods of protection of information in electronic payment systems. Determination by the National Bank of Ukraine of crypto-currency as electronic money is making impossible the use of the payment instrument in our country. One of the possible ways to solve the described problem is to determine crypto-currency as a financial instrument – i.e. any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Given the results, the main directions of the provisions of this study is considered to be the analysis of legal regulation of the use of payment instruments in the field of electronic payments and forming suggestions for improvement of this regulation.

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THEORETICAL ASPECTS OF DEFINITION OF ADMINISTRATIVE ACTIVITY OF BODIES AND ESTABLISHMENTS OF THE PUBLIC CRIMINAL AND EXECUTIVE SERVICE OF UKRAINE

The article considers the issues of administrative activity in penitentiary bodies and establishments, which are not developed in modern legal science of Ukraine. The attempt to generalize and develop theoretical aspects of administrative activity of bodies and establishments of the Public Criminal and Executive Service of Ukraine is made.

The author defines the main approaches to the characteristics of administrative activity of the Public Criminal and Executive Service of Ukraine. The author keeps in mind such types as administrative, jurisdictional, and supervising activity.

It is showed that organizational and management function together with its principles and methods are necessary instruments for the head of body or establishment of the Public Criminal and Executive Service of Ukraine which allows to provide administrative activity most effectively and purposefully and to solve the problems assigned to it in practical activities.

The author understands the administrative and jurisdictional activities of the State Penitentiary Service of Ukraine as enshrined in administrative and procedural law state, power, administrative, law-enforcement activities of establishments and bodies executing punishments on the solution of the administrative juridical conflicts which are of delictual and disputes settlement character.

It is offered to define administrative activity of bodies and establishments of the Public Criminal and Executive Service of Ukraine as the body of the executive and administrative actions which are implemented by officials in the administrative and legal forms and with help of administrative and legal measures aimed to provide effective functioning of these establishments and bodies and the prevention of administrative offenses.

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IMPROVING REGULATORY CONTROL OVER TAX INFORMATION IN UKRAINE

One of the key factors in the development of rule of law and society as a whole is achievement of the necessary level of legal certainty and its continuous improvement.

The study of legal regulation of tax information in Ukraine is an important foundation of modern mechanism of tax regulation. Appropriate mechanism for regulating tax information will determine the most favorable methods of improving tax regulation and the basic perspectives of their development in the future.

Important direction of research is to improve the legal regulation of tax information in Ukraine.

Therefore, we consider it necessary to offer the following ways to improve the legal regulation of tax information in Ukraine:

1) establishment of an information field highlighting the activity of the Ministry of Revenue and Duties;

2) ensuring uniform application of the legislation in the field of tax information;

3) approval of uniform rules and criteria for the preparation of answers to the question of taxpayers through the simplification of declaration forms and reduction of the amount of information supplied to taxpayers;

4) development of existing and introduction of innovative electronic services for the collection, processing and transmission of information by creating a "single window" for electronic accounting;

5) creation of a modern dynamic IT-function;

6) ensuring a high level of performance, reliability and security of information and telecommunication systems through introduction of an effective system of protection of tax information in the information and telecommunication systems and the formation of the primary and backup data processing centers according to modern conditions.

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SOME ISSUES ON THE LEGAL REGULATION OF AUTHORITIES' ACTIONS AS MANAGERS OF ACCESS TO PUBLIC INFORMATION

The level of democracy is measured with transparency of the state bodies' activity determined by the availability of sufficient legal mechanism for public access to information about their activities. Free access to public information promotes the rights and freedoms of man and citizen, as well as the functioning of democratic government. The right of access to public information provides the possibility of public control and influence on the decisions taken by the authorities, promotes protection of the rights and interests of citizens. In addition, citizens' access to public information is one of the foundations of a civil society, which allows maintaining effective control of the government and influencing the decisions of the competent authorities.

The aim of the article is to analyze the legal regulation of authorities on access to public information.

Law of Ukraine "On Access to Public Information" identifies government entities as the subjects of authority on access to public information.

The legal mechanism for public access to information in the possession of subjects of authority and other public information is a very important element in the implementation of the constitutional rights and freedoms, but the system needs legal improvement. Problematic question is regarding the use of definitions and concepts regarding government entities as managers of information and their liability.

Conducted analysis of the current legislation and scientists' researches made it possible to conclude that, for the efficient and effective implementation by public authorities of their duties and the proper implementation of the requirements of state law, it is necessary to improve work towards obtaining and providing true, accurate, complete and qualitative information on the official web-sites and printed media by appropriate administrators regarding the full realization of the rights of citizens to access to information, which must be provided for simplicity and clarity of the law.

O. Makhnitskyi

CONSTITUTIONAL AND LEGAL PRINCIPLES OF THE JUDICIARY IN UKRAINE

The article provides the analyses of the structure and content of the Constitutional Law principles of judicial power. Special attention is given to denoting the essence and the role of rule of law and Constitutional justice which are viewed as fundamental principles in the system of Judicial power principles. They are of primary importance for the functioning of judicial branch as a whole. They are also essential vectors of reforming and further development of judicial power under the condition of modern Constitutional reform in Ukraine.

Constitutional legitimacy on judiciary should be seen as a means and as a result. As a means – a principle of organization and functioning of public authorities through precise and strict adherence to the Constitution and other constitutional acts, the real effect of the hierarchy of legal acts in the system which

The Constitution has supreme legal force. As a result this is a regime constitutional legality due to efficient operation of the judiciary. The Basic Law is the basis of constitutional legality. Of course, if there is no Constitution, and the constitutional legitimacy can be no question. However, it seems that the main thing is not available the text of the constitution (though it is important that he still was), and in deep reverence coherence state and society of law.

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COMPOSITION OF LEGAL INFORMATION RELATIONSHIPS

Study of the basic laws of legal regulation of information relations is caused by the emergence of new social phenomena related to information and, accordingly, the attention of the legislator to regulation of this area of public relations. The relevant action by the legislature was amending the Law "On Information," "On Electronic Documents and Electronic Documents Circulation," the Law "On Access to Public Information." The term "information" from a philosophical category is increasingly becoming a particular legal reality and requires rethinking in informatics, informatiology, legal informatics and others. Information is becoming a specific subject to legal relations. These processes led to the partial regulation of social relations in the information sphere.

Comprehensive study of legal information relations today is of particular relevance because of the gaps in the current legislation regulating them with regard to their characteristics and practical needs. Scientific researches of these problems which exist in Ukraine, in our opinion, not fully reveal the specifics of object of these relations.

Each author draws attention to one or several of the most significant components of the issue, but the formation of unified approach is completely absent. As it is proved in the paper, provisions determining the subjects of information relations still remain controversial, despite their legitimate consolidation. The same can be stated about the legal definition of information. Ambiguously studied is the problem of determining the object of legal information relations. These disagreements can, in our opinion, be explained by the specialization of every author, their different theoretical and practical training.

Reasonable seems the offer to promote at the scientific level researches in fields such as philosophy of law, legal informatics, semantics, national security science and other related sciences in the complex and consolidate their results in the development of the Information Code of Ukraine.

All these scientific explorations are important foundations for researches in Ukrainian law and issuance of the relevant monographs. We believe that general theoretical works will help to further clarify the narrower sectoral issues in the field of information relations, their objects and subject composition.

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MECHANISM OF ADMINISTRATIVE AND LEGAL REGULATION OF LAND RELATIONS

This article is dedicated to providing a mechanism of legal regulation of land relations in Ukraine. It is determined that the mechanism of legal regulation is an integral part of social development; it is objectively inherent in the development, accompanies it giving regulated nature by the separate components (parts). These are the features of the mechanism of regulation through the isolation of the main stages of the mechanism of regulation.

Also the relevance of the research is determined by the fact that Ukraine is in the state of active land reform. Land as an element of the environment is a major factor of sustainment of the population and the means of production necessary for the functioning of all sectors of the economy. With this in mind, socio-economic relevance of ensuring prudent and reasonable relationship to the land becomes obvious. One of the most important means of implementing the state policy in the field of protection and sustainable use of land resources is creation of an efficient and effective regulatory framework capable of ensuring law and order in the sphere of land relations.

Administrative responsibility in land relations is a system of responsive techniques of authorized state bodies for unlawful actions, regulated by administrative law. In connection with the fact that land relations should be under state protection, the issue of improving the provision of a mechanism of legal regulation in this area is essential.

It is concluded that the Constitution of Ukraine in the form of general principles enshrines constitutional provisions on land, which form the basis for sectoral land law, namely, defines the special status of land identified as a major national wealth, defines land as the legal subject of private, communal and state property, predicts cases of termination of legal rights, and introduces the principle of special protection of land by state. These basic provisions, enshrined on the constitutional level, became the basis for appropriate land laws.

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CHANGING OF PERCEPTION OF NATURE OF SCIENTIFIC KNOWLEDGE AS A CONTEXT OF RETHINKING OF THE ESSENCE OF LEGAL BORROWING

The intellectual framework of classical science rationality has been totally destroyed by the influence of key paradigmatic events of twentieth century. This revolution changed understanding of the nature of scientific knowledge. Transformation processes of science rationality are the context for comparative law issues. One of such issue is the understanding of nature of legal transplantation.

Linguistic turn is one of paradigmatic changes within the structure of scientific knowledge in general, and within the discourse of legal transplantation in particular. Linguistic turn forms the problem of translation as the main problem of science and legal science. The problem of legal transplantation is the problem of translation too. The content of concept of legal translation is perception that transfer of texts (grammatical material) is not the same to transfer of meaning of such texts. Meanings form within the sphere of national culture. Thus, the meanings of legal texts are formed within national legal culture. According to this, transfer of legal meaning is very problematical. Transfer of meaning is synonymous with transfer of norm.

Another paradigmatically change of science rationality is destruction of subject-object opposition. The world is not object. The law is not object. Law is the construction of thinking. Legal meanings are created for communications, and exist only within the process of communications. Scientific knowledge is not perceived as a set of axioms after the revolutionary event of twenty century. Legal knowledge does not perceive legal norms as axioms too. Legal norms are not universal and are not transferable.

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DISCIPLINARY RESPONSIBILITY IN THE SYSTEM OF LEGAL PROTECTION AND DEFENSE OF OFFICIAL SECRET

The paper is dedicated to identifying the essence and purpose of disciplinary responsibility and to ensure the mechanism of providing protection and defence of official secrets. Major problems arising from the implementation of this type of legal liability in the information sector are revealed. The relationship between the concepts of "legal protection" and "defence" on the example of official secret is defined.

It is established that the legal and semantic basis in the abstract covers the initial general theoretical legal concepts and the specified ones in special terms.

In this article the disciplinary responsibility is considered as based on regulations of labor, administrative, information law special legal status of the subjects of disciplinary relationships which determines the legal obligation of offenders to suffer adverse consequences in the form of losses of personal nature for the commission of the offense (disclosure of information representing official secret) and is aimed at ensuring the implementation of the terms and conditions provided by law, subjective rights and duties of the subjects.

The official secret is defined as the composition and volume of business information created or obtained by a person lawfully during performance of his duties; access to this information is restricted by public authorities and other persons in accordance with the law, disciplinary regulations in case of exigency of business and are not subjected to external or internal disclosure and use for one's own interests or those of others in the form of advice or recommendations (before, during execution of labour function and after termination of service).

The paper reveals that at the level of disciplinary regulations in Ukraine issue of obligation not to disclose information, which constitutes official secret, is not fully resolved.

A list of disciplinary measures in the event of the commission of the relevant misconduct is imperfectly defined. For most of the organizations specific disciplinary penalties, except for specified commit of other types of misconduct, are not regulated.

Some proposals to improve legislation in the sphere of legal regulation are formulated.

Moreover, the author provides the necessary recommendations to improve the theory of disciplinary responsibility and to ensure the mechanism of protection of the official secrets.

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FEATURES OF THE MINISTRY OF AGRARIAN POLICY OF UKRAINE

According to the changes, Ministry of Agrarian Policy of Ukraine was reorganized into the Ministry of Agrarian Policy and Food of Ukraine, which got the status of the main body in the system of central executive authority on development and implementation of the State Inspection for Agriculture of Ukraine as a body, which provides the implementation of state policy in the field of agriculture control.

Thus, the aim of this paper is to analyze the functions and activities of the Ministry of Agrarian Policy and Food of Ukraine in order to identify its atypical functions.

It should be noted that the main function of the Ministry of Agrarian Policy of Ukraine are stated in its own Regulations approved by the Decree of the President of Ukraine on April 23, 2011 № 500/2011 "On the Ministry of Agrarian Policy and Food of Ukraine."

But now, given the regulation of the Cabinet of Ministers of Ukraine of 25 April 2012 p. № 334 "On Amendments to Paragraph 1 of the Regulation on Land Monitoring," the monitoring of soil on agricultural land became an atypical function of the Ministry of Agrarian Policy of Ukraine, conducted in accordance with the provision approved by the Ministry.

Assignment for any authority functions, which are unusual for its legal status and contradict the goal of its creation, definitely can not influence its general activities in a positive way. We believe that to improve the legal status of the Ministry of Agrarian Policy of Ukraine, functions atypical for central executive authority on agricultural policy must be removed.

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PROBLEM ISSUES OF ADMINISTRATIVE AND LEGAL STATUS OF NON-STATE LAW ENFORCEMENT ACTIVITY

This paper analyzes some shortcomings of the Law of Ukraine "On the Security Activity" and some areas of improvement of legislation in the field of state security activity, focusing on the positive experience of Russia, where law regulates not only security activity, but also the activity of private detective agencies and their use of firearms. The author attempts to clarify the role and place of state security activity in the system of law enforcement, organizational and legal framework for its implementation in accordance with applicable law. The author substantiates the position that the legal policy in the field of security activities should be aimed at clear definition of the legal status of entities and constraints in regard to compliance with specifically developed state standards. The author concludes that the law, order and security in society can only be achieved by the interaction of law enforcement bodies with security activities applied to other forms of property.

Also, the relevance of the theme is determined by the fact that the prerequisite for formation of Ukraine as the country with the rule of law is appropriate protection of rights, freedoms and lawful interests of individuals and legal persons from unlawful acts, provided in modern countries, the existence of public law enforcement and private institutions. However, non-state law enforcement in Ukraine is currently in its infancy, and state law enforcement agencies do not enjoy the confidence of the population.

The search for new effective forms of combating crime and enforcing the law and order in society should be based on the modern doctrine of the legal nature of security activity. This situation makes it necessary to clarify the role and place of security activities in law enforcement in general, form methodological approaches to the study of nature, ensure institutional and legal framework for its implementation, provide analysis of the characteristics of the legal regulation of security activities in Ukraine and improve definitions in this sphere.

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GOVERNANCE SYSTEM OF PUBLIC AND PRIVATE PARTNERSHIP: ORGANIZATIONAL AND LEGAL ASPECTS AND SUGGESTIONS FOR IMPROVEMENTS

In the article the author, on the basis of the legislation of Ukraine in the field of public and private partnerships (hereinafter – PPP), allocates administrative and legal problems, in particular in terms of the PPP governance.

The purpose of the article is exploration of ways to improve the quality of public administration of PPP on the basis of effective organizational structure of interaction of government, business, civil society institutions, representatives of the expert community.

To effectively achieve this goal it seems necessary to suggest reviewing the objectives of its achievements, which include tasks and activities to be accompanied by appropriate performance indicators.

First goal is to strengthen the capacity of the authorized state body in the sphere of development of PPPs.

The second goal of the author includes improving efficient and transparent coordination of public authorities responsible for the formulation of public policy in this area and authorized to monitor the preparation and implementation of PPP projects.

The third goal is the creation of an effective system and streamlining regulatory relations considering PPP.

The author clearly defines the criteria for effective development of public and private partnership in Ukraine, considering the possibility of improving the quality of administrative and legal support and direction to strengthen the ability of the state body responsible for its development through effective organization of interaction between authorities and business.

Author believes in the necessity of the development of the authorized state body responsible for the development of public and private partnership in Ukraine, in particular, in the need to initiate other enforcement authorities to ensure appropriate structural units that are organized to work on implementing public and private partnerships.

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THE CONTENT OF THE COMPETENCY FOR THE PROVISION OF ADMINISTRATIVE SERVICES IN THE MARITIME TRANSPORT FIELD

The article is focused on the theoretical rationale of the provisions on the content of competence for the providing of administrative services in the Maritime transport field. Relying on theoretical propositions, which are formulated by Y.A. Tikhomirov, there indicated that the term «competence» in regard to the administrative services provision in the Maritime transport field can be applied only in respect of public authorities. Relative to powerless actors – individuals and legal entities – the appropriate use of the term «powers». Expediency of using of the term «legalization» instead of the term «administrative service», or the determination of the content of the term «administrative services» through the conditions that the state should provide for the implementation of powerless subjects of their rights and legitimate interests is proved.

Based on the theoretical principles formulated Y.A. Tikhomirov competence regarding the content, we can make some generalizations. On the competence to provide administrative services in the field of maritime transport can only speak on public bodies. Regarding actors - individuals and businesses - is appropriate to use the term "capacity." At the same time, and the state represented by competent authorities and subjects should have reciprocal rights and obligations in the area of administrative services in maritime transport. The use of the term "administrative services" on activities state in any sphere (particularly in the field of maritime transport) is advisable in case if such activities associated with the creation of conditions for realization of their rights entities in a particular area. If you use the term "administrative services" in the context of the Law of Ukraine "On Administrative Services", the terminology can be carried out transformation of the term "legalization" that plays purpose of granting of the registration or permit, including in the maritime transport. Accordingly, it is appropriate to offer to carry out further scientific exploration towards the formation and structure of the draft law concerning the framework on uniform procedures legalization.

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FUNCTIONS OF LAW IN MODERN INFORMATION SPACE

Development of information technologies and their penetration into all areas of activities not only of citizens or groups, but also of the states and world community as a whole serves as a basis for the revision of the purpose of law to operate in the new environment, developing information space of society.

In fact, every sphere of legal life is the object of informatizaton, and information environment is a core factor in the life of society.

Information space is a sphere of activity of individuals, professional groups, the subjects of government, economic and political relations, but, above all, a control over information flows and processes, which is directly linked to the mechanism of law functioning.

Functions of the law determine the role of law in social life, and are expressed in specific areas of legal influence on the behavior of subjects of law.

Functions of law are classified by subjects, objects, methods, and conditions for their implementation. In particular, the known classification of functions of law distinguish between internal and external, general social (economical, political, ideological, social) and special (regulatory, security, informational).

In today's information space communication and dialogue provide society's ability to self-organization. The functions of law in general, which help the process of organizing people's behavior, and individually are intended to fulfill its social purpose. With the expansion of the information space, a special place in the mechanism of law functioning belongs to informational function of law, since it is a prerequisite for the realization of the other functions of law.

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ACTIVITY OF THE SUBJECT OF LEGAL ENFORCEMENT IN LIGHT OF CURRENT LEGISLATION

State activities include performance of duties and functions of state bodies and other bodies which to any extent apply the law. The level of effectiveness of the state activity is determined by a number of indicators of these organs' activity. An integral part of the characteristics of the functional effectiveness of subjects of legal enforcement is the relationship of practical application of the law to the applicable national legislation.

The importance of the issue is manifested in the problem of practical application of the right by all subjects of law. Direct and significant is a link between existing legislation and its application by the relevant actors.

State of law (absence of gaps and problematicity) is the key to the correct application of the law.

Thus, given the above, it is necessary to summarize:

1) inadequacy of legislation is obvious and is a more important factor of errors than errors caused by subjective reasons;

2) replacement of unprofessional or dishonest subject of law requires less time expenditure than replacement or improvement of the law;

3) fighting with subjective reasons has a local character, while correcting errors in law is a problem of national scale.

Thus, the activities of the subjects of law enforcement in the light of current legislation should be considered and analyzed basing on several factors: law-making errors, collisions in law, personal characteristics of law enforcement official, and a situation which drives a need of application of the law in general.

Chapter 2

INTERNATIONAL LAW IN CONDITIONS OF GLOBALIZATION

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CATEGORY "GUILT" IN INTERNATIONAL LAW

The article is devoted to the issues of the category guilt in international law, the role of guilt for the incurrence of international liability of states.

The use of the concept of guilt in international law has a specific characteristic. The author explores the various existing approaches to understanding guilt in international law. International law scholars are divided into two main conflicting schools the "objective theory" and the "fault theory." According to the objective theory an internationally wrongful act of a State can occur as a result of a breach of an international obligation through an action or omission committed by State authorities. There is no need to prove the existence of any additional psychological element.

According to the fault theory in the case of the absence of any degree of fault on the part of the authority concerned, no internationally wrongful act could be attributed to the State. The third concept provides risk responsibility for breaches of international law arising from active conduct and fault responsibility for breaches by omission.

Author concludes that it is necessary to adhere to the approach, based on the specific content of the primary rule in violation of which the internationally wrongful act is committed – rather than on the level of the secondary rules determining elements and conditions of State responsibility.

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JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS AS PART OF NATIONAL LEGISLATION

The paper focuses on the legal issues of execution of judgments of the European Court of Human Rights by Ukraine.

The problem of execution of the ECtHR decisions has been researched. The author proves the thesis that all ECtHR decisions should be followed by all States Members of the Council of Europe.

It is shown that Ukrainian judges are willing to adopt the approach of the Strasbourg Court as it limits the risk that the defeated party will simply take his case to the Strasbourg Court which will find in his favour. It is important to incorporate the ECtHR practice into national law, however, it is national courts' obligation to take ECtHR decisions into account.

Taking into consideration the above it is concluded that ECtHR decisions have erga omnes effect and should be followed.

It should finally be noted that the ECtHR provides only a "minimum threshold," its national courts act as the primary mechanism for protecting rights. It is emphasized that national legislation should be interpreted by national courts with respect to ECtHR practice. There should be a dialogue between the national and Strasbourg Courts in the process of protecting fundamental rights.

The article discusses proposals made at national and European levels to ensure state's compliance with the judgments of the Court.

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THE PRIMACY OF EU LAW AND THE SUPREMACY OF CONSTITUTION: SETTLEMENT OF THE ISSUES ON CORRELATION AT THE COURT LEVEL (ON THE EXAMPLES OF FRG AND ITALY)

This paper is dedicated to the research of the correlation of primacy of EU law (as the fundamental to the EU legal system) and principle of Supremacy of Constitution at the court level (on the examples of FRG and Italy). This paper analyzes major judgments of national constitutional courts as well as the Court of Justice of the European Union and theoretical analysis of the scholars' views on this issue. Main attention is given to practical ways of solving this problem, which can be applied not only to these two member states, but also to the others. It is stated that the principles of primacy of EU law and constitutional provisions of the member states at first glance can contradict each other, but in fact they do not (and this solution was proposed at court level by the Constitutional Courts of member states and the Court of Justice of the European Union). It was established that main criterion is the maximum guarantee of an adequate level of human rights protection, allowing, where appropriate, to depart from the principle of primacy of EU law. This is in some way the departure from the idea of normativism, when we not only solve the traditional legal question "which norm is endowed with higher legal force." The effectiveness of EU law is proved by its practical orientation, devoid of dogmatic ideas and has its aim to provide the maximum guarantee of human rights. Thus, if an opinion about the primacy of EU law over national one is undoubtable, the interrelation between EU law and constitutional law goes further directly addressing the issue of the hierarchy of legal norms on the court level, but implementing more modern and advanced ideas about functional purposes of EU law, thus realizing in practice and affirming original two-tier system of constitutional law in EU – national and supranational in their interaction.

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INFLUENCE OF GLOBALIZATION ON APPEARANCE AND SPREAD OF EXTREMISM IN THE WORLD

The article explains the reasons and conditions of the appearance of globalization and its positive and negative effects on social relations. The author points out that globalization has led to the growth of protests among people who strive to preserve their ethnic, national or religious identity. Current processes of universalisation are useless for most of the world's population. They only lead to increase of xenophobia and extremism. Due to globalization activities of far-right parties and movements in many countries have considerably intensified. By inciting social discord and intolerance, holding hostile protests and campaigns they have strengthened their political position, which allowed them to gain positions in the elected bodies and other authorities in some states.

The author considers that extremism has become a major threat to national security in the modern world. Available democratic mechanisms of reaching compromises between different interests of various social groups are not able to overcome the existing contradictions, and therefore the use of violence, especially illegitimate, became the only way of defending and protecting their beliefs and ideals. Using high-tech communication and information dissemination the spiritual and ideological leaders of extremism easily attract new adepts especially the youth. However, under the guise of struggle for some ideals simple human greed is often hidden, goals of which are aimed at enrichment, obtainment and/or preservation of power, self-affirmation etc.

In order to prevent appearance and spread of extremism in the world the author proposes to reinterpret the value of processes that contribute to globalization, and to develop new universal standards of coexistence of representatives of different structural elements of the social system at the international level.

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THE JUDICIAL PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS IN CASES ARISING IN THE PROTECTION OF HONOR, DIGNITY AND BUSINESS REPUTATION

The paper focuses on the problem of the judicial practice of European Court of Human Rights in cases relating to protection of honor, dignity and business reputation of individuals and legal entities.

The author argues the thesis that according to the opinion of European Court, even confidential or secret information is not to be deemed as the one violating the honor, dignity and business reputation, provided that it contains features of reliability and even single evidence of its possible validity. While as far-fetched and unreasonable distribution of information about a person must be clearly treated as a violation of moral rights and Article 6 of the Convention on Human Rights.

In addition, the court finds that there are enough common cases where a politician files a claim on the protection of honor, dignity and business reputation of the court is not really intended to protect those values, but uses such a tool to prevent objective criticism. In turn, the presence of the court case against the journalist or media filed by a politician makes such criticism more risky, especially when national courts made judgments on the satisfaction of such claims.

Also, the author provided the necessary careful approach of national courts to analyze each case that is considered in the investigated context.

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CONCEPT, CONTENT AND NATURE OF CONSTITUTIONAL RIGHTS AND FREEDOMS OF FOREIGNERS

Constitution as a document is a formal guarantee of rights and freedoms of foreigners. It is not enough just to declare legal equality, it is important to take care of the opportunity to exercise real equality in practice, by equalizing the social status and possibilities.

Analysis of the legal problems of constitutional rights and freedoms of foreigners shows that such concept as "protection" and "protectability" are very close in sound, which is why some researchers do not distinguish between them, and often instead of the term "protectability" use the term "protection," and use concept of "protectability" instead of "protection." Furthermore, lawyers operate basically the concepts of "security of rights" and "protection of rights" that are often used by them without the necessary analysis, disclosure of their contents, making it impossible to reflect the essence of human rights relations.

The purpose of the article is to attempt to define the protection of constitutional rights and freedoms of foreigners as well as to determine the content and nature of protection. The author reveals the concept fully involved in determining the content and nature of constitutional rights and freedoms of foreigners.

In practice, often there is no automatic implementation of protection of constitutional rights and freedoms of foreign nationals. Accordingly, there is a need to fight when there are obstacles and direct infringement on the part of others, as well as on the part of government officials. Violation of rights and freedoms of foreigners in Ukraine should be eliminated.

The article is relevant because of the way legislation is now regulated by the national aspects of the protection of the rights and freedoms of foreigners, which depends on the stability of their legal status, and the possibility of legal provisions.

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ROLE OF THE PROVISIONS OF INTERNATIONAL INSTRUMENTS IN THE WORK OF PROSECUTORS IN THE MILITARY SPHERE OUTSIDE THE CRIMINAL PROCEEDINGS

The process of transformation of legal frameworks of prosecution activity became particularly active in 2012 due to the adoption of the Criminal Procedure Code of Ukraine, altering the Law of Ukraine "On the Public Prosecutor's Office" (hereinafter – the Law), the adoption of recommendations of the Committee of Ministers to member states concerning the role of public prosecutors outside the criminal justice system (CM/Rec (2012) 11) on 19 September 2012. The above resulted in the need to analyze and systematize the new legislation on the activities of the prosecution, including the prosecution bodies on supervision of the observance of laws in the military sphere.

On the basis of these documents it seems possible to conclude about the lack of unity in the approach to defining the place and role of the prosecution in the European practice and an active search of the optimal model, rationality of the creation of the special prosecution bodies, namely within our research – prosecution bodies on supervision of the observance of laws in the military sphere that occur in intense discussions.

Powers of prosecutor's on supervision of the observance of laws in the military sphere are effective procedures for protecting the interests of citizens, society and the state in the pre-trial procedure, not conflicting the provisions of international instruments. In this sense, the activities of the prosecution bodies on supervision of the observance of laws in the military sphere, in our view, should be reflected in the draft Law "On the Public Prosecutor's Office."

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ON THE ISSUE OF THE SOURCES OF THE EUROPEAN UNION CUSTOMS LAW

Due to the fact that the European vector of development was granted a priority status in internal and external policy of Ukraine, the consideration of the various aspects of the spheres of legal regulation of European Union law and the possibility of their adaptation, in terms of transformation of the legal system of Ukraine, remains to be of particular relevance.

To the identifying systemic and structural features of EU law belong its specific sources, their division into the source of "primary" and "secondary" law, the principles which were separated from the sources including some of them which have not been framed in the normative form, and which exist only in the form of the rules, and approaches which were generated within the ECJ case law. It should be said that the specificity of the actors of the formation of EU law by its nature determines the specific character of the sources of the EU customs law.

It has to be said, that the founding treaties which form the legal basis for the functioning of the EU structure, have created an international treaty mechanism of integration, which represents the system of the international agreements which help to lead the development of integration processes in the community. Such sources occupy the highest places among the others.

To the general system of sources of EU law also can be attributed the constituent documents, regulations and atypical sources.

In doctrine, such sources are called acts "sui generis," due to the fact, that their adoption and systematization have been derived from the practice of the European Union law. Such sources include acts issued outside the EU institutional mechanism, such as acts of the European ombudsman, acts of Court of Justice of the European Union and other EU agencies, which may take the form of conclusions, resolutions, declarations, etc.

The Lisbon Treaty has not changed fundamentally the system of legal sources, and at the same time it has systematized the normative and legal acts, dividing them into categories: legislative and non legislative acts. By dissolving the boundaries between legal acts adopted under the "first," "second" and "third" pillars, the three tier EU structure has been successfully abolished. This situation maintains the critical importance in determining the source base of EU customs law and customs law in the structure of the EU in general.

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ACQUISITION OF CITIZENSHIP OF THE EUROPEAN UNION BY JUVENILES AS THE MAIN CRITERION OF DEFINITION OF THEIR ADMINISTRATIVE RIGHTS

European Union became an innovator in the regulation of the citizenship of the European Union because it took the main functions of the separate state. The citizenship of the European Union is based on the social and economic security (provided by the Treaty Establishing the European Community), and has 4 freedoms: the freedom of goods movement, the freedom of movement of capital, the freedom of movement of services and the freedom of movement of persons.

The concept of EU citizenship is explored in the Treaty Establishing the European Community, which indicates that the citizenship of EU is an addition to the citizenship of the Member States. The EU citizenship is unique status and it depends on the citizenship of all the Member States. Through the acquisition of the citizenship of States of European Community occurs the acquisition of the citizenship of European Union.

The author cites the example of legislation of France, the Great Britain and Germany. These States give their citizenship to a juveniles in different ways: thought "the law of blood," "the law of land" or naturalization. Also one of the main points in the article considers the double citizenship because the legislation of The Great Britain and France permits to have 2 different citizenships.

Though the right of Member States to denominate their citizens according to their laws, they might consider the concept of the citizenship of European Union and appropriate rights of such citizens including juveniles. Despite the passive nature of EU citizenship it gives children a specific legal status.

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ONTOLOGICAL FOUNDATIONS OF THE IMPACT OF LEGAL GLOBALIZATION ON THE INTERACTION OF CONSTITUTIONAL LAW OF STATES AND INTERNATIONAL LAW

This paper investigates the ontological foundations of the impact of legal globalization on the interaction of the constitutional right of states and international law.

It is shown that legal globalization, emerged against the backdrop of powerful globalization and integration processes, certainly not only influence the development of both national and international legal systems, but actually determines their development through the development of appropriate regulatory algorithms that demonstrate the phenomenon of internationalization of constitutional law states and constitutionalization of international law.

The author argues that legal globalization acts as a powerful catalyst for the harmonious development of the national constitutional and public international law based on universal values and rule of law and supremacy of human rights over states' rights.

It is proved that the globalization of the legal process determines the effective symbiosis of national constitutional and international law, which allows them coexisting and interacting with each other, making positive effect on public law and international legal systems.

It is concluded that legal globalization influences the formation of a global law and integration of all national legal systems – this is an objective process, the objective necessity and objective law.

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FUNCTIONING OF REIMBURSEMENT SYSTEM: EUROPEAN EXPERIENCE FOR UKRAINE

The article deals with an urgent problem of adaptation of the European standards of drugs reimbursement systems to the Ukrainian legislation. The author denotes that state regulation of the pharmaceutical market can solve the problem of economic affordability of drugs for public. It is pointed out that nowadays the reimbursement system in Ukraine is being implemented through a pilot project for patients with hypertension. The basic principles of reimbursement systems are considered. It is indicated that the system is based on principles of taking into account the generally recognized level of achievement in medicine, humanism, financial viability and therapeutic benefits of medical services which are most clearly visible in the German legislation.

The subjects of reimbursement are state authorities, insurance funds, professional associations, self-governing organizations of doctors, certain categories of patients. Objects of the reimbursement system are positive lists of drugs, cost of which is reimbursable. It is defined that compensation criteria in different countries can be a kind of disease, category of patients, type of pharmaceutical help or price characteristics. Basic organizational structures of reimbursement are determined as public and private, peculiarities of their functioning are specified. Possible mechanisms of reimbursement of cost of drugs in terms of patient treatment are particularly emphasized.

The author contemplates organization of the reimbursement systems in Germany and Bulgaria as far as their experience is the most suitable for constructing an optimal system in Ukraine. In particular, the structure and functional purpose of agencies providing operation of reimbursement are defined. The procedure for inclusion of drugs in positive lists is characterized.

Requirements of the European standards, which must be taken into consideration while constructing the entire reimbursement system in Ukraine, are outlined. It is proved that reimbursement as the means of state regulation of business activity of pharmaceutical market participants is a guarantee of due accomplishment of a social function of the state and provides an incentive for competition in the pharmaceutical market. The author formulates her own definition of reimbursement as the means of state regulation of business activity in the pharmaceutical market.

Chapter 3

CURRENT PROBLEMS OF CIVIL, ECONOMIC AND ENVIRONMENTAL RIGHTS OF UKRAINE

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PROBLEM OF SECTOR PROFILE OF NATURAL RESOURCES LAW INSTITUTE

Property relations, according to most scholars of law are enshrined in the rules of the various branches of Ukrainian legislation and are the subject of legal regulation of many branches of law. In modern conditions, the actual functioning of the diversity of forms of ownership of individual objects of natural origin and dynamic development of natural resources law covering a wide range of public ownership relations considering natural resources potential of the country, the definition of sector profile of natural resources law institute gets important theoretical and practical significance and deserves close attention from the theory of law as well as from relevant legal sectors of the Ukrainian legal system.

Nevertheless, the problem of sector profile of natural resources law institute in Law Science at general theoretical and sector levels still remains unresolved. According to generally accepted provision of theory of civil law, the legal institution should be understood as a group of civil law regulations, governing a certain set of social relations. Certainly, the civil law applies to the settlement of the relations arising in the areas of natural resources and protection of the environment, if they are not regulated by other legislation. However, natural resources relations are enshrined in legislative acts of other branches of law. In particular, most of the rules governing the ownership of the natural wealth of the country and contained in land, mountain, water, forest, natural preservation, faunal, floral, and other areas of natural resources law.

Actually established and actually existing system of legal rules governing the relations and fixing the ownership of natural objects and their resources, provides a sufficient basis for the confirmation that law institute of natural resources property is currently forming. Thus, the relations considering natural resources property can be successfully integrated into a separate legal institution "natural resources property" within the system of complex legal provision "Natural Resources Law of Ukraine."

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PERMITS AND AGREEMENTS IN THE MECHANISM OF LEGAL REGULATION OF NATURE RESOURCES MANAGEMENT

In the system of administrative mechanisms of regulation of natural resources a priority place is given to the authorization procedures, which are associated with the effect of the emergence of a special relationship of nature resources management. At the same time with the development of the market relations and the essential change in the approach to the regulation of natural resources, the contractual procedure for nature resources management has been implemented and is becoming increasingly common.

The permit system of regulation of natural resources management is a part of the general permit system in economic activity. It has been identified by numerous regulatory acts of various validity and differs significantly depending on the type of natural resource. Permit documents in the sphere differ in shapes, titles, properties, entities of issue. The permits for natural resources management first of all act as the legal forms of transfer from the state and other actors, including the owners of natural resources, the right to use a defined part of the natural object. They are the specific means of regulation of relations of the use of natural resources through public legal environmental limitations to the subject composition of nature, requirements and prohibitions for the implementation of environmental management, functional and territorial restrictions in the direct exploitation of natural resources, perform the selection function and confirm the special legal personality of nature.

Agreements for use of natural resources are directed primarily on the detailed regulation of natural resources. They, as well as permissions, may have independent significance as a reason for acquisition of the right of nature management; in other case they play a supporting role. Public environmental component associated with the specific object of the agreement – the natural resources – affects the private-law form of regulation of natural resources, limits the principle of the freedom of agreement. Types of natural resources agreements are different, as well as their value. The most widely spread are lease agreements (of land, water bodies) or those, which in fact have lease nature (long-form forest lease, admission agreements to enter to hunt).

Today, it is important to ensure a consistent systematic approach to setting of certain ways of environmental management, an effective combination of direct administrative influence and flexibility of contractual regulation, based on the priority of environmental protection and environmental interests.

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PARTIES OF ECONOMIC RELATIONS IN THE ORGANIZATION AND IMPLEMENTATION OF BUILDING ACTIVITIES

Building activity is inherently organizational activity of property nature, which involves a substantial number of parties: states, international organizations, government agencies and local self-governments, entities (residents and nonresidents) and consumers. Some of them are the subjects of organizational and economic relations, and others – of property and economic relations. Their status depends on the functions they perform in the organization and implementation of building activities.

Relations arising during building activities have private and public legal character.

Given the complexity of the building process, which includes design, examination of project, organization and construction, it is necessary to distinguish a separate group of auxiliary members, including: financial institutions, investors and insurance companies.

Question of parties' participation in the organization and implementation of building activity remains controversial. These entities, government bodies and local authorities are endowed with economic competence to resolve issues of organization and execution of building activities; individuals have such competences only in the status of the builder, architect and investor.

Subjects of urban development, and therefore the subject of building activity are parties to the construction process; the division of them depends on the functional purpose of each. In turn, the subjects of urban development are divided into subjects pursuing commercial and uncommercial aims.

In addition, participants of the legal building process should be divided into core and auxiliary members. Core ones include developers, architects (engineers), design organization, expert organizations, subordinate organizations of state and local authorities endowed with economic competence to resolve issues of organization and execution of building activities. Auxiliary members are not the subjects of urban development, but are operators of building relations: insurance companies, financial institutions, governmental organizations.

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PLAGIARISM IN THE WORKS OF PUPILS AND STUDENTS: THE LATEST ISSUE OF OUR TIME

The article considers the problem of plagiarism in works of students. Plagiarism is not a new phenomenon. However, with the development of digital technology and easy access to information resources problem of plagiarism in students' work has become very topical. It is indicated, that students' plagiarism, which is not perceived by students as a copyright infringement, ceases following basic scientific plagiarism.

The author divides plagiarism in the works of pupils and students into intentional and unintentional. The cause of unintentional plagiarism is the lack of necessary knowledge on the use of foreign scientific works, correct design of literature citations. Intentional plagiarism is performed by students consciously.

One of the important conditions for improving the quality of students' scientific works is adequate provision of teaching materials for training, writing scientific papers, clearly defined requirements for the content of such works, the terms of using other people's works, examples of references, as well as the allowable amount of the borrowed material.

In order to reduce the plagiarism in students' works, they should take comprehensive measures aimed at:

Increased knowledge in the field of copyright;

Formation of a negative attitude towards the appropriation of someone else's work, which is infringement of intellectual property, which can lead to liability;

Motivation of students to independent work, so that students treat research not only from the standpoint of obligation within the curriculum, but also from the standpoint of interest.

Plagiarism among students is a moral problem, because it raises important ethical and moral questions about good or bad, right or wrong behavior and about acceptable/unacceptable practices.

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LEGAL REGULATION OF THE GENETICALLY MODIFIED ORGANISMS MANAGEMENT IN UKRAINE

The article considers the legal mechanism of regulation in the area of biological safety for dealing with genetically modified organisms (GMOs). The author investigates implementation of international standards in accordance with national law to ensure an adequate level of protection in the field of the safe transfer, handling and use of genetically modified organisms resulting from the use of modern biotechnology that may have adverse effects on the preservation and sustainable use of biological diversity.

The article analyzes regulations for handling genetically modified organisms and implementation by relevant state authorities of comprehensive measures of effective biosafety systems functioning; combating bioterrorism and protecting from illegal and uncontrolled spread of genetically modified organisms; preservation of a healthy and safe environment.

It is noted that the adoption of such laws is a progressive step for Ukraine, especially considering the fact that they are developed as part of the integration of European law into the legislation of Ukraine to a number of legal acts. On the other hand, adopted laws in practice are often found to be declarative rules without effective implementation mechanism. Therefore it is necessary to comply with the implementation mechanism of identified areas of environmental policy with regard to enshrined principles of international and national law by improving the legislation of Ukraine in the area of biological safety.

It is noted that according to the Law of Ukraine "On Production and Circulation of Organic Agricultural Products and Raw Materials," which took effect in 2014, including general principles on which it is based, during the manufacturing of organic production (raw materials) it is prohibited to use genetically modified organisms and products containing them to ensure a high level of biodiversity. These principles define the main directions of the state policy in the sphere of production and turnover of organic products, which aims to create favorable conditions for the development of competitive, high-efficiency agriculture in compliance with national interests.

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EMPLOYEE'S RIGHT TO PROTECTION OF DIGNITY AS A SUBJECTIVE LABOUR RIGHT

The dignity is an interbranch legal category as it is regulated by the norms of different branches of law. The lack of uniform understanding of the categories of "dignity" and "honor" and their diversity leads to the fact that a right of a person to respect of these values and their protection is not always considered as his individual subjective rights.

Since the right to respect and protection of the dignity and honor of the employee is the basis of non-property component of the labour relationship, its security nature is manifested in recognition and implementation of these values, which appear in receiving a proper assessment and self-assessment of his qualities as a person and as an employee, as well as positive attitude on the part of the employer. A subjective right to respect and protection of the dignity and honor of employee embodies the legal status of dignity and honor as the highest social values.

Restoration of rights is bringing the legal status of workers in the initial position, i.e. to provision of compensation which employees could achieve in case of unhindered exercise of their rights. Although in theory and in practice remain unresolved issues of the features of forms and ways to protect the employee's right to protection of his dignity remain unresolved.

Thus, by its legal nature the right of employee to protection of his dignity is an independent subjective labour right, which is included in the list of basic labour rights. It is a personal non-property right to employment, secured by labour law. According to the subjective attribute, employee's right to protection of his dignity is always an individual labor right. The implementation of this right is under legal protection of the traditional structure.

The statutory right of employee to protection of his dignity in the national labor legislation does not confirm with international regulation on human rights. Also current labor law does not implement the provisions of Art. 28 of the Constitution of Ukraine, which indicates the lack of an effective mechanism to ensure such a labour right.

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THE PROBLEM OF DETERMINING THE GROUNDS FOR DEFENSE OF THE RIGHTS OF CONSUMERS OF INSURANCE SERVICE

The paper is dedicated to problems of definition of the essence and legal content of the concept of grounds for defense of consumer of insurance service, namely violation, non-recognition and avoidance. The author summarizes scientific approaches to the definition of concept "ground," "violation," "non-recognition" and "avoidance." The proposed approaches allowed the author to determine the main issues relevant to civil and legal regulations. Special attention is paid to the disclosure of legal content of these concepts in regard to defense of the rights of consumers of insurance service.

With these judgments, the author offers his definition of the grounds for defense of rights of consumers of insurance service. These grounds are "violation," "non-recognition" and "avoidance" of the rights of consumer of insurance service. Given that in the work insurance legal relationship are considered as a kind of civil and legal relations inherent to which is the freedom of contract, the author does not attempt to enumerate the whole list of possible violated, unrecognized or disputed rights of consumers of insurance services. Clarification of the content of the above grounds is required to choose the proper way to protect violated, unrecognized or disputed rights of the consumer of insurance services.

Exploring these themes the author formulated the conclusions, carried out a classification of the types of violations that may serve as a basis for the protection of the rights of consumers of insurance services.

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DETERMINATION OF QUORUM OF GENERAL MEETING OF LIMITED LIABILITY COMPANY PARTICIPANTS IN CASE OF NON-CONTRIBUTION BY PARTICIPANT OF THE COMPANY OF HIS PAYMENT TO AUTHORIZED CAPITAL

This article is devoted to the problem of determination of quorum of general meeting of limited liability company participants in case of non-contribution by a participant of the company of his payment to the authorized capital. The current legislation, judicial practice, legislative proposals and scientific works on this subject have been analyzed. On this basis the conclusion about ambiguity of the settlement of this issue in different periods of time has been made and its relevance has been established. The author notes that the current practice of accounting of non-contributed share for determining of the quorum of general meeting of participants has led to increasing numbers of cases of non-contribution of payments to the authorized capital. Attention is drawn to the Decision of the Constitutional Court of Ukraine № 1-RP/2013, which has limited voting by the nominal share in the authorized capital to one year from the day of state registration of the company and emphasized the necessity of making appropriative changes into legislation, which will help to change the existing practice and provide the effective execution of the provisions of the above-mentioned Decision.

The author holds an opinion of not-accounting of non-contributed share for determining the quorum of general meeting of all participants, which is held after one year from the date of state registration of the company, substantiating that even selective provision of the participants with the right to vote by the non-contributed share practically legitimizes the possibility of its non-contribution. In addition, the author considers inappropriate the idea about imposing financial sanctions for tardy contribution of share to authorized capital of the company. It is mentioned, that such norms were provided by Ukrainian law, but they were removed due to their ineffectiveness. At the same time, the author expresses the view on necessity of legislative establishment of period, during which general participants meeting is obligated to take decision about the future legal status of the non-contributed share. It is believed, that such norm will contribute to solution of this extremely actual problem.

On the basis of these conclusions relevant legislative proposals have been formulated, in particular, the amendments to the Civil Code of Ukraine and to the Law of Ukraine "On Business Associations" have been proposed.

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PROBLEM ISSUES OF PROTECTION OF A NATURAL PERSON'S RIGHT TO A SAFE AND HEALTHY ENVIRONMENT

The article highlights the state of modern mechanism of judicial protection of a natural person's right to a safe and healthy environment. The author focuses on the problems of choosing the appropriate forms and methods of protection of a natural person's right to a safe and healthy environment, including the practice of Ukrainian courts and the European Court of Human Rights.

Despite the absence of specific provisions on the natural person's right to a safe environment in the text of the ECHR and its Protocols, ECtHR case law suggests that this right is protected mainly within the individual's right to life (Article 2 of the ECHR) and the right to respect for private and family life (Article 8 of the ECHR). In addition, the author examines the need for the development and adoption of the 15th Protocol to the ECHR, which will establish human right to a healthy environment as a fundamental right in the system of the fourth generation of human rights.

It is concluded that in Ukraine there are so-called "environmental human rights risks." Minimization or elimination of the effects of such risks depends primarily on judicial discretion and the discretionary power of the courts. Also it is shown that the problem of judicial protection of a natural person's right to a safe and healthy environment depends largely on improvement of procedural order of consideration of this category of cases by removing a number of gaps and defects of existing legislation (for example, the competition of claims for protection of personal non-property right and of consumer's rights). The author examines the necessity to implement new or improve existing components of a jurisdictional form of protection of this subjective right (especially, environmental ombudsmen, class-action lawsuits, etc.) and proposes to introduce group (class) actions in Ukraine.

The author's conclusions and recommendations are aimed at identification of perspective ways of improvement of the legal regulation of the analyzed sphere of social relations.

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ON THE CONCEPT AND CONDITIONS OF PUBLISHING CONTRACT

For market turnover the ability of right holder to provide the object for temporary use is important. Publishing contract is one of the main instruments for implementing this feature. Definition of the nature and conditions of the publishing contract is necessary for the proper use of the product as an object of intellectual property rights. As stated in the legal literature, "contractual form of artwork use, to a greater extent than any other, provides the implementation and protection of both personal and property rights of the author." Constant scientists' reference to the problems of copyright contractual relationship improvement did not reveal a uniform thought on the definition of the concepts of "copyright contract," "contract on the transfer of property rights" and "publishing contract." The absence of consensus on the definition of the publishing contract leads to legal uncertainty of its essential terms and content. The result is a violation of the rights of author and publisher. These factors determine the relevance of the research considering problems of contractual relations between the author and publisher in the field of copyright and publishing.

Based on the content of the Law of Ukraine "On Copyright and Related Rights," it follows that the usual terms of the copyright contract (a publishing contract is a kind of copyright contract, so it is subject to the norms of the law) should include a provision stating that the party that transfers a non-exclusive right, retain the right to use the work and transfer non-exclusive right to use the work to other persons (Article 32 of Part 4 of the Law of Ukraine "On Copyright and Related Rights").

Having examined some issues related to the definition of the publishing contract and conditions of the publishing contract, it can be concluded that at present there are difficulties in understanding these legal phenomena. The positive fact is that science does not stop on the available results and tries to give a clear definition of the publishing contract and its terms.

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PROBLEMS OF DETERMINING JURISDICTION ON CLAIMS FOR INVALIDATION OF ADMINISTRATIVE ACTS RELATED TO LAND RELATIONS

The article is devoted to search for the clear criteria for delimiting the jurisdictions of administrative, economic and general courts in relation to the cases on rendering administrative acts related to land relationships invalid.

The author analyzed provisions of procedural codes and judicial practice in the aspect of distinguishing jurisdictions of administrative, economic and general courts on resolution of this category of cases.

In the article the author made a conclusion that in deciding which jurisdiction extends to the cases on invalidating land law related administrative acts the nature of legal relationships (public or private) must be taken into account.

In the case when these authorities exercise the powers of land owner, namely disposal of the land plot, private legal relations are present. In such relations executive and local self-government authorities are on equal terms with other persons, who apply for obtaining land in use or ownership of land plot to them. These relations are based on legal equality and free exercise of will of the parties. Executive and local self-government authorities are not the subjects of power in such situations and they are not bound with private persons with administrative relationships. That is why disputes between these subjects must be resolved by general or economic courts.

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BASIC CONCEPTS AND CATEGORIES OF INSTITUTE OF FORCED ALIENATION

The article of Andriy Nakonechniy is focused on the research of basic definitions and concepts of institute of alienation. Such concepts as "alienation," "force alienation," "expropriation," "confiscation," "redemption", "withdrawal," etc. are examined in this research. Current legislation requires definition and unification of terminology. This would provide additional guarantees for citizens and business of protecting from public authorities abuses and would become clearer for understanding of the legal phenomena and processes. This causes possibility of effective satisfaction of public needs for the state or municipality.

Analyzing scientific approaches, the author comes to the conclusion that the best definition of "alienation" is an action which results in transfer of right of ownership to the property. The author identifies signs of voluntary and forced alienation and investigates the legal nature and main features of such concepts as requisition and confiscation. Forced alienation is defined as taking by the state of private property for public purposes, normally without compensation (compare compulsory purchase, which carries with it a right to compensation). Studying the use of the definitions in the legislation, according to the author, the term "withdrawal" cannot be applied for denotation of process of alienation of property rights in the Ukrainian legislation.

In a conclusion an author clearly differentiates the researching concepts and provides suggestions for improvement of concept of institute of alienation by making changes in a current legislation.

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DEFINITION AND FEATURES OF COMPANIES OF FUEL AND ENERGY COMPLEX OF UKRAINE

Report of A. Tsybka is devoted to the formulation of the definition of companies of fuel and energy complex (energy companies) of Ukraine, as well as the study of its features.

The report analyzes different definitions of fuel and energy complex of Ukraine. Basing on such definitions from legal, economic, technical literature and laws of Ukraine, author gives his own view on the core of future definition of energy companies. Author highlights the connection of energy companies with energy resources. Further, energy resources are identified as core feature of any energy company. Author explains this by specific links between energy resources and whole system of fuel and energy complex of Ukraine.

The report also reviews features of energy companies due to current legislation of Ukraine in the field of energy. The article contains the list of special features of energy companies with its explanations. Every feature has its own link to act of legislation. Author names such features as: special goal of companies' activities; involving of energy resources; existence of large amount of different standards and specifications in this area, existence of different specific transporting systems for different kinds of energy or energy resources; specific requirements for protection of energy objects; difficulties with accumulation and storage of energy; special order of responsibility in the field of energy and utilities; requirement of license for certain types of activities etc.

As a conclusion author formulates his own definition of energy companies, basing on its features and the goals of such companies activities.

Chapter 4

COMBATING CRIME AND IMPROVEMENT OF CRIMINAL JUSTICE AUTHORITIES

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GUARANTEES OF THE ACTIVITY OF PROSECUTOR GENERAL OF UKRAINE

The article analyzes guarantees of the activity of Prosecutor General of Ukraine; each of them is determined and characterized. The relevance of this topic is determined by they fact that functioning of every public authority and activities of all officials include an obligatory presence of appropriate guarantees. It is logical that exactly these legal categories provide an efficient, coordinated and transparent work of the state apparatus, including centralized system of prosecution authorities. As Prosecutor General of Ukraine provides the organization and functioning of the system of prosecution of Ukraine, the guarantees of his activities are of paramount importance.

In the light of recent events, reform of prosecution and adaptation of legislation of Ukraine to EU standards, research and analysis of guarantees of the activity of Prosecutor General of Ukraine should take a prominent place both at the level of legislator and of doctrine. A guarantee essentially is a kind of procedural bases of activity of the Prosecutor General of Ukraine. It should be emphasized that the issue described above has not only theoretical but also practical nature, since the provisions of the legislation on these issues depend on the efficiency and transparency of the entire system of prosecution of Ukraine.

System analysis of the legislation of Ukraine and the doctrine on the issue of guarantees of the activity of Prosecutor General of Ukraine, allowed stating the following. Firstly, the statutory consolidation of guarantees of the Institute of the Prosecutor General of Ukraine specifies and stabilizes management, and ensures strict compliance with the law. Secondly, effective guarantees of the activity of Prosecutor General of Ukraine at the same time ensure the effective functioning of the centralized system of prosecution authorities.

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METHODOLOGICAL FOUNDATIONS OF CRIMINOLOGICAL ANALYSIS OF REGIONAL FEATURES OF CRIME

The article is devoted to the methodical foundations of criminological analysis of regional features of crime. Comparative analysis of crime in the region is revealed. Ways of measuring the regional characteristics of crime are provided. The list and characteristics of graphical methods of generalization and display of information about crime in the region are offered.

It is proved that the method of criminological research is an important instrument for identifying regional features of crime. It consists of a variety of methods that are used in criminology for the collection, processing and analysis of information on crime in certain areas. The author suggests using the results of measurement of state, level, structure, dynamics and geography of crimes as the basic elements of the subject of criminological analysis of regions. The instruments for comparison in the regional analysis are generalized indicators: average values, indexes, correlations, etc. The limits of regional criminological research are considered to be boundaries of an economic area or a particular region.

Tasks of regional analysis consist in: establishing common crime data (its state, level, dynamics, structure, geography); characteristics of certain types of crime in the regions (violent, juvenile crime, trafficking of drugs, etc.); identification of trends and patterns of crime and its species.

The author pays attention to the facts that the identified dynamics of relatively stable patterns of expansion of crime are the basis for the appropriate maps, charts, diagrams, etc. In criminology, these processes are called graphical methods of research. It implies the totality of methods of visualization and generalization of digital information using different kinds of geometric shapes, lines, patterns, symbols, schematic geographical maps, tables, explanatory notes.

One of the most convenient generalizing ways of visualization of the data received during the regional crime analysis is a method of mapping. The essence of it is that different crime rates are recorded on the map. Each map is made by adding to it the necessary indicators on crime, economic and social indicators. After compiling these maps it is possible to get a visual and easy to compare information on the expansion of crime and its dependence on the social, economic and demographic characteristics of the regions.

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MODERN TRENDS IN CRIMINAL LAW

The purpose of this article is to study the basic norm-setting issues which are the discussed problem of protecting life by means of criminal law, the features of minors' punishment, the problem of criminal offenses, and the problem of corporate liability in criminal law.

In criminal law of Ukraine crimes against life are contained in Chapter II of the Special Part. However, the definition of "life" is not established by legislator. This would cause no objection if the classification of offences did not cause a lot of opinions about whether life of the unborn child deserves legal attention. Life begins with conceiving, so not only mother, but also others, including state should protect an unborn person. In practice, the use of standards for the protection of life begins from the moment of birth. It seems that there is the substitution of the concept of "life" and "birth." Both the Constitution of Ukraine and the Criminal Code of Ukraine proclaim protection of life of a person, but actually they protect only part of life which begins with birth. Civil law in some cases protects the material rights of the child before birth.

It seems that there can be several alternative ways to fix the situation: 1) securing the concept of "life" in a note to Article 115 of the Criminal Code of Ukraine; 2) explaining the meaning of "life" in the decision of the Supreme Court of Ukraine. It will not be necessary to make changes to the Criminal Code of Ukraine, as the "death of another person" absorbs murder of an unborn child. Making qualification of grievous bodily harm on the basis of "abortion," actions of the offender should be additionally qualified as murder. Illegal abortion must also get additional qualification of actions of those responsible for the murder of a little person.

Thus, criminal law, which is intended to protect the most important public relations, can not "stay" aside from most valuable public relations – life protection. The life of any individual should be protected by law. It is unacceptable to talk about the rule of law, where murder is committed with lawful state permit.

The aforesaid shows that the current account of criminal law is constantly changing. The positions stated are often diametrically opposed, which requires a careful study of each issue.

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FIGHTING CORRUPTION IN GEORGIA: THE EXPERIENCE FOR LEARNING AND IMITATION IN UKRAINE

The paper analyzes the features of anti-corruption reforms, which have reduced corruption in Georgia. Georgia has made significant progress in reducing corruption, as evidenced by the results of various polls and international rankings. Georgia is now in the forefront of reforms not only in the South Caucasus, but also on the territory of the Commonwealth of Independent States. It should be noted that Georgia took 55th place in the world in terms of corruption among 170 countries. Among the states of the former Soviet Union only Estonia which is 28th and Latvia which got 49th place are ahead of Georgia. Armenia is 94th, Moldova – 102nd, Belarus – 123rd, Ukraine – 144th. As part of these reforms, corruption in public institutions disappeared or reduced significantly, especially considering the state authorities (particularly in law enforcement and the courts). It is well-known that at the present stage of its development, Georgia demonstrates sufficiently high rates associated with the international assessment of national economic sphere. Georgian legislation is partially aligned with international standards on the criminalization of corruption offenses. Example of Georgia dispels the myth that corruption is a part of the culture, and gives hope to the reformers who seek to improve and clean public services. Particular attention was focused on the strategic priorities impacting on anti-corruption success of Georgia; we believe it is advisable to apply them in Ukraine.

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CRIMINAL QUALIFICATION OF PREPARATORY ACTIONS TO COMMIT A CRIME, WHICH FORM A SEPARATE CRIME

The criminal activities of a person depending on the complexity of the actions that constitute the objective side of the crime that he has the intent to commit can be divided into certain stages. Each of these stages is characterized by a set of actions that constitute its meaning and are implemented to facilitate the commission of an offense or constitute the beginning of implementation of the objective of the offense. Given the nature of the action to exercise criminal intent, Chapter III of the Criminal Code of Ukraine "Crime, its types and stages" include Art. 13, which, in addition to the instructions on the complete offense in Part 2, stipulates that the inchoate offense is preparation of a crime and attempted to commit a crime.

Legislator's approach to the choice of legal technique, which describes the actions that make up the preparation of a crime, without excessive detail is justified. Thus, they are not limited to specific legislative framework because human activities may have a variety of manifestations. Also, a list of actions that may constitute a crime preparation is not complete. Preparatory actions for a crime can be a separate offense. Under such circumstances may be allowed double incrimination contrary to the principle of "non bis in idem."

In the case of preparation of a crime, which is only one of the stages of the crime and which creates a separate offense, it is necessary to find out how to qualify the appropriate criminal acts, one of which is the completed crime and at the same time – preparation of a crime and another one is inchoate crime. Obviously, the general rule regarding qualification of stages of the crime (the later stages of the crime "absorbs" previous ones) can not be applied in this case, because in fact there is only one stage – preparation of a crime. In this article, it appears that the rules of qualification should be applied in these circumstances.

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ON DISTINCTION BETWEEN DESTRUCTIVE, AGGRESSIVE AND DEVIANTNTNOYI BEHAVIOR

The article is devoted to the problem of analysis and synthesis of contemporary scientific knowledge in understanding the phenomenon of aggression, aggressive, destructive and deviant behavior and the factors that cause it. Relevance of the subject of research is caused by the increase in social tension and social conflicts on ethnical, religious and political bases, the absolute and relative increase in the number of crimes, particularly violent, against the person – the realities of today. The need to improve the situation has become a problem not only to law enforcement and academic circles, but also to society as a whole. The program of fighting against crime gained national character. It should be borne in mind that crimes committed in the aggravating circumstances constitute increased danger to society.

Tendency in the overall structure of crime of growth of the gravest offences involving aggression and cynicism of criminals determines the need for improving the efficient operation of internal affairs bodies to investigate crimes of this category. These present problems require more detailed consideration of human aggression, generalization and systematization of knowledge on the psychology of individual violent criminal.

Also the analysis of relations between the concepts “aggressive,” “deviant” and “destructive” behavior gives the reason to state their nonidentical and complex relationship, which is reflected in the diversity of scientific views and definitions of these phenomena.

Thus, destructive behavior is a specific form of active treatment of the subject or the world itself, the main content of which is the destruction of existing facilities and systems.

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NORMATIVE BASIS CONSIDERING ORGANIZATION OF TREATMENT OF CHILD VICTIMS OF DOMESTIC VIOLENCE

The main construction principle of a legal, socially-oriented state is provision of protection of life, health, honour and dignity, inviolability and security of every member of society. Through the ages family has been the stronghold of preservation of society humanity.

Domestic violence is a serious violation of human rights which must be protected and defended by the state. Among those rights are the right to life and physical inviolability; the right not to be an object of tortures or cruel and humiliating treatment.

Domestic violence exists in all social groups without exception regardless of incomes, education or social status. One of the most important society problems is prevention of violence against young children and adolescents in families.

The acuteness of the violence problem is related to the vulnerability and the unawareness of children. The vulnerability of children to violence is determined by their physical, mental and social immaturity, as well as their dependent (subordinate) position toward adults, regardless they are parents, foster parents, educators or teachers.

In the situation of domestic violence it is often difficult to detect if the psychological violence took place or the matter is restricted to the physical or economic violence. Therefore, the creation of indicators of psychological violence against children and their use in practice of law enforcement officers and social staff's work is very important.

Ukrainian legislation provides a number of special and social measures to eliminate the causes and conditions of violence. It guarantees to each person wide range of rights and freedoms and protection against their rights violation. The Law of Ukraine "On Prevention of Domestic Violence" provides punishment for persons who commit domestic violence, and measures to help the victims.

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"HUMAN TRAFFICKING" AS A FORM OF ORGANIZED CRIMINAL ACTIVITY

"Human trafficking" as a form of transnational criminal activity is a reality of our time, a new form of slavery, which assumed new features in the twentieth century. According to experts, it is considered to be the third most profitable area of organized crime activity, particularly in its transnational component, along with the arms and drugs traffic.

It seems the issue of principle, in which way can illegal human exploitation be distinguished from entirely legal human exploitation (the exploitation which certainly exists in the case of work or providing of services for hire). The absence of any signs of legitimacy gives reason to believe that in the particular case we are talking exactly about "human trafficking."

Analyzing selected form of transnational criminal activity we should recognize its "manufacturability" and orderliness, which suggests that this crime is clearly structured and organized. It should be understood that the use of "force" methods of coercion, deception, fraud etc., can not be the main feature of human trafficking. There are well known cases when persons agreed to participate voluntarily in these crimes in the case of absence of any form of coercion. Therefore we believe that human trafficking should be considered as any transfer of a person for his further exploitation, including sexual, for profit for organizers of this transfer, which is carried out both on a voluntary contractual basis, and with the use of fraud, blackmail, vulnerable condition of a human etc.

Thus, human trafficking and human exploitation in the XXI century are actually forms of slavery, the phenomenon that our ancestors overcame centuries ago. This anti-social phenomenon finally transformed into individual type of a highly organized criminal business, which nowadays is a threat to the national security of all countries of the civilized world.

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TACTICAL AND PROCEDURAL PECULIARITIES OF A SEARCH OF DWELLING OR OTHER PROPERTY

The article determines the essence of search of a dwelling or other property as an investigative (detective) action. Tactical and procedural features of its handling, the expediency of making some changes to the Criminal Procedure Code of Ukraine to increase its efficiency and prevent abuse by authorized persons are proved.

The relevance of the topic is determined by the fact that changing patterns of criminal proceedings in Ukraine became part of the general legal reforms aimed at harmonizing national legislation in line with international standards, which led to revision of certain provisions of the various areas of law, including criminal procedure.

Fundamental human rights include the right to shelter and its integrity. In particular, Art. 12 of the Universal Declaration of Human Rights states that "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence." In addition, similar rights are enshrined in the International Covenant on Civil and Political Rights (Article 17) and in the European Convention on Human Rights and Fundamental Freedoms (Article 8). The Constitution of Ukraine guarantees the inviolability of the home as well (Article 30). Thus, one may not break into home or other property, handle examination or search other than according to substantiated court decision. Violation of inviolability of the home or other property of citizens entails criminal liability under Art. 162 of the Criminal Code of Ukraine.

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THE INSTITUTE OF PRIVATE PROSECUTION IN UKRAINIAN CRIMINAL PROCEDURE: EXPERIENCE AND INNOVATIONS

Recognition at the legislative level of the necessity of reforming the criminal justice system towards its humanization is, undoubtedly, an important step on the way to approximation of the Ukrainian legal system to international standards in the sphere of human rights, freedoms and legitimate interests protection.

The article raises the question about legitimization of the institute of private prosecution in the Criminal Procedure Code of Ukraine (2012). The problem of protection of rights and interests of the criminal proceeding participants requires the highest degree of normative regulation. In the Criminal Procedure Code of Ukraine 2012 it is possible to observe the extension of a range of protective measures to ensure such rights. The legislator's position has been substantially reformed considering rights and legal interests' protection not only of the accused (suspect, defendant) person, but also of the victim. This is evidenced by the expansion of the range of criminal offences, the proceedings of which should be held in the form of a private prosecution.

Comparing the current legislation norms with their analogs of 1960-year's Code, authors come to conclusion about simplification of the procedure of completion and submission of a procedural document (for opening the criminal case of private prosecution) for injured person (victim) at the present stage.

As a result, the authors have expressed the view that the legislative affirmation of increasing role of private law elements in criminal proceedings is one of the important keys to humanize relations in the field of criminal justice.

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PRIORITY AREAS OF INTER-AGENCY INTERNATIONAL COOPERATION TO PREVENT DRUG TRAFFICKING

The relevance of the article is caused by an increase in the number of smuggling narcotics as a complex phenomenon, which can be prevented only by uniting the efforts of all social institutions through inter-agency and international cooperation to ensure implementation of general, special, criminological activities aimed at the realization of economic, legal and social programs on health improvement, creating conditions for protection of population from this shameful social phenomenon.

The author of the article analyzes the principles and conditions for effective interaction of inter-agency international organizations to prevent smuggling of narcotics.

Noteworthy is the scientific novelty of the article that is manifested in the fact that the author proposes criteria for activities of interagency international organizations to prevent smuggling of narcotics, psychotropic substances, in particular these are: the study of the causes and conditions of smuggling narcotic, drugs, psychotropic substances, their analysis and preliminary assessment; elimination of the causes and conditions of smuggling drugs; analysis, assessment of the situation of occurrence of causes and conditions of smuggling narcotics and so on.

The specified paper is a logically complete and is useful both for researchers and for practitioners of law enforcement. Security Service of Ukraine and lawyers, and therefore can be recommended for publication.

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SYSTEM OF FUNCTIONS IMPLEMENTED BY GENERAL JURISDICTION COURTS OF UKRAINE

The functions of courts of general jurisdiction have a coherent, comprehensive and complete character for each individual structure at each stage of its historical development.

The courts of general jurisdiction at the current level of development have lost a number of obsolete functions inherent in Soviet courts, and at the same time, acquired new functions of courts of general jurisdiction, which is a sign of progress and consistent approximation of national system of justice to the world and, above all, European standards of justice. The loss of relevance of some functions of the courts of general jurisdiction and the acquisition of value of others affected the system of functions of the courts of general jurisdiction of Ukraine in general. This system got new features and a new focus.

It can be predicted that the logical conclusion of judicial reform will promote optimal and effective implementation of the main task of the court – administration of justice based on the rule of law, ensuring protection guaranteed by the Constitution of Ukraine and laws on human rights, civil rights and legitimate interests of legal persons, public and state. In fact, the realization of these objectives is the main purpose of the system of functions of general jurisdiction courts and benchmark of its performance.

Most of the functions of courts of general jurisdiction in Ukraine are permanent. Even in emergency conditions in accordance with Art. 15 of the Law of Ukraine "On State of Emergency" ordinary courts continue to exercise their functions. The Constitution of Ukraine prohibits the creation of extraordinary and special courts (Art. 125).

National functions of general jurisdiction courts are implemented on the whole territory of Ukraine. The above leads to the conclusion that the system of functions of general jurisdiction courts is a well-ordered and structured accumulation of interrelated and interdependent areas, types and forms of general jurisdiction courts aimed to resolve legal conflicts and disputes in civil, administrative and criminal justice.

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LEGAL REGULATIONS OF THE STATE GENDARMERIE AND NATIONAL MILITIA BODIES IN THE WEST UKRAINIAN PEOPLE'S REPUBLIC (ZUNR)

Provisions for formation of law enforcement bodies of ZUNR are defined in the article. The process of disbandment of the Austro-Hungarian Gendarmerie units and formation of "National militia" by volunteers instead is considered. The content of the decision on formation of "Ukrainian State Gendarmerie Corps," subordinate to the State Secretariat of Armed Forces, adopted by the Ukrainian National Council (legislative body of ZUNR), is revealed. The short name of the corps was "State Gendarmerie" which was headed by the mayor L. Indyshevskyi. The content of the directive on "Formation of State Gendarmerie" of the Council of State Secretaries which defined practical administrative and technical actions directed at creating state bodies and bodies of maintenance of public order was researched.

The specialized legislative act on "State Gendarmerie" adopted on February 15, 1919 which stipulated the requirements to the people eligible for the service in the State Gendarmerie was analyzed. It was stated that the candidate had to be a citizen of ZUNR, lead a good lifestyle, have strong moral values, know the official state language and the language of the non-Ukrainian population living on the area of the gendarme's supposed service. Exceptions for age and family restrictions of a candidate are considered. The issue of a 1-year obligatory training of a person and passing exams for enlistment into the State Gendarmerie is analyzed.

The author notices some disciplinary punishments which were: a) reprimand; b) arrest up to 30 days; c) demotion; d) dismissal from the service. The conditions of dismissal are revealed.

The author defines provisions according to which all the costs on maintenance, training and support of the staff were paid from the budget of the State Secretariat of Internal Affairs. It was stated that this service counted as the service in the army.

The conclusions state that the formed Ukrainian State Gendarmerie Corps was a real tool of public order maintenance. ZUNR was an example of possible Ukrainian state order based upon reasonable humanity and gradual statement of democratic principles in the society.

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DEFENCE AND PROSECUTION: CORRELATION OF THE CATEGORIES

The paper investigates and analyzes the following important legal phenomenon of "defence" in all aspects of its manifestations: as a category, as a subjective right, as a party, and as a function. Holistic perception and understanding of the legal category of "defence" can not exist in isolation from the analysis of the category of "prosecution." In this connection the category of defence is seen as a pair to the category of prosecution.

For a true understanding of their nature, defence and prosecution should be considered in the light of the dialectical law of unity and struggle of opposites. The concepts of the prosecution and defence are among the basic ones, which appear in nature (laws) of the criminal process. In the conceptual framework of legal science they are important procedural categories. As known, the system of procedural categories employ diametrically opposite pairs, so-called "paired categories." These include, in addition to the category of prosecution and defence, categories such as "procedural rights" and "procedural obligations," "judicial independence" and "submission only to the Constitution of Ukraine and law."

Internal, close connection of the categories of "prosecution" and "defence" forms a regularity, the essence of which is expressed in the following assertions: "prosecution involves defence," "defence arises only with the occurrence of the prosecution," "no defence exists if there is no prosecution." Thus, we can conclude that the defense appears simultaneously with prosecution.

Thus, the prosecution and defence arise from a single base, which is a consequence of different interpretation of the same circumstances of the criminal case and the evidence available, which provides opposing positions in proceedings, resulting in the relations of confronting and resistant character.

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IMPROVEMENT OF CRIMINAL PROCEEDINGS ON THE BASIS OF AGREEMENTS: MATERIAL AND PROCEDURAL ASPECTS

Purpose of this article is to review some of the theoretical and practical issues of functioning of the institute of agreements, which require both appropriate scientific explanations and specific legislative regulation.

The relevance of the theme is determined by the entry into force of new Criminal Procedure Code of Ukraine (CPC) on November 19, 2012. According to Section 21 of Chapter XI of CPC, Cabinet of Ministers of Ukraine was one month from the date of publication of this Act submit to the Verkhovna Rada of Ukraine proposals on bringing the legislation into conformity with this law. These changes, in particular should be applicable to the Criminal Code of Ukraine (CC) as well. The analysis of judicial practice has shown a lack of changes and actualized the need for harmonization of regulations of CC with the provisions of CCP. In particular, the subjects of our scientific research were some issues on harmonization of the provisions of Chapter 35 of CCP and related criminal law. Let us recall that the amendments to the Criminal Code in connection with the introduction of the agreements were made only to Part 5 of Art. 65 of the Criminal Code and Part 2 of Art. 75 of CC. As we have seen, there were no relevant changes in other institutes of criminal law, including exemption from criminal liability, other measures of criminal law, especially criminal liability and punishment of minors. Some institutes of criminal law require further transformation.

Based on proposed consideration of the provisions the following main conclusions are made.

There is a promising adoption of the provision by Plenary Court of Ukraine for Civil and Criminal Cases “On some issues of criminal proceedings on the basis of agreements.” This provision should indicate that the legal entity in public law cannot act as victims in criminal proceedings and the party of the settlement contract.

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CONCEPT, CHARACTERISTICS AND TYPES OF VICTIM'S CONSENT (REQUEST)

In the article attention is paid to the fact that consent does not belong to one specific field and is used in many areas of life, its content is influenced by the science, representatives of which define the concept of consent.

The article presents the definitions of consent and its characteristics given by scientists in different time periods. The author concludes that despite the fact that scientists have paid enough attention to the issue of victim's consent, we cannot distinguish only one approach to the definition of victim's consent, its characteristics and types.

The article concludes that the terms "consent" and "request" have the same criminal and legal importance and consequences, although they differ by the terminology and mental content.

The author of the article refers to the definition of the concept of "victim" and differentiates between this concept in the criminal sense and in the criminal procedure.

The author also convincingly proves that the understanding of victim's consent (request) should be based on a particular understanding of the concept of "victim," because concerning the benefits, which are protected by the criminal law, consent (request) may be given only individually. Consent (request) can be given by a person concerning the benefits that this person disposes and within the limits of such disposal. Consent shouldn't violate the rights and interests of others, but when body corporate gives consent, it affects the interests of others.

The article outlines the essential characteristics of victim's consent, the combination of which allows the author to define the concept of victim's consent (request). According to the author, victim's consent is a valid voluntary individual expression of the will concerning the benefits that the person can freely dispose, and within the limits of such disposal, which takes place before or during the commitment of an act that infringes on public relations, protected by the criminal law, and causes them significant harm or threats of causing such harm.

Furthermore, the author gives the own classification of victim's consent into types according to various criteria.

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RELEASE FROM CRIMINAL LIABILITY AS A MANIFESTATION OF THE PRINCIPLE OF HUMANITY IN CRIMINAL LAW OF UKRAINE

Every action of a person can be evaluated in terms of the law, including criminal law, as legitimate or illegitimate. Extreme positions of such acts are crime and heroic deed. Extreme reactions to these things can be, respectively, punishment and reward. The punishment is a form of realization of criminal liability.

The implementation of criminal liability and other measures of criminal law is a manifestation of implementation of principle of humanity in criminal law doctrine on society, state, and some victims, because criminal liability is a definite deterrent, as well as a security standard. The person who committed the crime, ideally, has a right to clean up his act. However, scientists in their works do not focus on the study of complex aspect of release from criminal liability as implementation of principle of humanity in criminal law doctrine, which determines the relevance of the topic of research.

Release from criminal liability as a manifestation of implementation of principle of humanity in criminal law doctrine has certain imperfections. There is a balance in such implementation considering the subjects of criminal relations: the victim, the person who committed the crime, society and third parties. If C. Beccaria stressed the inevitability of punishment, in modern conditions there is the need to defend the inevitable measures of criminal law influence, measures of responses to socially dangerous acts. Thus, sanction of p. 2 Art. 389 of CC of Ukraine should provide alternative punishment in the form of imprisonment for up to two years to act on all persons who have committed a crime, regardless of their social status. Following the assignment of imprisonment, the provisions of Art. 79 of Criminal Code of Ukraine regarding dismissal for pardon with probation can be applied to women. It is also necessary to formalize rules for the application of incentive rules, taking into account the social danger of the person. If a person has already committed a crime for which he was released from criminal liability, such a possibility should be limited dealing with the commission of a new crime. The above together with the other factors helps to achieve balance in the implementation of principle of humanity considering subjects of criminal relations.

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SOCIAL AND LEGAL GROUNDS FOR CRIMINALIZATION OF CONTEMPT OF COURT AS A CRIME AGAINST JUSTICE IN UKRAINE

This article is dedicated to the social and legal grounds for criminalization of contempt of court in Ukraine.

The development of Ukraine as a constitutional state requires solving a number of problems, including the problems of development of fundamental theoretical concepts and approaches in the field of protection of contempt of court by criminal law. The important role in the development of the theoretical foundations of countering criminal actions is assigned to a criminal policy and methods of penal policy, among which dominates the criminalization.

It should be noted that the authority of the court in modern society requires targeted strengthening, but only legal education is not able to change properly the legal consciousness of the citizens. All this causes the relevance of this article, requires further development of the criminal legislation of Ukraine, the development of criminal legal means to combat contempt of court as a negative social phenomenon and the research of specific issues qualifications.

The objects of research are relations considering social and legal grounds for criminalization of contempt of court.

The subjects of research are social and legal grounds for criminalization of contempt of court as a crime against justice in Ukraine.

The purpose of the article is to examine the issues of theoretical justification for criminalization of contempt of court, as well as analysis of social and legal grounds for criminalization of contempt of court in Ukraine.

According to this purpose of the article, the following tasks have been formulated:

– to determine the degree of scientific development of the topic;

– to analyze the existing in Ukrainian criminal law doctrine of theoretical and methodological developments of criminalization;

– to develop a system of social and legal grounds for criminalization of contempt of court in Ukraine;

– to determine the validity and appropriateness of the criminalization of contempt of court as a crime against justice in Ukraine.

Thus, the expediency of the criminalization of contempt of court as a crime against justice in Ukraine is proved in this article.

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TACTICS OF THE SEARCH IN THE COURSE OF THE INVESTIGATION ON THE EVASION OF SINGLE PAYMENT

Elaboration of theoretical principles of the search in cases of financial crimes and tax evasion was conducted by A.A. Zakatov, O.S. Zadorozhnyi, V.V. Lysenko, G.A. Matusovskyi, S.S. Cherniavskyi and others. However, the investigation of the evasion of single payment demands regarding certain peculiarities of the subject of offence (money in the form of the single payment) and documents containing the required data on circumstances of the criminal activity in the course of the search arrangement and conduction.

Search is the investigatory action of the search character which means the goal-oriented forced inspection of premises and terrain compartments possessed by the suspected person, members of his family or organization with the purpose of detection and seizure of crime instruments, objects and values obtained in a criminal way, documents and other objects which report the tracks of the criminal activity and which are important for the establishment of the truth in the case.

The objects of search in this category of criminal proceedings are most often documents on the financial and economic activity, book keeping and reports on salaries and obligatory state social insurance (both authentic and faked); computer equipment and carriers of computer information (compact discs, floppy discs, flash storage media); stamps and seals of business entities; money, personal things (drafts, "double bookkeeping," notebooks, private correspondence, etc.).

The search is conducted at the location of the business entity (in office and utility premises); at the place of residence of the director or chief accountant who are suspected of the crime; at the place of residence of their relatives, friends; other places (summer cottages, garages, transport facilities).

The search arrangement includes the following actions: investigating criminal case files; collection of orienting data; selection of the participants of the investigation action; preparation of technical means; planning and choosing time for the search conduction.

Selection and application of tactical approaches of the search in the course of investigation of evasion of single payment depend on many factors which create the corresponding situation of the search: purpose of the search action, peculiarities of the search object; search situation; position of the searched person, and others.

According to the results of the analysis of the materials of the investigative practice on investigation of evasion of single payment and main scientific recommendations, it is appropriate to apply the following tactical techniques: 1) summing-up the conditions of the search place; 2) analysis of separate search sites with the purpose of detecting inconsistencies in separate elements of the situation which can indicate the false compartments in them; 3) using opportunities of typical analogs; 4) tactical techniques aimed at overcoming the refusal of the searched person to communicate: tactical techniques of searching the required objects "from the center to the peripheral," and others.

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THE IDENTITY OF THE OFFENDER IN A CRIMINALISTIC CHARACTERISTIC OF THE ACTS OF MISAPPROPRIATION OF THE VEHICLES COMMITTED BY MINORS

The article describes the data, which characterizes the identity of the offender of the misappropriation of vehicles committed by minors.

The author summarizes positions of special literature in regard to juvenile offender, which are important for the formation of criminalistic characteristics of misappropriation of the vehicles; the author concludes that these characteristics should include: gender, age, educational level, occupation, number of members of the group.

The author attempts to determine the dependence of the act of misappropriation of the vehicles on minor's sex.

Taking into account the legislative delineation of the age of criminal responsibility for certain types of misappropriation of the vehicles, the article investigates different age groups of offenders and differentiates analysis of criminal characteristics.

Based on the results of the studied materials of criminal proceedings at the courts with respect to minors under Art. 289 of the Criminal Code of Ukraine, the author stipulates that the vast majority of crimes are committed in groups. In connection with the above, groups of teenagers were investigated by various criteria: quantitative and qualitative (presence of adult accomplices).

Checking the effect of general trends in juvenile crime, examining categories of criminal offenses, the author determined the dependence of the possibility of their committing crime on intoxication (alcohol, drugs, toxic, etc.)

Based on the results of the research, the author concludes that the characteristics of a typical juvenile offender are: male person aged 16-18 years who is not engaged in social work or study (school, college or technical school); person is drunk or drugged at the time of committing socially dangerous act.

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DEVELOPMENT AND CREATION OF PROSECUTOR'S OFFICE IN UKRAINIAN LANDS WITHIN THE RUSSIAN EMPIRE IN XIX CENTURY

Prosecutors and other law enforcement agencies' officers, students, teachers and all indifferent citizens should know the history of the prosecutor's office as an important state institution designed to oversee compliance with laws. Everyone should not only have a general idea, but also have a good knowledge about the periods and patterns of its development, changes in the functions and tasks, forms and methods of activity, because only knowing the past it is possible to achieve large and significant progress in the functioning and development of these authorities. First of all, it is necessary to bear in mind that prosecutor's office of our state has always played an important role in the system of law enforcement offices, which have to maintain law and order, the rights and legitimate interests of citizens and the state. In this connection, successes and mistakes, which took place in law enforcement in the past, can be fully attributed to prosecutor's office as well. Attempts to increase its role in ensuring law and order or, alternatively, make the prosecutor's office guilty in violation of rights and freedoms of man and citizen, permissible in totalitarian system, is unreasonable.

Analyzing the above, it is possible to conclude that the activity of prosecutor's bodies as public authority since their establishment till today, according to its tasks and functions, aim at the comprehensive strengthening of the rule of law, protection and defence of the interests and values of the political system and society, support of public prosecution, fight against crime and strengthening the rule of law, protection of rights and freedoms of man and citizen, clarification of legislation and its improvement.

Thus, the prosecutor's supervision was and should be a shield and a sign for protection, strengthening the rule of law.

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LEGAL NATURE OF THE PROSECUTORIAL SUPERVISION IN THE FORM OF PROCEDURAL GOVERNANCE OF PRE-TRIAL INVESTIGATION

The article deals with the question of determining the legal nature of the supervision by prosecutor agencies over conducting pre-trial investigation of criminal proceedings in the form of procedural governance of pre-trial investigation. The author analyzes positions established in the scientific community considering the legal nature and meaning of this prosecutor's activity institute in the criminal proceedings. In addition, the article reviews the powers of the prosecutor in the context of comprehensive supervision of investigator, detection and prevention of his unlawful decisions, restoration of violated rights of participants in criminal proceedings with a view to strengthening the provision that human is the highest social value.

The research identifies several general approaches to understanding of the procedural governance. Thus, a significant number of scientists state that procedural governance of pre-trial investigation is a separate function of the prosecution authorities. They base their opinion on the assumption that during realization of this activity prosecutor is endowed with specific powers. Also common is the opinion that both concepts are identical because allegedly this kind of supervision has no defining qualities. Based on the analysis of normative reasons of such opinions the author concluded about their inadmissibility. On this basis author supports the idea that procedural governance of the pre-trial investigation is a specific form of prosecutorial supervision i.e. it is the same supervision, but in a particular criminal proceeding and with the use of special surveillance mechanisms which, however, is not sufficient to put it on a level with the more general functions. This statement is confirmed also by generally recognized within the international and European legislation recommendations of international institutions.

To strengthen foregoing proposed conclusions the author states that prosecutorial supervision of investigation, being inherently special expression of the prosecutor's authority, is one of the most effective ways to guarantee the legality of pre-trial investigation.

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ROLE OF INTERNAL BELIEF OF THE INVESTIGATOR DURING PROOFS ASSESSMENT

As object of research in the scientific article act the studied features of a role of internal belief of the investigator during the assessment of proofs in criminal proceedings.

Relevance of a subject is caused by a number of problem questions which are not properly settled by the legislation (namely by existing Criminal Procedure Code) of Ukraine.

At the beginning of article the author analyzes existing legislative provisions on a subject of research and proves that they are imperfect, puts forward the point of view on this problem. Shchur K.S. in the work considers a perspective in providing appropriate definition to concepts "assessment of proofs," "internal belief," reflects interrelation between them.

The main problem of research consists in variety of positions of scientists in scientific legal literature as the free assessment of proofs assumes variability in results of an assessment of the same proofs. Lack of accurate fixation of concept of "internal belief" gives a scope for its numerous interpretations.

Let us pay attention to the "impossibility of interference" in the activities of the investigator. Is it really so? Not only relatives of the suspect or the victim but also the prosecutor, the investigative judge can influence the investigator.

The author considers that they interfere in "internal" consciousness, when they order to change investigator's belief it the indictment in connection with insufficiency of proofs. Therefore, the proposal of the researcher is to replace the term of "internal" views on "personal" or "own."

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