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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.

Responsible for the issue:
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V. Dryomin

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Chapter 1

DEVELOPMENT OF ADMINISTRATIVE LAW IN MODERN CONDITIONS

S. Kivalov
Doctor of Law Sciences,
President of National University "Odessa Law Academy",
Academician of National Law Sciences Academy of Ukraine,
Academician of National Pedagogical Academy of Ukraine
Head of Verkhovna Rada Committee with the question of law and justice

THE NEWEST PROVISIONS OF THE LAW OF UKRAINE "ON THE STATE SERVICE" 2011 YEAR

In the conditions of next building of stateness, governmental service got a special meaning as inherent attribute of civil society functioning and constitutional social state. Further improvement of the current legislation about public service is one of the important directions of governmental service reformation which found expression in the Law of Ukraine "About public service" 2011. It's undoubted that accedence of the new law demands the theoretical analysis of its concept, provisions and its own terminological short novel.

In the article there are analyzed the newest provisions of the Law of Ukraine "On the State Service" 2011 year, particularly, the term "state service" and "state servant" over the prism of definition of the list of competence of the last, fundamentally new classification of the posts of the state service, demand of the political impartiality of the state servants, essential limitation of the regulative influence of the labor law norms on the state-official relations. The attention is devoted to the oath of the state servant taking into account its specific features for different types of the state service. There is made a comparative-legal analysis of the Law of Ukraine "On the State Service" 2011 year with the foreign legislation.

S. Sayenko
PhD in law, Assistant Professor,
Deputy Head of Administrative Law and Work Department
Didorenko internal affairs state university of Luhansk

DYNAMICS OF THE RATIO OF NORMS OF ADMINISTRATIVE LAW, RELIGION, MORALS AND CUSTOMS

The article deals with systemic interconnection of norms of morality, administrative law, religion and customs. These kinds of social norms complement each other in the regulation of social relations. It states when creating new norms of administrative law should be taken into account requirements of other social norms.

Transformation the norms of religion, morality or customs into norms of administrative law, according to the author, should be subject to the approval of such a process by society. After the social legitimation the institutions of the public authorities of Ukraine can receive right for authorization of certain rules of conduct as norms of administrative law.

When Ukrainian society begins to focus on the requirements of morality, religion or traditions that are prerequisites for the elimination of obsolete administrative law, invalidate them for a certain period. Also due to the emergence of new standards and administrative law are prerequisites for the disappearance of socially harmful morals, customs and religion. It is stated in article, that the norms of administrative law, in some cases, act as factors limiting the development of radical religious system of vectors which can harm the rights and legitimate interests of citizens on the territory of modern Ukraine.

Attention is drawn that in the social regulatory system of Ukraine appear the norms of administrative law that contribute to better implementation of the regulatory requirements of religion, traditions and morality. In turn and normative regulators morality, traditions and religion also contribute in some cases, the effective implementation of the norms of administrative law. This tendency should be considered positive for the development of Ukrainian society. It shows up in: of prevention administrative tort; the regulation of social relations in the sphere of education and upbringing; professional, scientific and cultural training of Ukrainian citizens; resolution of cases of administrative jurisdiction in the administrative courts.

At the end of the article states that the development of the author's point of view was made possible through the study of the scientific point of view, public opinion, the requirements of current legislation and practice.

L. Kornuta
Candidate of Law Sciences,
Assistant Lecturer of Administrative and Finance Law Department
National University "Academy of Law" of Odessa

DEFINITION OF THE NOTION OF EVIDENCE AND EVIDENTIAL ACTIVITY IN DISCIPLINARY PROCEEDINGS AGAINST PUBLIC SERVANTS

Being an integral factor in the functioning of the machinery of government, the Public Service today not only pursues the task of ensuring its stability and effectiveness under the new Ukrainian socio-political and legal realities, but also requires formation of an adequate legal mechanism of the government for its own organization and functioning. Public servants disciplinary responsibility constitutes no exception to this issue. The significance of evidence cannot be exaggerated in disciplinary proceedings against a Public Servant, for their existence and sufficiency enable a competent authority to determine whether a disciplinary infraction has taken place or not and to make a decision as regards bringing administrative action against such a Public Servant.

It should be noted that disciplinary proceedings against a Public Servant may allow as evidence any factual data that serve as the grounds for a competent authority to determine, in accordance with the procedure as established by law, whether a disciplinary infraction or any other offence entailing a disciplinary responsibility under the law has taken place or not and to ascertain guilt of such a Servant for committing the same as well as any other circumstances that are essential for taking a correct decision. All evidential activity in the disciplinary proceedings against Public Servants shall be carried out in the stage of line-of-duty investigation.

Legal proving is divided into: forensic (judicial) evidence presentation during court proceedings and extrajudicial (procedural) proving that implies extrajudicial application of rules of law. A kind of evidence pertaining to the latter is proving in disciplinary proceedings against a Public Servant. All circumstances of a disciplinary infraction committed by a Public Servant shall be ascertained via evidence, viz.: by means of collection, preservation, examination, and assessment of evidence. Proving in the disciplinary proceedings against a Public Servant has its own subject, which is a series of circumstances (facts) that shall be ascertained during each specific disciplinary proceeding. Any circumstances, that are the subject of proving in the disciplinary proceedings, shall be ascertained on the basis of evidence.

Almost total absence of any regulatory mechanism that should be provided for issues related to determination of evidential activity and securing of the status of any parties involved in proving presents a vexatious gap in the law. Therefore, adoption of a unique codified enactment on disciplinary responsibility is a crucial element of reorganization of the Public Service because codification will allow entrenchment of the reasons for Public Servants' disciplinary responsibility and hierarchies the system of disciplinary punishments and application thereof and to arrange the procedure of appeal against unlawful disciplinary punishments and that of evidential activity.

Yu. Harust
Candidate of law Sciences,
associate professor of administrative management law
and financial and economic safety Department of the Sumy State University,
applicant of National Internal Affairs University of Kharkiv

APPEAL OF OFFICIAL BODIES ACTIONS AS THE INSTRUMENT FOR ENSURING OF THE RIGHTS OF CITIZENS IN THE TAX SPHERE

In order to determine the remedies Ukraine citizens of their rights in the tax area, consider existing in our state procedure for appealing decisions and actions of the revenues and fees. Found that today our country offers its citizens an effective mechanism to protect their rights in the tax area by appeal actions and decisions of revenues and charges.

Also, the relevance of this work lays in the fact that Ukraine as for any other modern, democratic, legal and social state primary mission is to care for its citizens, the creation of all necessary conditions for their full life and normal development. Addressing these challenges is subject to the activities of all government agencies and officials shall ensure the rights, freedoms and legitimate interests of citizens. However, recognizing the fact that the efficiency and reliability of the state mechanism is the key to the well-being of citizens, it should be noted that very often the state-power Subjects violate existing in the state system of social relations and social values. Power – is a big responsibility because it allows the disposal of significant media resources that allow it to dictate their will, because in a democracy the clear grounds are established, strict limits and strict procedures for the governance subjects of the powers granted to them by the state. Also found that in paragraph 2 of Article 19 of the Constitution of Ukraine stipulates that public authorities and local governments and their officials are obliged to act only on the basis and within the limits and in the manner envisaged by the Constitution and laws of Ukraine.

A. Kovalchuk
Candidate of Law Science,
Head of Administrative Law Department
Prince Vladimir Institute of Law
Great Interregional Academy of Personnel Management
S. Gotsalyuk
lecturer of law, health and safety
Kiev Energy College

THE ADMINISTRATIVE RESPONSIBILITY FOR OFFENSES RELATED TO NON-COMPLIANCE WITH THE LEGISLATION ON ENERGY CONSERVATION

The article highlights the problematic aspects of administrative offenses related to non-compliance with the legislation on energy conservation. It was found that the strengthening and improvement of administrative responsibility in energy conservation promote proper conduct business relationships.

Based on the provisions analysis of the Code of Ukraine about Administrative Offences Classification in the electricity sector. By offenses related to non-compliance legislation energy conservation include the following components: the wasteful expenditure of energy resources , non mandatory requirements of the state appraisal objects with energy saving disorders associated with inefficient operation of fuel and equipment energy conservation and responsibility for violations related to the operation of fuel– inefficient and energy conservation facilities (article 98, 101-1 , 102 of the Code of Ukraine on Administrative Offences).

The features of administrative offenses related to non-compliance with legal requirements regarding energy conservation. Particular found that the objective side of the misconduct is characterized by violation of legal acts concerning energy saving, which is active in both action and inaction: the wasteful expenditure of energy resources, the implementation of operating equipment without energy conservation of automatic control and so on. It is established that the offender can be extremely officials. Characterized the subjective side of the misconduct, manifested both in the form of intent or negligence.

V. Volik
Candidate Law Sciences
Associate Professor of management and ecological law
Donetsk Law Institute of Ukrainian MIA

FORMS OF REALIZATION OF A STATE POLICY IN THE SPHERE OF CITY TRANSPORT

The city transport is very important for ensuring effective development of a city economy, the region and the state. The state pays much attention for ensuring appropriate development of this sphere. The role of a state policy in the sphere of city transport is important because it has to contain key provisions which define strategy and tactics of development of the sphere of city transport.

In scientific literature the essence of a state policy is investigated with administratively and from an economical and legal position. Though these approaches have a common goal, but considerably differ one from another.

In the Ukrainian and foreign scientific literature there are no uniform approaches, concerning essence of realization of a state policy. In works of some authors the state policy is considered as reaction of the state to real requirements or problems, and also as the direction of actions.

The state regulatory policy in the sphere of economy is the direction of a state policy which is directed on improvement of legal regulation of the economic relations, and also the administrative relations between regulatory bodies and subjects of economy.

The state carries out the strategic and tactical economic and social policy directed on realization and optimum coordination of interests of subjects of economy and consumers.

Legal strengthening of economic policy is carried out by definition of the principles of domestic and foreign policy, in forecasts and programs of economic and social development of Ukraine and its certain regions, in activity programs, target programs of economic, scientific and technical and social development, and also laws.

O. Skochulias-Pavliv
Candidate of Law Sciences,
Assistant, Department of Administrative and Information Law,
Institute of Law and Psychology
National University «Lvivska Polytechnika»

ORGANIZATIONAL AND LEGAL MEASURES OF COUNTERACTION TO CORRUPTION IN THE EDUCATION SECTOR

Based on analysis of normative-legal acts and the results of sociological polls, the condition of corruption in education sector was examined in the article. Priority measures directed on reducing of the level of corruption in this sphere of social life were formulated.

Unfortunately, modern education sector is one of the main parts of social life that is very affected by corruption. Now the problem of corruption has captured the entire education system, from pre-schools to high. However, the author believes, that the most dangerous is corruption in higher education, since high school is a social institution which combine mental and spiritual development and form the ideological orientation principles, moral values.

The author emphasizes that the available evidences indicate that intensive development of corruption in education sector took place in the 60s and 70s, especially in the 80s of XX century. Thus, corruption doesn't have long history, but this negative phenomenon rooted in education sector and become a dangerous phenomenon that destroys the fundamental principles of education, distorts the consciousness of young people and becomes the norm of their life.

Numerous sociological polls demonstrate that corruption in higher education has become the norm of life, effective and fast way to solve problems. And in most cases, students does not want to intervene in the process of resisting corruption because they consider that it the task of law enforcement bodies.

The author of the article points out main anti-corruption measures in the sphere of education, among them are :

1. Valid political will of senior government officials, especially the President of Ukraine. If officials are convinced that there is political will and sanctions and punishment inevitably comes then they will stop to go in for corruption.

2. Conscious desire of students and teaching staff to refrain from corrupt practices.

3. Formation of anti-corruption legal awareness of citizens through the creation of anti-corruption education in schools and universities.

4. The establishment of independent anti-corruption body, which is one of the key conditions for effective anti-corruption politics.

Y. Demyanchuk
Candidate of Law Sciences
„Communal higher educational establishment of Kyiv Regional Council
the Humanities Pedagogical College of Bila Tserkva"

ADMINISTRATIVE AND LEGAL FOUNDATIONS OF LEGAL LIABILITY OFFENSES

Today, the law that virtually formed on the prevention and suppression of offenses in the sphere of information intended as disciplinary (including financial), civil, and administrative liability and criminal – for offenses in the sphere of information; developed and there are many laws and regulations that govern information relations . However, their practical application is quite weak because there are no specific mechanisms and compliance with the practice law, in particular in connection with the imperfection of conceptual and categorical apparatus.

Some gaps also exist in the systematization of legal rules governing the legal responsibility for offenses in the sphere of information.

The changes that took place recently in the media space, indicate the need to develop a new scientific approach to the regulation of relations that flow from legal responsibility for offenses in the sphere of information.

Today the institute legal liability holds a special place in jurisprudence, his research involved as experts in the field of general theory, and in other areas of law. Nevertheless, the issues related to the definition of a historical component, the nature and content of legal liability and remain relevant.

So, today the institute legal responsibility for offenses in the sphere of information is in its infancy. We have attempted to examine only one type of legal liability for offenses listed above, such as administrative responsibilities.

In view of the foregoing, it is considered appropriate to streamline the legal regulation of administrative responsibility for offenses in the sphere of information combined into a single chapter CAO all offenses in the sphere of information.

D. Shpenov
Candidate of Law Sciences,
Doctoral candidate
Internal affairs national university of Kharkiv,
the honoured lawyer of Ukraine

ADMINISTRATIVE AND LEGAL REGULATION OF INVOLVEMENT OF JUDGES TO A DISCIPLINARY RESPONSIBILITY BY THE LEGISLATION OF UKRAINE

The paper analyzes the reasons for bringing judges to disciplinary liability under the laws of Ukraine; the procedure for judicial discipline responsibilities; identified weaknesses and gaps administrative and legal procedures regulating judicial discipline responsibilities and the ways to address them. Background is that an integral part of service judges in Ukraine is the institution of disciplinary proceedings. This type of legal liability to the greatest extent occupational judge as the subject of a public-relations officers. Therefore, we can confidently say that Discipline is an important tool not only maintain the necessary level of discipline among judges, but also to ensure their basic principles of justice. That is why the proper administrative and legal regulation in this area is the key to transparency, openness and certainty of judicial discipline responsibilities. However, in modern terms of administrative and legal legislation which regulated the procedure for bringing judges to disciplinary action needs to be improved because of the presence in it of numerous gaps, particularly in the area of determining the types of disciplinary action, incompleteness grounds for bringing judges to disciplinary action and so on. To solve these problems and directed this article.

The purpose of this article is to identify gaps modern administrative and legal regulation in the sphere of judicial discipline responsibilities, and providing recommendations for their elimination. To achieve this goal you must achieve the following objectives: to determine the reason for bringing judges to disciplinary responsibility; describe the main stages of the procedure of bringing judges to disciplinary responsibility; identify deficiencies and gaps administrative and legal regulation in this field and provide recommendations to address them.

The conclusions are that to improve administrative and legal procedures regulating disciplinary proceedings against judges, you must: 1) the Law "On the Judicial System and Status of Judges" time periods: a) for which must be verified evidence contained in reports of a disciplinary offense; b) In what should be considered a disciplinary case, including possible term deposits its consideration; 2) identify the body, the grounds and procedure for disciplining judges of the Constitutional Court of Ukraine; 3) determine the procedure for appealing the decision of the High Council of Justice to prosecute the Supreme Court of Ukraine and judges of high specialized courts to disciplinary action; 4) identify the reasons for early withdrawal penalty of disciplinary judge.

Yu. Martynyuk
Applicant of the constitutional and international law Department
National academy of internal affairs

ORDER OF OBTAINING THE STATUS OF REFUGEE WITH THE UKRAINIAN LEGISLATION

Analysis of important aspects of order entry for Ukrainian refugee law. We consider filing for a decision on recognition as refugee or person who needs extra protection.

Also, the relevance of this article is that the experience gained in the first years of Ukraine's independence, convinced of the need for early resolution on the protection of refugees and asylum seekers, because historically, that Ukraine has taken appropriate measures to provide consent to be bound by the Convention relating to the Status refugees and the Protocol Relating to the Status of Refugees. As a result of legislative work in this area initially became accepted December 24, 1993 the Law of Ukraine "On Refugees" and then – adopted June 21, 2001 the new Law of Ukraine "On Refugees" by which was generally achieved compliance Ukrainian national law of international legal standards for the protection of the rights of refugees, especially the Refugee Convention of 1951 and Protocol Relating to the Status of Refugees in 1967 January 10, 2002, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Ukraine's Accession to the Refugee Convention and Protocol Relating to the Status of Refugees". According to the Law Ukraine pledged to meet the requirements of these international instruments. Another step towards the improvement of the protection of the rights of refugees and asylum seekers in Ukraine and other vulnerable persons was the adoption of 8 July 2011 the Law of Ukraine "On refugees and persons in need of additional or temporary protection", which replaced the Law of Ukraine "On Refugees". This law, passed with the aim of approaching the standards of the EU, has greatly expanded the range of persons who are granted protection in Ukraine, providing additional legislative solution to the problem (humanitarian) and temporary protection of persons who do not fall under the signs of a refugee, but also need protection. In addition, the benefits of this law include improving the protection of minors refugees, establishing a single certificate of application for protection in Ukraine and the provisions on the issuance of a residence permit in conjunction with the recognition of refugee status.

D. Lazarenko
Applicant of the Department of Constitutional,
Administrative and Financial Law,
Open international university
of human development "Ukraine"

THE ADMINISTRATIVE STATUS OF PUBLIC ADMINISTRATION SUBJECTS THAT SHALL USE REGULATE OF NATURAL RESOURCES

The leading place in the sustainable use of natural resources owned by the norms of administrative law. Since, the environment , more and more polluted as a result of environmental disasters, inefficient use of that care is now the world's progressive community and requires an integrated approach to the study of issues relating to the scope of human existence. From the effective and economical use of natural resources, protection of the environment depends on the stable functioning of the national economy, welfare, safety of human life and the gradual implementation of the sustainable development model. Therefore, the use of natural resources and the associated corresponding burden on the environment is that the scope of activities that defines a wide range of social, economic and environmental problems, whose solution is not possible without the active participation of the state.

In the system of administrative and legal mechanism of regulation is not a negative place belongs to the public administration entities that perform a variety of executive functions, providing administrative services, in particular to ensure the sustainable use of natural resources.

The purpose of the article is that based on the theory of administrative law, doctrinal theories of scientists and existing legislation to formulate concepts and reveal elements of administrative and legal status of public administration, which provides administrative and legal regulation of natural resources.

Also, in this article proved that the administrative status of subjects of public administration, which regulates the use of natural, is legal category, which is set norms of administrative law. It consists of the following components of law, the legal rights and obligations and disciplinary liability subjects of public administration.

M. Lazarenko
Applicant of the Department of Constitutional,
Administrative and Financial Law,
Open international university of human development of Ukraine

FOREIGN EXPERIENCE ADMINISTRATIVE LIABILITY OF VIOLATORS OF TRAFFIC RULES BY AUTOMATED TECHNICAL SYSTEMS

Increased traffic on roads with particular acuteness society confronts the problem of its safety and at the same time ensuring the rights of all road users. This in turn significantly alter traffic conditions, increasing the density of traffic, increasing the intensity and speed of the cars, which together with other factors often leads to accidents. Every day on the roads of the country recorded from 76 to 187 accidents, of which the injuries received from 55 to 165 people. No day passes without the death on the road – at the accident killed between 6 and 28 people. Accordingly, the overall statistics are depressing, each year about 200 thousand accidents, the death toll which is about 5 thousand people and injured more than 35 million people, are caused significant property damage to individuals and corporations and the state as a whole.

The purpose of the article is that based on the theory of administrative law and foreign law reveal features to administrative justice those who violate traffic rules, which were recorded by automated technical systems.

The article found that in most foreign countries are automated technical systems fixing traffic violations and involvement in the administration work effectively. This leads to a real reduction in of offenses fewer traffic accidents. This leads to a decrease in the number of dead, injured and causing material damage to individuals and legal entities.

E. Saraev
Applicant of Department of service organization
and inquiry in divisions of State Auto Service
Ministry of Internal Affairs Donetsk legal institute of Ukraine

IMPROVEMENT OF THE ADMINISTRATIVE-LEGAL STATUS OF THE SUBJECTS OF TRAFFIC ORGANIZATION

The scientific article is made as a part of the dissertation research on the topic "Administrative-legal basis of organization of traffic in Ukraine".

The article gives the definition of "the subject of traffic" and "administrative-legal status of the subject of road traffic organization". The definition of the indicated terms is held against the background of synthesis and analysis of a significant amount of theoretical views on the definitions such as the subject of administrative law, the state authorities, the subject of state regulation of the transport system, and studies of elements (blocks) of the legal status of such subjects.

In accordance with the concept of the subject of traffic organization, the list of major subjects is given. The legal status of the Cabinet of Ministers of Ukraine, as an institutional entity of the road is analyzed. There is an emphasis on the introduction into the system of legal regulation of relations in the sphere of road traffic organization of such legal acts as technical regulations. Approval of technical regulations proposed to be included in the exclusive competence of the Cabinet of Ministers of Ukraine.

On the basis of a comprehensive study enshrined in the normative-legal base of functions, tasks and competence of the main subjects of traffic organization, provides certain changes and amendments to existing legal acts. This, in the author's opinion, will be able to improve administrative and legal status of these entities.

The amendments proposed to the Law of Ukraine "About local self-government in Ukraine", Position about the State administration of railway transport in Ukraine, approved by resolution of the Cabinet of Ministers of Ukraine on the 29.02.1996 № 262 and some other legal acts.

The author substantiates to leave for the traffic police the function of coordination of issues that are directly related with traffic – projects and schemes of traffic organization (which is consistent to the requirements of article 27 of the Law of Ukraine "About road traffic"). Other issues that are included in the "interests" of Ukrtransdepartment – to decide without additional approvals from the relevant units of the traffic police. The solution of these problems is based on the existing rules, norms and standards. From the side of police departments the traffic police would be sufficient to ensure the compliance of decisions and provided by Ukrtransdepartment permissions during supervision.

T. Hutoryanskaya
Applicant of the constitutional, administrative
and financial right Department,
Open international university of human development "Ukraine"

GENERAL CHARACTERISTIC OF LEGAL STRUCTURE THE ADMINISTRATIVE OFFENSE PROVIDED WITH ART. 173-2 OF THE CODE OF UKRAINE ABOUT ADMINISTRATIVE OFFENSES

This article provides a general description of the legal structure of administrative offense under Art. CAO 173-2 (domestic violence, failure to comply with the protective order or failure to correctional program). Substantiated that the offense is public relations for the protection of citizens' rights. The objective side of offenses analyzed in three main groups of activities: domestic violence; failure to comply with the protective order by a person in respect of whom it is imposed; failure to correctional program by the person who committed domestic violence. Determined that the subjective aspect of the offense is characterized by a fault in the form of intent.

Background is the desire to integrate Ukraine into the European Union is inextricably linked not only to bringing domestic legislation with international standards, but also to solve the problems of law enforcement officers, and adopted the law. One is overcoming domestic violence, which today becomes rampant. This is what our country was a series of events aimed at various levels. One of the results of the efforts of non-governmental organizations, human rights groups and law enforcement was the adoption in 2001 of the Law of Ukraine "On Prevention of Domestic Violence", which for the first time in law was enshrined the concept of "family violence."

The conclusions are that in the CAO should provide aggravating circumstances liable for committing domestic violence against children and the disabled – "committing a father, mother, guardian or trustee, another member of the family" – as a special subject administrative offense, stating the relevant amendments to ch. 3 st.173-2 CAO. In addition, we believe that the CAO is necessary to distinguish the head "Administrative offenses against family and children" that would unite the rules aimed at protecting family relationships and attacks on conditions of normal child development.

N. Komisaruk
Post graduate student,
Administrative and Financial Law Department
National University of Life and Environmental
Sciences of Ukraine

ANALYSIS OF MECHANISM OF BUDGET FINANCING OF ENVIRONMENTAL PROTECTION

The article analyses the mechanism of budget financing of environmental protection and determines the features of the financial and economic system in the field of environmental protection.

The author argues the thesis that financing is an important instrument for implementation of environmental functions of the state. Article 41 of the Law of Ukraine "On Environmental Protection" refers to determination of the source of funding of environmental protection as economic instruments. Experience in applying the Law of Ukraine "On Environmental Protection" indicates that this approach is insufficient. Ecological function of the state is the means of exercising its duty, established in the Constitution of Ukraine (Article 16), to the civil society. Therefore, the state must provide funding for environmental expenditures from the budget.

The proposed approach in the paper allowed the author to determine the features or, rather, the drawbacks of the domestic financial and economic system in the field of environmental protection are as follows:

– declarative character of many rules governing application of economic and environmental regulations and their integration into commercial practice;

– low rates of penalties for pollution and a lack of sufficient financing for environmental protection activities. Systematic failure to reach planned financing indices;

– vagueness of mechanisms of accumulating and directing funds from duties (payments) on special use of natural resources for designated purposes;

– failure to include section "Protection of environment" in most local budgets.

Also, the author provided the necessary recommendations to improve the system of financing environmental protection activities in Ukraine.

M. Kharysh
Postgraduate student of the Department of
Administrative and Informational law
of the Institute of Jurisprudence and Psychology
of the National University Lviv Polytechnic

ON THE ADMINISTRATIVE RESPONSIBILITY OF NON-GOVERNMENTAL ORGANIZATIONS FOR VIOLATION OF INFORMATIONAL LEGISLATION OF UKRAINE

The article reveals general concepts, features, grounds and peculiarities of administrative responsibility of non-governmental organizations for violation of Ukrainian informational legislation. The attachment of non-governmental organizations to administrative liability for violation of valid Ukrainian informational legislation is researched.

The author states that the main issues that are in the focus of modern jurisprudence include the ambiguity of the rules of law of national legislation regarding bringing of non-governmental organizations to administrative liability for violation of the valid Ukrainian informational legislation. It is also mentioned that the current Ukrainian legislation has not yet determined the administrative liability of legal entities, even though the necessity of its determination has already been justified in complex scientific researches. Besides, the author emphasizes that the classification of offences committed by non-governmental organizations, including the breach of Ukrainian informational legislation has to be improved in Administrative Infraction Code of Ukraine.

The article determines main issues of administrative responsibility of non-governmental organizations for violation of Ukrainian informational legislation. Foremost it is defined that Ukrainian non-governmental organizations are subjects of informational relations and bear disciplinary, civil, criminal and administrative responsibility for breaking informational legislation.

Furthermore the author points out that an issue of bringing non-governmental organizations to responsibility for violation of informational legislation is practically not regulated at present. At the same time the legislation on administrative responsibility of non-governmental organizations in general, as well as subjects of informational relations must be improved.

D. Savochkina
Applicant of Department of Administrative Law, Process and Administrative Activity of Organs of Internal Affairs
Dnipropetrovs'k State University of Internal Affairs

LEGAL STATUS OF THE MAIN DEPARTMENT OF THE NATIONAL GUARD OF UKRAINE

Today the Supreme Command of the National Guard of Ukraine faced with many problems associated to interaction with other law enforcement forces, lack of a comprehensive, coherent and systemic regulatory support these activity, many unresolved organizational and tactical issues, etc. This is largely due lack of evidence-based recommendations and proposals on improvement of the Security and Defense Sector in Ukraine in general and lack of theoretical development problems of official-military service of the National Guard of Ukraine in particular.

Today the National Guard of Ukraine, as successor to the Troops of the Interior, is a part of the Ministry of Internal Affairs of Ukraine. Its purpose – tasks of protection and safety of life, rights, freedoms and legitimate interests of citizens, society and state from criminal and other unlawful acts, public order and public safety, as well as in cooperation with law enforcement agencies – national security and defense state borders, deter terrorist activity, illegal activity or paramilitary militias (groups), terrorist organizations, organized groups and criminal organizations.

At the same time, legal status of the Main Department of the National Guard of Ukraine clearly establishes his place in the Ministry of Internal Affairs of Ukraine and provides all facilities to ensure that: on basis of the Troops of the Interior of mobile military operation, which conforms with European standards; effective management of official-military of activity of all its structural units; positive balance in system to ensure public safety, strengthening democracy, rule of law, human rights and freedoms and lawful interests of society and the state, etc.

S. Topikha
Postgraduate student of administrative, criminal law and process
Department of "International University of Business and Right"

ADMINISTRATIVE AND LEGAL REGULATION OF AGENCIES ACTIVITY LEGISLATURE IN THE CONDITIONS OF INFORMATION USING TECHNOLOGIES

The article investigates administrative and legal regulation of the use of information technology by the legislative bodies of Ukraine. Background is that information and legal support of the legislature, according to E. Skurko, this complex of measures aimed at collecting, processing, accumulation, storage, retrieval, distribution information for the subjects of legislative activity. Accounting for social purposes, which are reflected in the legislation can only be based on highly administrative regulation of the legislature in the use of information technology.

The main purpose of this article is to study the administrative and legal regulation of the legislature in the use of information technologies Ukraine.

Designed findings lies in the fact that one of the main directions of perfection of legislative activity is to improve administrative support use of information technology, which greatly depends on the efficiency of interaction of all legislative activities. To increase the effectiveness of this interaction is necessary based on experience of creating the interagency electronic interaction in the executive branch. In turn, the interaction is largely provided by information technology, not only between the legislative bodies of Ukraine and Ukraine's regions, but also citizens, executive agencies, the media and other institutions of civil society.

E. Khachaturov
Candidate of Technical Sciences
Senior Research Fellow,
Vice-Rector of Admiral Makarov
National University of Shipbuilding

ORGANIZATIONALLY-LEGAL FACTORS AND REGULATION OF DEVELOPMENT OF SHIPBUILDING OF UKRAINE

Shipbuilding – one of component parts of industrial complex of country. Traditionally shipbuilding industry provides interests of defensive, to safety of country, marine and river transport, other spheres of economy. Until now marine ships are a basic transport vehicle in a world barter. A requirement in them is depending on processes, what be going on in an economy.

At the same time of loud speaker of volume of turnover of goods of Ukrainian ports on the types of marine transportations shows their strong growth. It creates possibility of development of a transport fleet, coming from circumstance that it is a domestic load and our general task – actively to grow the presence at the market of transportations.

But, the prospects of development of shipbuilding in Ukraine straight depend on state support. In foreign practice a state help shipbuilders is very various and substantial in a money equivalent. The legislative and normative-legal providing of sudostroi-tel'noy industry is foreseen by acceptance of changes and additions in the separate legislative acts of Ukraine in the part regarding to creation of normative-legal and organizational terms for his development.

The legislative and normative-legal providing of sudostroi-tel'noy industry is foreseen by acceptance of changes and additions in the separate legislative acts of Ukraine in the part regarding to creation of normative-legal and organizational terms for his development.

For example, applying principle of production co-operation, shipbuilding enterprises, getting wares from suppliers, promote the rangeability of production his efficiency, here sharply building terms grow short due to a receipt already ready to editing proof-of-concept and tested equipment, aggregates, mechanisms, devices and other.

Creation of economic clearzones would allow considerably to improve being of enterprises in territory of their location. Then, spare parts and komplektuyuschie ship equipment, which are produced abroad, would be exempt from payment of import duty and VAT. The indicated privileges will allow to cut prime cost, and also implementation of works the built ship on his repair, the same promoting the competitiveness of producible products.

V. Chayka
Candidate of Law Sciences,
Doctoral candidate, Department of Financial Law,
National State Tax Service University of Ukraine

CORRELATION OF TAX LAW AND OTHER FIELDS OF LAW AND LEGISLATION

The article deals with the problems of correlation of Tax Law and other legal fields. The subject actuality and its connection with important scientific and practical tasks have been substantiated. The subject scientific development level has been determined. The research objective has also been formulated.

The different points of view on the question of the legal adjusting of tax relations by the norms of constitutional, financial and budgetary legislation stated in legal literature are considered in the major part of the article.

In particular, it is underlined that the Constitution of Ukraine is of fundamental value for all fields of the national legislation and law, including Tax Law. Attention was also paid to the fact that close connection of Constitutional and Tax Law is revealed during the making decisions and conclusions process in relation to constitutionality of tax legislation acts by the Constitutional Court of Ukraine.

It is found out that the Constitution norms do not only establish a common tax liability, but also function as a pre-condition of applying financial, administrative or criminal responsibility in case of such liability failing. It is mentioned that such legal construction means a guarantee and an ability of realizing constitutional rights of citizens.

It is determined that a common moment in researching tax and budgetary relations' nature is a transformation process of tax into the tax budget profit. At the same time it is marked that a basis of differentiation of Tax and Budget Law can be establishing the moment of tax obligation fulfillment that allows to consider the tax payment process to be completed.

On the basis of analysis of the positions formulated in scientific literature and legal analysis of constitutionally-legal, tax and budgetary norms the conclusion on the necessity of tax law and other fields of legislation correspondence is grounded that will allow to develop the current tax legislation and the legislation system in a whole considerably.

Chapter 2

MODERN QUESTIONS OF THE CONSTITUTIONAL, INTERNATIONAL LAW AND COMPARATIVE LAW SCIENCE

V. Zavalniuk
Candidate of Law Sciences,
Head of international law Department,
Shevchenko National University of Kyiv, Ukraine

METHODS OF LAW ANTHROPOLOGY (DEVOTED TO THE PROBLEM OF THE APPLICATION OF THE METHODOLOGY OF SOCIAL SCIENCE)

The potential of a lawyer-anthropologist learning methods is used today in the social and behavioral sciences, including sociology (the method of participant observation, biographical method, monographic method of describing a single case, the method of observation, etc.) to identify the determinants of values, meanings and values.

Key words: anthropology of law, methodology of anthropological research, sociological research methods.

According to A. Saidov, theoretical and methodological problems of the right anthropology take an important place, among objects of research in modern right anthropology.

Anthropological-law researches base not only on the methodological tools developed with jurisprudence but on the theoretical and practical-applied solutions is developed by experts in the field of economy, history, pedagogic, social-psychology, medicine, sociologists, etc.

So, researches jurisprudents creatively adopt certain conceptual provisions, methods and techniques, technical methods from other social sciences because that is in interests of improvement of quality.

The perception methods are applied today in social and behavioral sciences which are got the general name "qualitative".

These methods are directed more on the analysis of "correlation of subjective creation and subjective public institutes in the process of a substantivation of the first and a disubstantivation of the second" than on the defining values identification, meanings and values which compose sense of work of lawyer-anthropologist.

A. Zadorozhny
Candidate of law Sciences,
Head of International law Department,
Professor of International relationship Institute
of Shevchenko National University of Kyiv

THE PROCESS OF FORMATION OF KIEVAN RUS AS THE FEUDAL STATE OF THE MIDDLE AGES AND THE SUBJECT OF INTERNATIONAL LAW AS A RESULT OF THE INTERACTION OF DIFFERENT FACTORS

The name " Rus " in the broad sense in most cases is used to characterize the significant events involving the princes who could hold land under its direct control (especially – in times of feudal monarchy); for information about church affairs ; of natural adversity ; a confrontation with the Black Sea steppes nomads , when the shares had unifying character. Interestingly, Pechenegs and Cumans in the chronicle reports are similar in value to a threat only to the south of Rus lands, although in many texts talking about them as all– evil. In other cases, a variety of events and phenomena are perceived more locally and apply only southern Russ region.

Either way, the origin of the name " Rus " itself seems minor in the context of international legal analysis of the matters above all the study of the origin of the state on the territory of Ukraine and international relations of the Kievan state .

So, Kyivan Rus is a medieval feudal state and a subject of international law arose in the ninth century as the interaction of several factors in different sectors of the Eastern Slavs. The territorial nucleus of a single great power of Eastern Slavs became the natural centre of the relevant land, an important trading point of the time – Kyiv.

Varangian Rurik origin that was great princes of Kievan Rus' for almost the entire period of its existence that was not crucial for the formation of statehood which appears to be as a logical consequence of the interaction of Eastern chiefdoms.

G. Tsyverenko
Candidate of Law Sciences,
Associate professor of
AlfredNobel University of Dnepropetrovsk

FACTUAL REASONS FOR THE EMERGENCE OF INTERNATIONAL LEGAL RESPONSIBILITY

International and Legal Responsibility for the Breach of Obligations. The article deals with the possibility to use such mechanisms, as universal jurisdiction, International Criminal Court, countermeasures, and humanitarian intervention to bring to responsibility for the breach of obligations. An initial, fundamental principle concerning State responsibility is expressed by article 1, which establishes: "very international wrongful act of a State entails the international responsibility of that State". It is of particular significance that such a provision is not limited, as had been proposed, to the responsibility of States towards other States, which would have significantly curtailed the scope of the obligations covered by the Articles and could have stifled the development of international law. Furthermore, article 1 makes no distinction between treaty and non-treaty obligations: no categorical differentiation is therefore drawn between responsibility *ex contractu and ex delicto,* nor is any distinction made, at this level of generality, between bilateral and multilateral obligations. Article 2 sets out the required elements for the existence of an internationally wrongful act: (a) conduct attributable to the State, which (b) is inconsistent with its international obligations. One notable feature of this provision consists in the absence of any requirement concerning fault or a wrongful intent on the part of the State in order to ascertain the existence of an internationally wrongful act. This does not, of course, imply that the element of fault has no place in the law of State responsibility. Rather, it reflects the consideration that different primary rules on international responsibility may impose different standards of fault, ranging from "due diligence" to strict liability. The position expressed by the Articles indicates that fault is not necessarily required in every case for international responsibility to arise. It may be required, of course, in some or even many cases, but this determination is left to primary rules on State obligations, with the Articles taking a neutral position in this regard, neither requiring nor excluding these elements in any given case.

As for the attribution of a particular conduct to a State, the provisions of Chapter II of Part One specify the scope of this concept, both from a subjective and a functional point of view (see the notion of "organ" of a State under article 4; of a person or group directed or controlled by the State under article 8; of an organ placed at the disposal of the State by another State under article 6; of a person or entity exercising elements of governmental authority under article 5; of persons or groups acting in the absence or default of official authorities under article 9; of acts of insurrectional or other movements, under article 10). Chapter II closes with a provision on responsibility for conduct acknowledged and accepted by a State as its own (article 11), on the analogy of ratification in the domestic law of agency.

M. Bodnaruk
Candidate of Medical Sciences,
Associate Professor of Civil law Department
Fedkovich National University

ABOUT ADOPTION OF THE ADAPTATION CONCEPT IN NATIONAL LEGISLATIONS IN THE SPHERE OF SOCIAL INSURANCE WITH THE LEGISLATION OF THE EUROPEAN UNION STATES

The author offers in the article for blocks that must be included in the concept of adaptation of national legislation on social insurance legislation of the European Union, given their general theoretical description. Background is that the political-economic and socio-legal processes that occur in the Ukrainian state in 1991 clearly indicate its vector development – European values and standards and, accordingly, the tendency of European integration. In terms of today's national economy in most cases is depending on the policy and the level of the European Union and individual European states. However, the vector of Ukraine to European integration is possible only with the prior harmonization of national legislation that defines the legal regulation of social insurance. Of course, today in Ukraine there are problems with the system of social insurance and related reform processes and optimization are much slower and more problematic than in the leading countries of the world. Ukraine is not fully switched to a system of market relations, which can cause a number of problems, including in the social insurance system. However, given the fact that Ukraine has chosen the pro-European development vector and given the fact that today the social insurance system of Ukraine is in crisis, the adoption of the Concept of adaptation of national legislation in the field of social security to the laws of the European Union is of particular relevance. In addition, the level of social security as social security actually determines the level of prosperity of the entire state and people.

The purpose of this article is to conduct thorough research and theoretical research on the adoption of the Concept of adaptation of national legislation in the field of social security to the laws of the European Union.

Also, the conclusions are that the issue of the application of international experience in the field of social security should be approached systematically consider both positive aspects and negative. Mandatory step for successful study of international experience and will explore problems that existed or exist in a particular state. Also, it should be emphasized that the reform of the social insurance system can not be made in haste, it will take some time. To date, Ukraine has an active steps in the direction of development of the social insurance system targeting international standards and guidelines. However, keep in mind that each state lawmaking, including Ukraine in the field of social insurance, is an independent national character. In other words, mechanically move the legislation of one state to another and hope for success is a legal utopia, because Ukraine has very gradually and in a timely manner to form an effective social security system.

O. Hapon
Department prosecutor of financial
and economic interests' protection the state of Prosecutor's office

FEATURES, ROLE AND VALUE OF RIGHT SOURCES OF THE EUROPEAN UNION ABOUT REST TIME

In this paper the system of sources of law in the European Union, and given the history of the adoption of specialized legal acts on the territory of the European Union in the field of recreation, the proposed classification of sources of European Union law on the rest. The analysis of the fundamental approaches to determining the characteristics of the sources of European Union law. Background is that the process of adaptation is directed to an approximation of the reception state legislation on the law of another country. In this context it is important isolating specific system sources of EU law on the holidays that are established by state programs and plans, are subject to adjustment. It is therefore important task of the research process of adapting national legislation of Ukraine is the definition and sources of labor law systems of the European Union, in particular, about the holidays that will isolate the object and subject of adaptation processes within the national legal system concerning working hours and rest periods. Currently, the legal theory there is no single approach to the scientific interpretation of the sources of law, especially problematic is the question of terminology identify sources of EU law in general, and thus the sources of European Union law on the rest. The main reason for the lack of a unified concept, in our opinion, is that the source of law is a form of reflection of the heterogeneity of social relations as social relations are dynamic, changing and developing, so the sources of law are transformed from one form to another in order to ensure proper regulation and such a relationship. Labour relations covering all labor and social security, labor law, in particular, the right to rest and develop within the development of business activities and free movement of goods within the European Union.

The purpose of this paper is to determine the source list of the European Union to establish the possible impact of entrepreneurship on employment and social services, as this area is constantly changing legal and legislative regulation can not fully timely influence rules of conduct in the newly formed labor administration. Currently, the theory of law is particularly problematic is the question of terminological identification of sources of EU law in general, and thus the sources of European Union law on the rest.

The conclusions are that analyzed the nature of the sources of European Union law, options for their classification can be concluded no single approach to understanding this issue. Due to the special legal nature of the EU as an international entity, sources of law form a single system through the development of cooperation between the members of the Union and the developing case law through jurisprudence and supplemented through the provision of national legislation.

M. Pochtovy
Associate Professor of Theory and History of State and Law
of the Dnepropetrovsk State University of Internal Affairs

LEGAL EDUCATION AS A CRITERION OF EFFICIENCY OF THE IMPLEMENTATION OF LEGAL POLICY

This paper focuses on the analysis of legal education as a theoretical concept. To date, the legal policy serves as a state-legal phenomenon , one of the priority functions of Ukrainian society and the state. Proof of this is the modern "political tension " in the country and related state-legal phenomenon. The author analyzes the concept stages, phases and criteria of efficiency of the implementation of legal policy, argued its position on the need for positioning the concept of " legal education " is as performance criteria , particularly given the lack of consistency and cyclical elements in the development of the social and legal phenomenon. First, the author examines the nature of the concepts of "education ", " legal education ", extrapolates them to the level of legal policy, while arguing their positions. Finally, attention is drawn to the need to revitalize public bodies to improve the level and extent of implementation of legal education for effective implementation of legal policy. The author focuses on legal education as a complex concept that represents the activities of legal policy in well-defined areas and areas of public life. The author scientific definition of "legal education as a criterion of efficiency of the implementation of legal policy " is as follows : it is a complex and multifaceted activities of legal policy, which is implemented to form the person an adequate level of legal culture, legal awareness , commitment to social and active lawful behavior.

O. Bilash
Candidate of Law Sciences,
Doctorant of National Pedagogical University of Drahomanov

THE BASIC MODELS OF FINANCING OF CHURCHES AND RELIGIOUS ORGANIZATIONS IN THE EUROPEAN UNION

In the article, the author reviewed the experience and practice, described the basic financial models of churches and religious organizations of the European Union. The author notes, that the funding of churches and religious organizations in the countries – members of the European Union have different historic traditions and are discovered according to the relationship of church and state, are regulated by church-state law, legislations and agreements, concordats. State attitude to the religious institutions varies in different countries, so funding models are not identical.

Alternately the funding model is analyzed in lot of European Union countries. The author makes a general conclusion that among 28 European Union countries only in eight countries the state is involved in the financing of religious institutions. The relevant budget articles are in UK, Denmark, Belgium, Greece, Estonia, Bulgaria, the Czech Republic and Slovakia. In general, it can be concluded that the system of funding of churches and religious organizations in the European Union can be divided in the following models: a) a model in which the church and its activities is fully funded by the state; b) a model in which the activities funded by the faithful of the church. Believers in this system provide support and assistance to the church in worship, help to look after church buildings, participate in church services, charity. Under this system, the author distinguishes four ways of financing the Church by its followers: a) a mixed system that includes donations of believers, the church tax revenues of the church enterprises, land, rent (France, Portugal, the Netherlands); b) a system of mandatory church contributions (Austria); c) mandatory church tax to all believers of the church. On behalf of the church government collects church tax (Germany, Denmark, Sweden); d) other forms of contribution, which accrued in proportion to the tax authorities income of a taxpayer (Italy, Spain, Hungary). At the same time author notes that these four methods commonly combined with state aid, grants and benefits allocated to support the cultural and social service, educational and charitable activities of churches.

D. Sevryukov
Doctor of Law Scienses
Head of the theory and history of state and law Department
Humanitarian institute of open international development
university of Novokakhovska

DEVELOPMENT OF THE SOCIAL STATE IN SWITZERLAND

The article examines the historical development of the welfare state in Switzerland. It is noted that the Swiss social security system is the result of complex interactions between central, local government and civil society. A key factor in the success of implementation of social reforms on the side of public power institutions are public approval through the referendum, prompting the state to consider social and legal expectations in the preparation of legislation. Background is that Switzerland applies to contemporary continental welfare states model, which combines the classic elements bismarkivski and newest innovations caused by anti-crisis measures. However, Switzerland is distinct from other states of this model is the presence of an important factor in the development and reform of the welfare state – direct democracy, which is implemented through the institution of the referendum. It is the study of the history of the formation of the welfare state in Switzerland, its evolution, the practice of pressing contemporary issues devoted to this article.

Switzerland is an example of leisurely establishment of the welfare state. Since the amendments to the Constitution "social" amendments to the adoption of the first national act passed almost thirty years. To prevent the formation of the state social insurance system, following the example of Germany and Austria was constitutional practice that is not recognized by the federal government authority in the social sphere. To receive an opportunity to carry out social policies and reforms the government had to get a vote of confidence by the public. After a number of mandatory referendums state that confidence gained. Although the adoption of the necessary amendments to the Constitution that expanded jurisdiction of the central government does not mean rapid changes in social policy. From the federal government required to conduct complex matching procedures with regional authorities on the content of social initiatives. In the absence of federal social insurance social insurance programs implemented at the level of cantons, cities and municipalities, friendly societies, trade unions and employers.

Also, the conclusions are that Switzerland, as in their defining features bismarkivskoyu country after a series of systemic reforms changed the emphasis: the former outsiders (women, people with atypical employment) were integrated into the system, instead, social rights insiders were narrowed. The main factors determining the formation and development of the Swiss welfare state had a strong tradition of federalism and direct democracy. Federal structure has led to a variety cantonal and communal social legislation and referendums often acted as the ultimate authority, which decided the fate of social reforms.

I. Pereverza
Postgraduate student,
Department of European Union Law and Comparative Law,
National University "Odessa Law Academy"

THE MAIN AREAS OF ADVOCACY PROFESSIONAL SPECIALIZATION

With the development of the democratic foundations of the legal system, legal profession activities spread to different areas of human interaction, society and state. With the variety of areas of legal regulation, study of the main areas of advocacy professional specialization in legal disputes with elements of public law and private law is an actual subject today.

The author provided following areas of advocacy depending on it's professional specialization: providing of a legal assistance free of charge, providing the legal services to public authorities, the legal aid in the higher courts of the state, the legal support of business activity, the protection of public interests.

The most common models for providing a legal assistance free of charge are: model Judicare, model of Public Defenders, model Ex officio, contract model, the Rro bono model. There are formed different mechanisms of providing assistance in criminal cases.

Providing the legal services to public authorities suggests involvement of professional lawyers into work with government agencies on an ongoing basis as representatives of the government agencies and public prosecutors.

Legal assistance in the higher courts of the state requires specialized lawyers endowed with the exclusive right of representation or defense of a client in the higher courts of the state.

Legal support of business activity involves an organized one or more specialized lawyers as legal advisers of various companies or organizations. Business-advocacy means that large law companies represent the interests of business corporations.

Protecting the public interests requires that lawyers of specialized organizations act with claims against the state or corporations associated with the protection of rights and interests of large groups of citizens or to nature conservation and protection of a public health, etc.

Specialization on different branches of law involves the provision of legal assistance to individuals and legal entities by qualified lawyers practicing alone or in a law firm, in one or more branches of law.

G. Boyko
Applicant for the theory and history of state and law Department,
faculty of training of investigators,
State Internal Affairs University of Lviv

LEGAL STRUCTURE AS A MEANS OF LEGAL TECHNIQUE

The article is devoted to disclosure issues legal structure as a means of legal technique. The analysis of the historical evolution of the legal construction in the historical development of the continental jurisprudence from the actual appearance of construction in legal reality, as the practice of law to its theoretical interpretation in jurisprudence.

In this scientific article, recalling the legal construction, we mean the aspect of his nature, which is traditionally discussed in the framework of legal technique. In the same context, the legal structure was seen throughout the history of this concept, including, in the Soviet law.

Therefore, we can reasonably assume that it is the sphere of legal technique is one such area where legal structures are the essence of most deployed.

The legal design as a professional reception of legal activity has a long history. In the literature emphasizes its connection with the peculiarities of the continental legal thinking focused on the perception of specific situations through the prism typed abstractions.

The term “legal technique” covers, in principle, both legislation and law enforcement activity. Although legal technique is often referred as instrumental know-how legislation, instrumental skills, covering an area of judgments and the application of the law. Legal technology serves as a bridge between the law and its practical implementation

V. Smetyukh
Post-graduate student,
Department of General Law Disciplines and International Law
Faculty of Economics and Law
Odessa Mechnikov National University

FEATURES OF FORMATION AND FUNCTIONING OF A NATION STATE AND ITS ROLE IN STATE BUILDING PROCESS

At the present stage the state building process is characterized by gradual shift to dominance in the world of a special type of state structure – nation state. A characteristic feature of all nation states is presence of a unified collective political identity within it which is called "the nation." After all, the nation state as a society which is politically organised within certain boundaries is the result of implementation of the nation's fundamental right to political self-determination.

In the given article it is described the role of national ethnic policy in formation of the modern Ukrainian state. The author investigates theoretical and legal aspects of ethnical state development, ways of improvement of the mechanism of inter-ethnic communication, coordination of interests of the Ukrainian nation and national minorities during civil society formation. Special attention is paid to the amendments to some regulatory legal acts of legislation and to detailed analysis of the concept of state formation in Ukraine.

Scientific novelty of the research standards lies in conceptual approaches to the problem of ethno-political science in Ukraine. In particular, this applies to clarification of the essence of such concepts as "national idea" and "national self-determination", the problem of formation of political nation.

On the background of the crisis of values national interests appear as the most rationalised and optimal system of priorities which is acceptable for the prevailing majority of citizens.

As a result, the author puts forward proposals on strengthening of national and cultural processes and detailed legal regulation of national policy.

Analysis of current and future trends in the development of nation states also largely concerns the young Ukrainian state while choosing its state building path.

V. Fedorenko
Postgraduate student of constitutional right Department
Shevchenko National University of Kiev

REALIZATION OF THE CONSTITUTIONAL PRINCIPLES OF LEGAL PROCEEDINGS IN THE STATUS AND ACTIVITY AGENCIES OF THE CONSTITUTIONAL JURISDICTION OF UKRAINE AND FOREIGN COUNTRIES

This article analyzes the legal literature and provisions of legal acts of the issues on which the realized implementation of the constitutional principles of justice in the status and activities of constitutional jurisdiction in Ukraine and abroad. Also, the relevance of this theme is that the Constitutional Court of Ukraine has a special place in the system of government of Ukraine. As defined by the Constitution of Ukraine, the judiciary in the country by the Constitutional Court and the courts of general jurisdiction. The Constitutional Court is the sole body of constitutional jurisdiction.

In constitutional law, the same as in the field of public law is commonly understood that the term "jurisdiction" has an origin from the Latin word «jus» – Law and «dico» – say. The term "jurisdiction" of Latin (jurusdictio) translated as justice, but traditionally the language specified corresponds to the concept, but rather, the word «justitio», as well as the interpretation of the words «jus», «disere», meaning or application of conflict resolution bodies established rules. In the legal literature, there are several modifications definitions of "constitutional jurisdiction" – a particular set of responsibilities relevant authority in resolving disputes, he has jurisdiction under the Constitution of Ukraine. There is also the view that the concept of "constitutional jurisdiction" means activities authorized by law tribunals, which the Constitution mandated to consider legal proceedings and to make them legally binding decisions.

Also in this study indicated that all of the above gives rise to speak about the special legal nature of the Constitutional Court of Ukraine as a public authority and constitutional courts and other specialized bodies of constitutional review. Thus there are two aspects of constitutional courts in all countries on the one hand its content is the implementation of constitutional control on the other – the relevant authority implemented such courts as judicial bodies in the form of constitutional justice.

L. Shonia
Postgraduate student
International Humanitarian University

INTERDISCIPLINARITY AS POTENTIAL ECONOMIC DIMENSION OF LEGAL ORDER

In this paper, the author analyzed the properties of the rule of law in the light of the law, a special place among them takes interdisciplinarity.

The author notes that to date, interdisciplinarity is a major supplier of new knowledge. This legal procedure is often seen as the «right to life» as members of social interactions create their own special form of regulation of behavior that perfectly fit into the overall picture of the legal existence. The legal order is now impossible to study without achievement of synergy, phenomenology, axiology, anthropology and other areas of socio-humanitarian knowledge. It gives a new look at old problems, the opportunity to see them in a new light.

Using an interdisciplinary approach overcomes dogmatisation high, which is typical for domestic law. Due to the introduction of new topics, problems, issues, concepts, concepts can be ensured development of the legal and public areas.

It was found that the problem of interdisciplinarity enforcement is of particular importance to a particular object of study – law. Thus, the elements inherent interdisciplinarity and other legal research (sociology of law, economics, law, history law, politics law, ethics etc.).

The author noted that the result of interdisciplinary interaction of law and social sciences are not only binary disciplines , including economics of law, but a comprehensive analysis of existing legal phenomena, in particular economic characteristics of the legal order.

A. Ryaboshapchenko
Postgraduate student,
Department of European Union Law and Comparative Law,
National University "Odessa Law Academy"

MAASTRICHT TREATY AND THE REPUBLIC OF AUSTRIA'S ACCESSION PROCEDURE TO THE EUROPEAN COMMUNITIES AND EUROPEAN UNION

In the article there is a consideration of the meaning of Maastricht Treaty for Republic of Austria's accession to the European Union. The accession of Republic of Austria into EU internal market as a full-participant of the market relations had become possible due to the wide agreement on its accession to the EU, which includes not only economic, but also political, administrative and other aspects. It is necessary to take into account that the preparation process to Austria's accession into EU internal market had been launched before 1992, when the Union was represented by the European communities. That's why it is necessary to consider the mechanism of the Austria's accession to the European Communities (including European Economic Community) and to investigate amendments which were made into this mechanism by Maastricht Treaty.

Despite the fact that preparation process of Austria's accession to the European communities had been started before European Union was created, the accession happened after Maastricht Treaty entered into force. So called the fourth EU enlargement included Austria, Finland, Sweden was on the first January 1995 and allowed to test the new mechanism of EU enlargement, which had been brought into existence by Treaty on European Union 1992 (Maastricht Treaty).

The Maastricht treaty substantially clarified the accession procedure of the new states and reframed it. The procedure of the single membership in the European Communities was finally secured which consolidated the previous practice of the submission of the single application in all three Communities which was used during the previous EU enlargements. Beside the membership in the Communities, the submission of the application by the state meant that the candidate state adhere to the two other pillars and is ready for cooperation within there frames.

R. Khatitonov
Postgraduate student of the right of the European Union and comparing law science Department,
National university "Odessa Law Academy"

METHODOLOGICAL BASES OF RESEARCH OF THE SPECIALIZED COMPARATIVE LAW

The modern science stipulates the necessity of usage of the new level of the methodological workings out. It also fully concerns the legal spheres of knowledge. The modern science starts with the general methodological preconditions of a relativity of knowledge, at the same time it not only does not exclude, and opposite – assumes perfection of the involved methodology. Working out of methodological comparative legal researches is accompanied by the loan from other disciplines, first of all comparative jurisprudence. It is necessary to note that one of the methodological features of the specialized comparative law – it has interdisciplinary character. The methodological features of the specialized comparative law are necessary for characterising, having designated a number of the tendencies which are taking place in sectional sciences. Key feature of methodology specialized comparative law is «extrapolation of the scientific knowledge which essence lies in loan of informative systems of other scientific directions.

The specialized comparative law possesses wide arsenal of the methods which feature of parity consists that on the foreground the comparative legal method defining the nature of researches acts. There is a certain specificity of use of a comparative legal method at carrying out comparative legal researches in the field of specialized comparative law. Degree of use of this or that reception is defined by character of investigated legal object. For example, at comparison of norms of civil law by the most demanded there is an analogy method. But anyway the leading position in such research remains behind a comparative legal method. Carrying out of the comparative legal analysis allows to show the originality of separate branches of law, their institutes, and norms in various legal systems, to compare the granted spheres of law with similar ones in other legal systems and to reveal national distinctions.

Successful applications of comparative legal method in a combination with other methods of knowledge is the first step in cognition of the legal reality.

The effective usage of the methodolgy in the specialized comparative law will allow not only to reach those goals which are put before itself by any comparativist-researcher, but also to collect necessary material for perfection of the national legislation, law enforcement practice, and also it provides the chance for practitioners to participate in foreign jurisdictions adequately.

A. Zamula
Postgraduate student of International Law Department,
International Relationship Institute
of National Aviation University

APPLICATION OF INTERNATIONAL LAW PROHIBITING TORTURE AND THEIR IMPLEMENTATION IN LEGISLATION OF UKRAINE

The article defined topical areas of implementation mechanisms of international law prohibiting torture in domestic legislation. The author discusses numerous international human rights acts, which establishes the prohibition of torture and given proper legal assessment.

The prospects of further development are an effective human rights system, including in the context of the prohibition of torture at the international level and at the level of national enforcement.

One of the current global human problems is the issue of human rights and security, especially with regard to such an important issue as the prohibition of torture, whose solution is possible only by joint efforts of states and the international community. Ongoing measures have not led to the creation of appropriate legal framework in the prohibition of torture.

International Standards of Human Rights proclaimed and affirmed that torture and other cruel treatment or punishment, degrading of the human person.

Study Questions capacity of international law regarding the prohibition of torture and their implementation in Ukrainian law committed by such scholars as M.I. Bazhanov, B.E. Zakharov, K.V. Katerynchuk, E.A. Lukasheva, V.T. Malyarenko, V.F. Opryshko, M.V. Shugurov and others.

The objective of this research paper is to determine the possibility of application of the implementing rules of international law on the prohibition of torture in domestic law. It reveals the need to establish a strong international legal mechanism for the protection of human rights in the fight with the prohibition of torture.

At the present stage of development of national legislation in the field of human rights, it seems appropriate implementation of the rules on torture contained in the Convention on torture, not by transformation with increased responsibilities due to the expansion of possible economic crime (as is done in the current Criminal Code of Ukraine), and by overview of the main signs of torture in the content as close as possible to the international legal understanding. The said target can be achieved if the qualified stock art 365 CC of Ukraine to use the term torture (as one of the aggravating circumstances) and explain its meaning (directly in the disposition of an article or in a footnote to it). This approach would ensure the implementation of the Convention against Torture and would avoid undue competition.

K. Starinets
magistracy student of the international relations Institute
Shevchenko national university of Kiev

PROBLEMATIC ASPECTS OF COMPLIANCE WITH THE LAW UKRAINE INTERNATIONAL LEGAL STANDARDS OF INTELLECTUAL PROPERTY PROTECTION

One of the most important areas of public policy in Ukraine is to promote the development and effective use of the achievements of creative people – scientists, inventors, authors, creators – people able to generate new ideas to produce competitive products, enriching the spirituality and culture of the nation. It is encouraging and supporting talent and creative work at the national level requires our society.Ukraine has provided the conditions for creative people to benefit from new ideas and intellectual developments in all areas of the nation. Today in the state, despite the crisis, it is possible to make the intellect, knowledge and creative achievements as it is in all developed countries.

The article describes the main aspects of intellectual property protection in international law, the already established legal framework is discussed. It is proved that the basis of international protection in the field of intellectual property rights is the principle of national regime.

The main problems in the area of protection of intellectual property are studied and theoretical approaches to improvement of the administrative and legal protection of intellectual property rights are discussed, which should have a positive effect on the economy as a whole.

Expanding the scope of business and economic relations , due to the development of a market economy in Ukraine, led to the urgent need to individualize not only goods and services but also persons who produce and provide. The development of a market economy necessitates the protection of intellectual property of their criminal violations. The relevance of this problem for Ukraine is that a violation of property rights inteliktualnoyi do great damage not only to their owners, but also consumers who enter into error in respect of a producer of goods and services, and therefore also on the quality of goods and services.

R. Kazak
Intern researcher of the Department
of State and Law of Ukraine and Foreign Countries History
Yaroslav the Wise National Law University

THE TERM "BIODIVERSITY" IN LEGAL SCIENCE: HISTORICAL ASPECT

One of the major tasks of the paper is to determine the meaning of the term biodiversity. It is an imprecise term contracted from ''biological diversity''. The Convention on Biological Diversity (CBD) defines biodiversity as ''the variability among living organisms from all sources including inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems'' (Art. 2 ''Use of terms''). The author analyzes the definitions of this term and suggests her own interpretation of the notion.

The author reviews the genesis of the term "biodiversity" under the conditions of environmental crisis since the second half of the twentieth century. The UN Convention on Biological Diversity (1992) importance for the legal definition of the term is revealed. The author has identified the following fundamental problems of biodiversity conservation: (a) the lack of information on the biodiversity protection issue, (b) contradictory usage of the term "biodiversity" in different contexts and legal acts (national and international legislation), (c) public ignorance of the flora, fauna and their habitats importance. Among the priority measures in biodiversity conservation the author emphasizes provision of extensive information on the issue.

Since the XX century the term has achieved a widespread use among biologists, environmentalists, political leaders and concerned citizens. Biological diversity conservation issues fall within the scope of the international commitments and treaties at the preliminary stage of environmental sustainability policy. All these facts determine the urgency of the issue under study for the legal science.

K. Maliarova
Post-graduate student, The of International Law and International Legal Relationship Department, National University 'Odessa Law Academy'

TOWARD THE QUESTION OF DETERMINATION OF A CONTEXTUAL ELEMENT IN THE FORM OF A WIDESPREAD OR SYSTEMATIC ATTACK IN CRIMES AGAINST HUMANITY

The article describes what transforms a crime against humanity as oppose to an ordinary crime under domestic Criminal Law. The structure of all international crimes is differs from the structure of national ordinary crimes. International crimes always include, in their structure, a contextual element. At the same time, national Criminal Law doesn't include a contextual element in structure of crimes.

In order to qualify as a crime against humanity, an offence must be commited as a part of a widespread or systematic attack directed any civilian population.

It is undeniable that any systematic or widespread attack against civilian population should be classified as crimes against humanity. The other side of the coin is, however, that in case law of international criminal tribunals ad hoc and scientific literature there are different approaches to the definition of the terms 'widespread' and 'systematic'. It would be also unfair not to mention that fact that in modern conditions there is no consensus relatively alternative nature of 'widespread' and 'systematic'.

The author analyses the history of contextual element in crimes against humanity, that is traced through the legacy of Nuremberg, followed by analysis of contemporary law.

The article will be use case law of The International Criminal Tribunal for the former Yugoslavia, The International Military Tribunal at Nuremberg and different international acts which relate to the subject of research.

Chapter 3

ACTUAL QUESTIOS OF CIVIL AND MANAGEMENT LAW

B. Derevyanko
Doctor of Law Sciences, Docent
Professor, Department of Economic and Environmental Law,
Donetsk Law Institute of Internal Affairs of Ukraine

FORMATION OF THE LEGISLATION AND PRACTICES OF BODIES TO ENFORCE THE DECISIONS OF ECONOMIC AND OTHER COURTS IN 1990-2005

A characteristic of legislation, which defines the legal implementation status of the decisions of economic and other courts throughout the historical period from the early 1990s until 2005, was given in the article. New Ukrainian legislation was formed in the 1990s.

The first step was the adoption of 24 March 1998 the Law of Ukraine "About the State Executive Service". The next step of reforming the State Executive Service of Ukraine was the adoption of 24 January 1999 the Law of Ukraine «About the Enforcement Proceedings". Output of the State Execution Service of Ukraine from the judicial branch did not lead to increased performance of the enforcement authority to the European level.

August 19, 2005 was signed by Ministry of Justice Order number 1482/n "On the Elimination of Bailiffs' Service regional offices of Justice"; and by order of the director of the department of the State Executive Service number 46/k 26 October 2005, pursuant to the the Regulations of the Department of the State Executive Service, approved by the Cabinet of Ministers of Ukraine dated August 3, 2005 № 711, was established territorial authorities of the State Executive Service. Reforming the State Executive Service of the Ministry of Justice as a separate authority, subordinated directly to the Minister of Justice, aiming at a more rapid response to activitiesб that require daily monitoring. Such scheme was to assist restore order in the executive sector and enforcement of judgments in strict accordance with the law. Until mid 2005 activities of the State Executive Service of Ukraine were reformed. The results of this phase will be analyzed in the nearest future in reforming, aimed at decentralization of power in Ukraine.

L. Nikolenko
Doctor of Law Sciences, Professor
Department of economic, civil and labour law
Mariupol State University

ON THE POSSIBILITY OF RECOGNITION OF JUDICIAL PRECEDENT IN UKRAINE

The paper analyzes the possibility of recognition of judicial precedent in Ukraine as a source of law. Determined that the legal precedent in Ukraine is not officially recognized as a source of law, but stressed that the legal precedent may be used in decision-making and higher courts in deciding the Constitutional Court of Ukraine in a particular case containing the official interpretation of the law that somehow expands legal normal.

We prove that the recognition of judicial precedent source of law requires the establishment of law provisions, according to which not only the courts could be guided in their work decisions of higher courts. Outlined that judicial precedent in Ukraine can be not so much that Ukraine belongs to the Romano-Germanic legal family, or because it is a country with a particular political system, mentality. Judicial precedent for today may not be so the structure and powers of the various parts of the judicial system does not allow, even if there is great desire to create something akin to judicial precedent.

Furthermore the author argues that the Ukrainian legal system does not include explicit recognition of acts of the judiciary forms of law. The proposed approach is the author's work to determine that the only legitimate way to influence the judiciary in the form of law – that participate in the legislative process. Higher courts and the Constitutional Court of Ukraine shall have the right to submit draft laws on the subject of his conduct. In identifying gaps in legislation, judicial office in plenums generalize these gaps , develop recommendations for overcoming them and draw their own conclusions relevant law.

A. Basay
Candidate of Law Sciences,
Department of intellectual property and corporate law
National University «Odessa law academy»

OBLIGATIONS OF THE SUBJECTS OF PATENT LAW

The article investigates the obligations of the inventor, the author of the industrial design, and the patent owner, employer and user objects of patent rights.

Author considered the obligations of individual subjects of patent law, namely: the inventor, the author of the industrial design, patent owner, employer and users of inventions, utility models and industrial designs.

Primary responsibility of the authors and inventors of industrial designs is a regulatory compliance and violation of the rights of third parties in the process of creating objects of patent law.

In obligations of the owner of the patent include: first, the timely introduction of payments for the maintenance of the patent; secondly, the exclusive right of fair use, which follows from the patent; thirdly, the granting of permission to use the object of patent law patent owners who came later, in the cases provided for by law; fourthly, to pay compensation for the violation of the rights of the licensee in the event of early termination of the patent.

Obligations of the employer as the subject of patent law proposed to divide into two categories. The first category includes obligations under labor law. They concern the provision of working conditions of artists but not govern the relationship of intellectual property. The second category includes the obligation to comply with intellectual property rights worker who created a service invention, utility model, industrial design.

The article also investigated duties of the subjects who received the right to use the objects of patent rights on the basis of contracts, as well as in the case of a compulsory license to use the invention or utility model.

Y. Navrotska
Candidate of Law Science,
Associate Professor, Civil Law and Procedure Department,
Ivan Franko National University of Lviv

A. Mohylyak
Master of Laws,
Ivan Franko National University of Lviv

PROBLEMS OF PARTICIPATION IN THE HEARING BY VIDEOCONFERENCE

This article is devoted to problems of participation in the hearing by videoconference. Analysis of legal practice relating to the participation in the hearing by videoconference in civil procedure allowed to propose amendments to the Civil Procedure Code of Ukraine, which are aimed at improving this institution.

The following conclusions can be drawn from the present study:

– There is no need necessarily define valid reasons inability personal participation in the hearing and the need for video conferencing. Since some practical difficulties with this issue today does not arise: the courts in most cases satisfy such petition, the participants of procedure are not abusing their right to write court petition.

– – There is a need that judge and secretary of the court session was engaging in both courts between which held videoconference.

– Offered in case of technical problems that prevent participation in court hearing using video conferencing, do not deposition of the trial, but to announce a break when technical difficulties are temporary.

– Analyzed and generalized judicial practice related to ensuring the participation in the hearing by videoconference.

– We would like to retain participation in the hearing by video conference at the initiative of the court only in relation to other members of civil procedure, namely the witness, expert, specialist, interpreter.

V. Oliukha
PhD, associate professor, Head of Department of
Civil Law Disciplines faculty of Krivoy Rog
of the National University "Odessa Law Academy"

THE RATIO OF URBAN PLANNING AND CAPITAL CONSTRUCTION

Article is devoted to the delimitation of urban planning and construction activities. Sets the direction of urban planning activity and was defined the place of capital construction in urban planning activities. Scientists who explore the problem of improving the state regulation of urban planning activities narrow understanding and reduce it to just one of its kind. Views were expressed according to which urban planning – scale construction activity, component of architectural activity, or architectural activity includes urban planning. Recognized more correct approach in which architectural and construction activities are the main components of urban development.

It was noted that it is more preferable to talk about urban development activities providing carrying out a strategy for effective use of the country or its parts. Must be balanced public and private interests, the implementation of short-term and long-term goals.

Criticized the approach on which urban planning is a way of strategic property management. Identifies the following key components of urban planning activities: 1. Software-installation, legislative activity; 2. Architectural activity; 3. Construction activity; 4. Legalize activities; 5. Activities to ensure control and supervision in the sphere of urban planning; 6. Process management activities of protection and improvement of the natural environment; 7. Scientific – research and teaching activities. Capital construction is a type of urban planning activities, which provides a simulated environment of human life. Urban planning can not be reduced to one of its kinds. This approach reflected in the draft of Urban Planning Code of Ukraine will improve the legal regulation of such economic activity.

H. Rymarchuk
PhD in Law,
Institute of Law and Psychology,
National University 'Lviv Polytechnic'

ALGORITHMS OF TRADEMARKS VERBAL SIMILARITY EXAMINATION

Granting legal protection to the trademark sign ensures the primary right of the rightholder for protection of the created object of the individualization of production from illicit actions, meaning a word or a combination of words, image, symbol, logo, or the combination of all or some of them, but having a distinctive character among other signs at the market. Together with traditional objects comprising words and images, legal protection is confered to colour, 3-dimensional images, sounds and odor signs.

In the presented article we deal with verbal features of a trademark. In order to establish distinctive features among trademarks it is needed to conduct a range of complex examinations including the study of TM databases. The major institution in this field with the function of search engine are patent offices, that provide information for applicants regarding the registered or applied for registration trademarks, and also monitor the newcomings for foreign clients.

While conducting a search for possible similar signs, experts should take into account various factors in order to achieve efficiency and obtain proper results. Verbal trademarks demand thorough linguistic examination and for that particular reason there exist a number of tools, applied as an algorithm for search, some of them highlighted in the article.

E. Talykin
Candidate of Law Sciences,
associate professor of commercial rights department,
Volodymir Dal' National University of East-Ukraine

OBJECTIVES APPELLATE REVIEW IN ECONOMIC JUDICIARY

Article is devoted to research of problems of a stage of cassation revision in economic process of Ukraine. Taking into account world and domestic experience basic data for definition of functional purpose of cassation revision are analyzed. The cassation role as instances and influence of cassation revision on permission of economic disputes becomes clear. The conclusion about need of definition of problems of cassation revision in line with ensuring correctness and uniformity of judicial right application locates.

In legal doctrine stating that the appeal serves an additional guarantee of protection of subjective rights and legitimate interests of citizens , legal persons and state means correct judicial errors is actually some form of judicial review , the single instrument of judicial practice and uniform interpretation and application of the law, providing guidance to courts of lower level.

To object to perform all these forms of legal action is not possible, but should focus on the way that is achieved by the implementation of these systems. Indeed, the appeal has warranty, supervisory, educational potential, but these effects appeal should be treated as an effect that occurs during and because of the main purpose – to ensure accuracy and uniformity of judicial enforcement.

O. Stets
Candidate of Law Sciences,
Associate Professor of the chair of civil law disciplines
Kryvyi Rih faculty of the National University
"Odesa law Academy"

PECULIARITIES OF THE STATE REGULATION IN A BUILDING SECTOR

In article the state regulation order in a building sector of Ukraine is considered. Features of modern management in capital construction sphere are analyzed. The author specifies in indistinct definition the terms of reference of powers of public authorities and local government which accept corresponding certificates in a building sector or provide administrative services in obtaining permits for construction, and other imbalances in the administrative and legal regulation of construction activities.

The author considers an order of performance of actions on designing and building, with displacement on a legal regulation of these actions. The rights and duties of state structures and the local governments involved in sphere of regulation of building activity, and also the rights and duties of builders, customers and other subjects are revealed.

Proposals concerning necessary preconditions of effective reforming of a building sector, working out of theoretical base for new acts and perfection of a role of state structures in building sphere are made. The author pays attention to accurate application of terms "building" and "capital construction", he suggests ordering the rules of law regulating building relations in Ukraine. The author also expresses his support for the creation of a single codified normative act that will steer the building sector in Ukraine. Brief summary of the material evidences clarity in providing analytical material, correctness and adequacy of the present argument.

D. Riabikin
Candidate of Law Sciences,
Department of private international law,
Institute of International Relations,
Tars Shevchenko National University of Kyiv

GUILT AS A GROUND FOR LIABILITY OF THE SEA CARRIER

The author considers the guilt as an impartial ground for liability of the sea carrier. The continental and English systems of law have different approaches to the "guilt" as one of the elements of the offence. English system of law has always been based on the concept of absolute liability for the breach of contract. However in XIX century this concept has transformed into the concept of a strict liability as provided in *Taylor v. Caldwell*. Meanwhile in the continental system of law the guilt has always been an impartial element of the *corpus delicti*.

Legislation of Ukraine (the Civil Code of Ukraine and the Code of the Merchant Shipping of Ukraine) also provides for guilt as the ground for the liability. However Ukrainian legislation does not provide for the definition of "*guilt*".

The provisions relating to the liability of a sea carrier set forth in all international conventions (The Hague Rules, The Hamburg Rules and The Rotterdam Rules) are based in the principle of guilt of the sea carrier. At the same time the approach used *inter alia* in The Hague Rules is based on the concept of the negative determination of the ground for liability of a sea carrier.

Having analysed the institute of guilt and its role in determination of the liability of a sea carrier the author reviewed the approaches to the guilt as the ground for liability of a sea carrier both in continental and English law systems. The author has studied the provisions of all current international regimes of the sea carrier's liability and came to the conclusion that all modern international conventions are based on the guilt principle. The same conclusions are made with respect to the provisions of Ukrainian legislation.

In conclusion the author stated that today guilt is an impartial ground for the liability of a sea carrier for the loss or damage caused to the cargo during the maritime transportation.

A. Aksutina
Lecturer of civil law disciplines Department,
State Internal Affairs University of Dnipropetrovsk

CLASSIFICATION OF PRODUCERS CONTRACTS

In the article the classification of producers contracts are conducted. We are offering such main criteria of differentiation of producers contracts as types of legal relations with using rights of intellectual property on composition that are regulated by such contract; the conditions of granting the right to use the composition; the signs of readiness of composition; the character of relation between the sides. Some features of legal nature of producers contracts are clarified and the ways of improving the civil law regulation contractual relationship in this sphere are proposed. The purposes of the article are classification of producers' contracts by different reasons and determination of their features for improving the civil law regulation in the sphere of intellectual property. In the conclusion we considered that producing have specific signs that caused the specific classification of producers contracts. The producers contracts are classified; a) by the signs of readiness of composition for contract with finished composition and contract with order to create the composition; b) by the types of legal relations of using rights of intellectual property for contacts with right for use the composition and contracts of transferring (dispossession) the property rights for composition; c) by the terms of use of composition for contracts with creation of derivative work – complex using (translation, arrangement etc.) and contracts without creation of derivative work – simple using; d) depends on the characters of relations between the sides producers contracts are classified for contracts with the employer for creation of service composition and contracts with other persons.

We think that the changes to the part 6 of article 33 of Law of Ukraine "About copyright and related rights" should be done. We propose to read as follows "By the author agreement of order the author are obliged to create the composition in accordance to the terms of this contract and transfer property rights on it to the customer".

O. Bodnarchuk
assistant lecturer of
economic and legal disciplines Department
National University of Dnipropetrovsk

EFFICIENCY OF LEGAL ACTS IN THE FIELD OF PROTECTION OF ORPHANS AND CHILDREN DEPRIVED OF PARENTAL CARE

The paper highlighted the problem of the effectiveness of legal acts to protect the rights of orphans and children deprived of parental care, which is of particular importance. Its essence is the appropriate level of systematization and efficiency of the implementation of legal acts.

The author argues that an important step in the development of legislation to protect the rights of orphans and children deprived of parental care, the adoption of the Law of Ukraine «On Ensuring Organizational and Legal Conditions for Social Protection of Orphans and children deprived of parental care».

Also, the main legislative document that contains key provisions to protect the rights of these children is the Law of Ukraine «On Protection of Childhood», which defines child protection in Ukraine as a strategic national priority, and to ensure the realization of children's rights to life, health, education, social protection and all-round development establishes the fundamental principles of state policy in this area.

The proposed approach in the work allowed the author to determine the main proposals and areas of improvement, to improve the efficiency of application of the legal protection of rights of orphans and children deprived of parental care.

Furthermore, the author introduced the necessary recommendations to improve the Ukrainian legislation with a view to developing comprehensive legal institute regulations to protect the rights of these children.

K. Moskalenko
Teaching assistant at Civil Law Department,
Schevchenko National University of Kyiv

CONTRACTING MINORS IN THE SPHERE OF MUSIC SHOW BUSINESS: WORLD EXPERIENCE AND UKRAINIAN CHALLENGES

The paper is dedicated to the problem of analysis of the peculiarities of legal status of minors in the sphere of music show business. The author investigates the current status of international treaties and domestic legal framework on the conditions of the child artist. Upon a thorough analysis of the above, the children-artists may be employed as performers in case if such employment is not harmful to their health or development and not such to as to prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent authority or their capacity to benefit from the instruction received.

Kateryna Moskalenko comes to conclusion that in accordance with the Ukrainian national legislation, when entering into a contract with minor under 14 years old it is necessary to assure that the parents or other legal representatives have given consent to such contract. In case of absence of such consent, the contract can be further legalized in the court by filing a claim in the name of the interested person. When entering into a contract with minor over 14 years old and under 18 years old, it is necessary to assure that the parents or other legal representatives have given consent to such contract. In case of absence of such consent, the contract can be further deemed invalid in the name of interested persons.

French and the USA's practice on keeping part of the minor's income in trust can be introduced in Ukraine, which will help to bring Ukrainian legislation in line with the European and other international standards.

V. Moroz
PhD candidate of Kyiv
University of Law NAS of Ukraine
Director General, Managing Partner
LLC "Law guild "VictoriAl"

COMPANY NAME AS THE OBJECT OF THE INTELLECTUAL PROPERTY LAW

The article actual problem of legal regulation cases of obtention by the company name that is known as the personal nonproperty right distinctive character in relation of certain goods and services and the possibility to consider it in such a case as the untraditional intellectual property object (means of individualization) and difference between the company name and trade name is analyzed. The aspects of purchasing rights for such intellectual property object, exercising of such rights and their protection, defensing and termination of such rights are shown. The author argues the thesis that the rights for the company name can be considered only as the personal nonproperty rights. It is shown that such object in some specific cases can be considered also as an object of the intellectual property.

The proposed approach in the article allowed the author to exceed the traditional approach to the problem of the regulation of the company name rights. First and foremost author has made deep research of the determination of the cases that allow consider the company name as the intellectual property object and its difference with such an object as the commercial (firm) name. This is the clue to understanding of the company name right protection best methods and procedures.

Also, the author provided the necessary recommendations to improve administrative and legal regulation of the considering company name as the untraditional intellectual property object.

I. Alekseeva
Post-graduate student
Department of Economic Law and Justice
National University "Odesa Law Academy"

ECONOMIC AND LEGAL REGIME OF BORDER AS BASIS OF INTERTERRITORIAL COOPERATION

The issue of improvement of strategic development in the sphere of international cooperation makes possible in future positioning competitiveness of economic complexes on the territories of border zones on internal market and external one as well. The main base of border zone is in its belonging to the border, so it is very important to analyze economic and legal regimes of border and to define its economic functions within the context of foreign economic activity development. The border becomes the main race of cooperation of states on different levels through their "openness" in the conditions of market globalization, firstly, on border territories by establishment of special order of doing economic activity on these territories which falls under definition of special regime of doing economic activity.

N. Krichkovska
Postgraduate student of civil law and process legal Department
Faculty national university of Ivan Franco of Lviv

LAW STATUS OF THE FOUNDER OF CORPORATE FUND

In the article the relevance of the research question of founders of corporate funds is explained. The regulatory framework which governs the respective relations is analyzed. There is pointed on the existing contradictions in a legislation concerning the regulation of such questions as "founder" and "partner" of legal entity. Basing on the analyzed regulations, it is concluded that the legislation provides only a general list of persons who may act as founders of the corporate fund, however the features that are demanded from their individual categories are not pointed. Attention is drawn to the need to determine the possibility of corporate fund to establish another Corporate Fund by law. In connection with that fact it is pointed on the discrepancy of Ukrainian legislation with the EU requirements. This accordance with the EU legislation is due to the policy of development of Ukraine. Because of that fact the legislation must conform to uniform requirements. In the article the laws of other countries governing the relevant relationship is also analyzed.

The possibility of the formation of corporate funds by individuals is analyzed. Attention is drawn to the necessity of identifying the individuals who may be shareholders of corporate stock. There is pointed on the need to conform against each other provisions of the Law of Ukraine " On Collective Investment Institutions ." Particular attention is drawn to the discrepancy between the definition of the scope of founders and partners of the corporate fund. In this case to the corporate fund partners (private persons) more restrictive measures are set than to the founders (private persons). This leads to the situation where that person which was the founder of corporate fund cannot be part of. It happens because it does not satisfy the requirements of the current legislation. Therefore, in the article amending to the relevant statutory provisions in order to address such situations is proposed.

Attention is drawn to the need for legislative regulation of cases of obligatory conclusion founding treaties. It is proposed to amend the relevant legislation changes and to establish the need of concluding founding treaties by shareholders when corporate fund founder is either private person or at least when one of the founders is a private person.

Yu. Khort
Candidate of Law Sciences
Associate researcher of Uppsala University,
Postdoctoral Research Fellow
in the EU Financial Market Law at Uppsala Universitet

EFFECTIVENESS OF PRIVATE EQUITY INVESTMENTS' REGULATION IN THE UKRAINIAN BANKS

After the financial crisis of 2008, which is, first of all, is a crisis of banking system, the attention of legislators is paid to the restoration of banks' solvency. At the same time the possibilities of other banks and government to provide all necessary financial assistance to troubled banks are limited. That is why it is important to analyze such important source of bank financing as private equity investments in their equity.

Recently the USA liberalized its federal banking regulation in order to make it more favorable for private equity investors. In contrast, Ukrainian regulator forbade acquisition of control stake in banks for venture capital (private equity) funds.

The aim of this article is to analyze the effectiveness of the new regulatory changes of Ukrainian legislation as to private equity investments in banks.

This article begins from an overview of the current legal regulation of private equity investments in banks under Ukrainian legislation. Then, I explore regulation of these investments in the EU and the recent legislative changes and motivations for encouraging private equity investments in troubled banks in the USA. This permits me to formulate my proposals and policy implications.

I assert that existing restrictions on private equity investments in Ukrainian banks are not justified on the ground of increasing transparency of banking system. Firstly, private equity investments in banks are beneficial for both of them. Banks get necessary capital and private equity funds – high returns from such kind of investments. Secondly, transaction costs of such regulation are too high. Ukrainian banks need capital for improving of their liquidity. At the same time there is a range of other mechanisms, not less effective than putting restrictions on private equity investments, for providing transparency of banking system.

I conclude that current Ukrainian banking legislation regulation should be reconsidered in order to encourage private equity investments in banks.

T. Khorosha
Postgraduate student of problems
of civil, labour and enterprise law Department
of state and law Institute of Koreckiy National Ukrainian Academy of Sciences

CONCEPT OF COLLISION NORMS AND COLLISION ADJUSTING OF THE INHERITANCE RELATIONS, COMPLICATED BY A FOREIGN ELEMENT

In the given article collision norms are probed in relation to an inheritance in an international law, the order of choice of the right, which is used both to the inheritance and to the form of drafting of testament is investigated.

Actuality of the research theme is connected with the fact that today, without any regard to all processes, directed on rapprochement of the legal systems, eurointegration, attempts of making the unique legal acts for the countries of the world, in particular inheritance laws of different states, can be characterized by considerable differences both in materially legal and in the judicial adjusting of these legal relationships.

The author comes to the conclusion, that Ukrainian Law «On the international private law», called to settle private relationships with a foreign element, became a ponderable payment of the Ukrainian legislator in relation to the questions of inheritance, which need their international legal settlement.

It is marked also, that the creation of a unique European civil code would be expedient, in fact it would not only remove blanks in law but also would enable to regulate monotonously all issues, related to inheritance, from testament making or deceased's death, and to the transfer of the inherited property to his heirs.

Chapter 4

ACTUAL QUESTIONS OF LABOUR AND ECOLOGICAL LAW

M. Inshin
Doctor of Law Sciences
Corresponding member of National Law Science Academy of Ukraine
Honored Lawyer of Ukraine
Head of labour right and right of social security
Shevchenko National University of Kyiv, Ukraine

PROFESSIONAL COMMUNITIES ACCORDING TO THE LABOUR CODE OF UKRAINE

The article analyzes the power of trade unions in protecting workers' rights. Legal aspects of the legal status of a trade union are disclosed. The prospects for improving the operation of Trade Unions of Ukraine make proposals for amendments to the draft Labour Code of Ukraine. The relevance is that the rate of any country on the path to democracy and the rule of law certainly should include democratic reforms in labor relations, ie the creation and operation of efficient legal protection of rights and legitimate interests of labor relations. It is well known that Ukraine has chosen the direction of a civilized state of development of market economy, declaring in Art. 13 of the Constitution Ukraine on June 28, 1996, which provides social orientation of the economy. This, in turn, leads to the formation of the available procedures for union workers in various institutions whose activities are aimed at the protection and defense of human rights and their legitimate interests. One such historical, special organizations and trade unions have as their purpose is to protect and functioning of socio-economic and labor rights and legitimate interests of its members. Given the fact that the employee in labor relations is the objective side of a weaker than employers, trade unions and emerged and evolved as an organization that is designed to protect the employer in relations with their interests. The current legislation of Ukraine establishes a legal framework and basis for the exercise of the security and defense functions. Thus, in accordance with Art. 36 of the Constitution of Ukraine stipulate that citizens have the right to participate in trade unions to protect their labor and socio-economic rights and interests. At the same time, the legislator establishes the rule that trade unions are public organizations that are formed without prior permission, based on the free choice of their members and unite citizens bound by common interests by virtue of their professional activities.

The conclusions are that the current legislation of Ukraine in the field of legal regulation of trade unions the task should enable function wool in the form of social partnership and in the form of representation. Modern trade unions should organically combine both NGO status, and status of the industrial democracy. This requires improving the draft Labour Code of Ukraine in determining forms of representation and protection of trade union rights and interests of workers and the amount of labor power of trade unions.

O. Yavorska
Doctor of Law Sciences,
Professor of civil law and procedure department
Franko National University of Lviv

THE AGREEMENT AS THE LEGAL BASIS OF LAND, OTHER IMMOVABLE PROPERTY OBJECTS THERE LOCATED REDEMPTION FOR PUBLIC PURPOSES

The contractual grounds of the private ownership property alienation for public purposes based on the legislation of Ukraine are examined. Despite the Ukrainian legislation establishes that the transfer of the ownership right on the bought out property is performed on the basis of legal transaction on the property transfer in ownership, it is proved that such agreements as rent, permanent alimony (supervision), inherited agreement can't serve such legal ground because the other interests on the basis of its conclusion and implementation are realized, except the particular transfer of the ownership right.

The land, others immovable property objects redemption there located for public purposes is performed on the grounds of purchase-sale, barter agreements. Such agreements are concluded between the owner and the state or self-governmental bodies which are authorized for public purposes redemption decision making. The marked agreements are the individual regulators of the parties' relations on the property redemption for public purposes. The substantial condition in such agreements is the condition on the redemption price. The redemption price is determined as the cost of land (its part), dwelling house, other buildings, perennial plants that therein are, with the damage inclusion caused to the owner of the land as a result of foreclosure, including damages suffered by the owner in connection with the early termination of its obligations with the third parties, including lost profits. The alienated or transferred instead alienated land cost is determined by the authorized body or person who initiated the immovable property object's alienation. For the reliable guarantee of the private owner's interests in respect of whom the redemption for the public purposes is performed and for the constitutional principle of the private property inviolability establishment it is offered the choice of the evaluation activity subject coordinate with the owner and select it by mutual agreement between him and redemption establishment initiator.

V. Sydor
Doctor of Law Sciences,
Professor, Department of the agrarian, land and ecological law,
National University «Odesa Academy of Law»

EFFICIENCY OF SOCIOLOGICAL APPROACH IS IN SCIENCE OF THE LAND LAW OF UKRAINE

A publication is devoted to researching of value of land law from a sociological approach and establish its dependence on the public interest, real land relations and practices of land disputes resolving. Updating problems using sociological approach in science of land law due to the role that belongs to this area of law in theory and practice of the state operation. Rapid reform economic and political system of Ukraine, high dynamic formation of new forms of social life require proper legal provision that would based on modern scientific theory and methodology.

To adequately respond to the current need for integrated research, analytical and applied nature, turn the theoretical understanding on the generalization of social and judicial practice considering legislation dynamic and changing economic and political conditions. Requires a turn to static (formal dogmatic) knowledge to active knowledge that examines the phenomenon deeply and thoroughly, using the achievements related sciences and real impact on legislation and practice. The value of land law from a sociological point of view is considered as a mechanism to ensure satisfaction and public land interests. Proved that the sociological approach is of great practical importance for the formation of the land law of Ukraine.

Study questions value of strengthening the rights-based approach to sociological comprehension is important for regulation of land relations and the development of effective land legislation. Sociological approach will look at the value of the land law as a mechanism to ensure satisfaction and public land interests. Despite the fact that the sociological approach links the efficiency of the legal regulation of land relations law, which comes from actually existing relations, it is of great practical importance for the formation of the land law of Ukraine.

B. Zmerzly
Doctor of Historical Sciences
Professor of history and theory,
state and law Department
Vernadskiy National University of Taurida, Ukraine

CREATING THE METEOROLOGICAL SERVICE IN THE BLACK SEA REGION IN THE EARLY XX CENTURY

The article is devoted to the study of problems of development of meteorological services in the Azov-black sea basin in the beginning of the twentieth century. With the use of legislative and archival materials indicates that up to the beginning of the twentieth century to this area of providing security practically was not given proper attention. However, in the region, thanks to the efforts of zemstvos, individuals, town councils and government departments was created a network of meteorological stations. Combining them into a single system and opening in the ports new stations began only in 1909 on the initiative of the senior foreman of the Feodosiya port engineer M. Sarandinaki.

Work of numerous meteorological services with various equipment, including systems of space basing, is one of the major factors providing safe activity of different types of transport. However it wasn't so all time. No look on the necessary creation of powerful meteorological service in the Russian Empire, up to the beginning of the XX century it was existed more on paper, than in practice.

According to the project for performance of metrological service in ports of Azov and Black sea, it was necessary to create "special service in commercial ports, which has goal to caution ships about hurricanes" For realization of this task, it was offered to get a contact with organization of storm service in the main physical observatory of Nikolayev. Maregraphical and meterological station must be mounted in every commercial port. By the way, it was offered to set special control of data correctness checking and regular its sending from stations with the telegraph to the meteorological service of Azov and Black sea ports in Feodosiya

M. Chabanenko
Candidate of Law Sciences, Associate Professor,
Head of the department of civil law disciplines,
Dnipropetrovs'k State University of Internal Affairs

AGRICULTURAL ENTERPRISE AS A CATEGORY OF AGRARIAN LAW OF UKRAINE

The article covers the issues of essence and content of agricultural enterprise which is considered an agrarian-law category. The prospects of the named category legal determination are defined. The essential features of agricultural enterprise are distinguished; the concept of agricultural enterprise is formulated. The necessity of unitization of legislative definitions of concept of agricultural enterprise is emphasized.

Three main features of agricultural enterprise are defined. They are: a) a legal entity status; b) a special object of activities – agricultural activities; c) quantitative «agrarity» criterion set on the level of 50 % of gross profit percentage ratio.

Therefore an agricultural enterprise is concerned to be defined as a legal entity which carries out agricultural activities, i.e. produces (cultivates, breeds) agricultural production, processes raw agricultural materials, sales raw and processed agricultural production. And in so doing an agricultural enterprise has to obtain not less then 50 % of gross profit.

Author provides some suggestions concerning the improvement of legislative definition of agricultural enterprise concept.

It is grounded that an agricultural enterprise category needs a unified legislative definition. Thus the problem of antinomies of legal regulation and legitimate law enforcement will be managed.

These suggestions also cover adaptable quantitative «agrarity» criterion of agricultural enterprise introduction into the agrarian legislation of Ukraine. It is suggested that the law-maker should equate the profit gained from some activity categories, which accompany the agricultural activity and are considered socially desirable, with the profit gained from agricultural activity. It is a matter of such activity categories as rural (green) tourism, social amenities of rural areas and rural communities, agricultural innovations, nature conservation activities etc.

I. Kravchenko
Candidate of Law Sciences,
Associate professor of law science Department
Northern Donetsk Institute,
Interregional Staff Management Academy

AS FOR LEGAL GUARANTEES OF PROVIDING PROCEDURE OF THE WORKER DISMISSAL IN CONNECTION WITH DISCREPANCY OF ITS PROFESSION OR THE PERFORMED WORK

In this paper formulated the concept of "legal guarantees of labor rights" and defined legal guarantees to ensure the procedure an employee because of his inconsistency's position or performed. The relevance of this topic is that the formation and development of our country as a democracy is long and quite complex. This is due to the specifics of the restructuring and re-prioritization of thinking in all areas of society, the transition from extensive to intensive economic development, authoritarian methods of governance to democratic levers and approaches to ensure the development of society, where the main source of power is the people. In such circumstances, universal values such as human rights and freedoms come first, as to guarantee their compliance, legal support and protection is the key to balance the interests of society by all his subjects.

Purpose of this article is to determine the legal safeguards that ensure to fire an employee because of a mismatch its position or performed. To achieve a goal you must solve the following problem: to provide the definition of "legal guarantees of labor rights" as well as to identify and analyze legal guarantees to ensure the legal firing workers for nonconformity it's position or performed.

Also, the conclusions are that is offered for safeguards relating to the subject of our dissertation, enter the following: If the detected nonconformity employee's position on the results of certification, offer such officer or place of less qualified requirements to perform job functions, or employer guaranteed one-time referral to training, if such procedure is actually possible.

L. Zastavskaya
Postgraduate student of international law Department,
Institute of International Relationship,
National Aviation University

REFORMING THE AGRICULTURAL SECTOR AND THE ADOPTION OF THE BASIC REGULATIONS IN THE AGRARIAN LEGISLATION (1990–2003)

The article defines the ensuring of the implementation the state agrarian policy, the acceleration of the reform and development of the agricultural sector of the economy based on private ownership of land from 1990 to 2003.

Key words: rent, private ownership of land, land share, subject of law.

The goal of the paper is to discover the legal nature of development of any kind of management forms as the law providing principal of commercial agricultural land usage in Ukraine which is based on the adopted legislative acts.

Based on the land shares rent, the organization of agricultural production by the agricultural enterprises in their owners is serious violation of the rent regularities.

Considering that the object of rent can be only as especially defined property. A land parcel is a conditional plot of land where the sizes and location aren't determined, that's why it can't be object of rent.

Consecutively, the certificate on the right of a land share can't be considered as the legal document which certifies existence at the land parcel owner of the possession use and order rights of this share. Actually the certificate gives to the land owner only the right of a land parcel order in such ways: a) its subtraction on the basis of the civil agreement which isn't forbidden with the law; b) allotment of land parcel as a type of land plot, it's based on the replacement of certificate for the property right with state act on the right of the land plot.

M. Tikhonovich
Deputy Director for general issues
LLC "IBK" Al'yans Kapital"

LEGAL MECHANISM OF REGULATION OF DISMISSAL AT THE INITIATIVE OF THE WORKER

This paper examines the nature of the legal mechanism for regulating the release of the initiative of the employee, given his general theoretical description. Background is that the proclamation of Ukraine as a state, a special importance is the labor market, which largely depends on the development of all institutions, including the special role played by rules layoffs. These rules have a purpose – to ensure civil rights upon termination of employment. They must fit into one of priorities of public life and society, as directed in support, social services and recovery status of a full member of society. Since it is labor relations man may consider himself as a valuable member of the social system, their rupture risks associated with the lack of opportunities to meet the social needs of man changes his status in society, and in general with material well-being. Failure to comply with the rules of release, violation of labor laws in the termination of employment is the consequences for workers and employers after termination of employment. In addition, violations exemption, failure of parties to the employment relationship, in some cases, in addition to violations of civil rights, adversely affect the financial situation. Therefore, liberation as the gap of employment, should be classified as a social problem, which is related to the update mechanisms for the rights of employers and employees in the release, which, at the time, impossible in the absence of the primary means of influence on social relations – legal state regulation.

The purpose of this article is to provide general theoretical characteristics of the legal mechanism for regulating the release of employee initiatives.

The conclusions are that a subjective right of the worker to release consists of the following legal possibilities: (a) the possibility of certain actions (behavior) of the employee as an authorized person, that is right for their own actions; (b) the possibility to request certain actions from the obliged person that is right for other people's actions (right – a requirement) that provides employee reality of subjective rights granted to him; (c) use of the possibility of appealing employee to the competent authority for the protection or enforcement of violated rights in cases where the worker to reasons beyond his control can not exercise their rights because the employer prevents this or does not fulfill its obligations.

V. Pavliychuk
Applicant of the procedural management and maintenance Department
State National academy of prosecutor's agency of Ukraine

COORDINATING ACTIVITIES OF THE PROSECUTOR IN THE CONTEXT OF THE PROTECTION OF LABOR RIGHTS OF JUVENILES

Article 10 of the Law of Ukraine "On Prosecutor's Office" stipulates that Ukraine's Prosecutor General and subordinate prosecutors to improve the efficiency of combating crime and corruption coordinate law enforcement activities on combating crime and corruption.

The aim of the article is to develop the optimization of coordinating activities of organs for the protection of labor rights of juveniles.

The topic of coordination measures should be selected based on the state of legality and production specialization of the region (city, district, region).

Thus, in the context of labor rights of juveniles is subject needs must include the following issues: employment, first job; compliance favorable working conditions (working hours, jobs, wages, etc.); vacations; termination of employment; effecting efficiency measures to ensure compliance with the rights of juveniles to the appropriate state agencies work; identify ways of ensuring compliance with the laws of optimization in this sphere.

Immediately is to participate in coordination activities for the protection of labor rights of juveniles (particularly at the local level) should involve representatives of bodies of local executive authorities and local self-government; criminal police for children; services for children; departments (departments) of education; State Employment Service; State Inspectorate of Labor; health service; fire safety authorities; Civil Service of Mining Supervision and Industrial Safety; State financial security.

It is also appropriate to invite representatives of relevant government bodies vested with certain powers in the fields of economy, the most common area is not an administrative-territorial unit (district, multiple district or region). For example, in agricultural areas in coordination meetings advisable to invite representatives of the State Agricultural Inspection of Ukraine.

Thus, the association of law-enforcement bodies and authorities will facilitate the effective exercise of their duties and coordinating all subjects as a result, the effective detection of violations of labor rights of juveniles.

V. Vehera
Applicantr of Labour Law and Legal welfare Department
Shevchenko National University of Kyiv

REMUNERATION: CONCEPT, FEATURES

The article is devoted to issues related to the institution of pay. It is concluded that the right to remuneration arises in every human being in the employment of any form. However, specific and detailed legal regulation suffers receiving pay for work only in labor relations, as in civil law the parties are equal and independent, employee and labor is subordinate to the employer who wishes to use its power to minimize the cost of wages, as is the need its permanent containment, including through legal means.

In this case, the principles on which it is defined and shaped the legal regime of payments in labor law are different from those that determine the remuneration of civil law. If the latter is correlated with the materialized labor, in labor relations is always a reward, directly or indirectly, must relate to the cost of living labor in the process of social production. Remuneration of labor law (a) a regular, established by law; (b) is a legal organization and is determined on the basis of the national minimum wage; (c) is divided into parts primary and secondary; (d) a prescribed sphere of state regulation and contracts for work, while remuneration for civil contracts governed by their sides. Another significant difference is the fact that in most cases the subject of the right to compensation in civil law can be both physical and legal persons, while in labor law , it always concerns only individual. Moreover, not only the legal entity, but a group of individuals that did not endowed with legal personality, shall be subject to the capacity for reward under a contract.

D. Ushveridze
Postgraduate student
of the labour law and social security right Department
Shevchenko National University of Kiev

SYSTEM OF CLASSIFICATION OF POSITIONS IN PUBLIC SERVICE

The article outlines and analyzes the system positions in the civil service of Ukraine. The comparative analysis and the distinction between position and official. This definition of concepts and recommendations on reforming civil service posts in Ukraine. Background is that the economic, cultural and social development of citizens directly proportional to the executable tasks of public authorities. Therefore, the primary task of the state is to ensure the quality of state authorities aimed at a clear fulfillment of its functions. Thus, the problems that arise in law must be paramount eliminated. Thus there is an urgent need for reform of some institutions to improve their performance. The system positions in the public service requires a clear distinction and legislative provisions. Civil service positions plays a significant role in the direction of the person who occupies it.

Purpose of this article is to examine the classification system in the civil service. Also, analysis of the concepts and official position, differentiation of types of positions in the civil service of ukraine and the establishment of criteria for their classes.

Conclusions are that implementing tasks of public authorities should pay attention to this distinction. Constructive believe that the authorities in the implementation of its functions should be more independent. In turn, this will continue to avoid the bureaucracy at the state level, and facilitate the exercise of governmental officials. It should be noted that the criterion for distinguishing between positions should be the scope of the person who holds this position, and affiliation to the type of public service.

O. Havrilova
Applicant of law science Department,
East-Ukrainian National University of V. Dal'

FEATURES OF GIVING A HELP TO THE WORKER IN CASE OF TEMPORARY DISABILITY CAUSED WITH INDUSTRIAL ACCIDENT

The article deals with features providing the employee (victim) Assistance for temporary disability due to an accident at work, defined circumstances, provided that which the victim loses the right to receive such assistance, found differences between the means of communication temporary disability due to an accident at work and appropriate assistance in the event of non-productive injury. Background is that the current state of safety in Ukraine is unsatisfactory, because many violations of safety from both the employer and by the employee lead to negative consequences, such as occurrence of accidents at work which, in turn, detrimental to the health worker, resulting in disability. Therefore, the social benefits provided to victims in case of accidents at work is relevant government social safety net to ensure the normal life of the employee for the period of his disability.

The conclusions are that need to differentiate assistance in case of temporary disability due to an accident at work and assistance in case of temporary disability due to non-production of injury, because depending on the setting of the production or presence of non-industrial injuries depends on the size of the corresponding care, grounds and procedure for payment. These differences include: 1) the basis for assistance in case of temporary disability for an employee work injury, in contrast to aid, but in the case of non-industrial injuries, except medical certificate – the injury report related to production of form H-1; 2) The next difference is the different legal regulation: the circumstances are considered an accident, associated with the production regulated by the Cabinet of Ministers of Ukraine of 30.11.2011 № 1232 "Some aspects of the investigation and recording of accidents, occupational diseases and accidents at work "but circumstances have an accident outside work provided for in the Resolution of the Cabinet of Ministers of Ukraine of 22.03.2001 № 270" on approval of the investigation and recording of accidents outside work "; 3) the amount of aid due to occupational injuries is 100% of the average salary and does not depend on length of service of the employee, and help as a result of non-productive injury insurance period is calculated taking into account the person; 4) as in the first and in the second case, the first five days of disability the employee reimburses the employer, and from the sixth day of assistance in connection with the loss of disability due to an accident at work – social insurance against accidents at work and occupational diseases Ukraine, assistance in case of temporary disability due to an accident outside work – social Insurance Fund for Temporary Disability.

D. Kovach
Postgraduate student of Land and Agrarian Law Departmnet
National Law University Law Academy of Ukraine Yaroslav the Wise

SOME ASPECTS OF THE STATE LAND REGISTRATION AND TITLING THEM

The article investigates the law issues of state registration of land. The analysis of the two registration procedures relating to land – land registration and registration of land rights. Particular attention is paid to the order of formation of land under the laws of Ukraine. We study some drawbacks land legislation on registration of land and the ways of solving some practical problems.

Holding in Ukraine land reform necessitates theoretical understanding of the emergence of a number of issues of land rights. In the Land Code of Ukraine registered the various ways of acquiring rights to land, including the acquisition of ownership, rights of use and other land rights. Each method consists of separate logical sequential steps (steps), according to which there is documented by a person, land management organizations and government agencies and local government actions, legal and institutional nature.

Self among these stages takes the state registration of land and rights to them. In terms of the present problem of the origin of land rights become theoretical weight and practical importance as the period of independence, Ukraine had three Land Code, which contained provisions that perpetuate various conditions on the formation of land and state registration of rights to them.

The analysis of the above issues has provided an opportunity to the author to clarify and examine the nature of the problems to express their vision of the individual issues of the research topic.

A. Popova
Post graduate student,
Department of land, agricultural and environmental law
National University of "Odessa academy of law"

SOURCES OF LAND POLLUTION BY HAZARDOUS SUBSTANCES AND THEIR SORTS

Beginning of the XXI century is characterizes forming and growth civilization crisis. Because actuality of question dictated that swift growth of economy exert influence of biosphere, it more raze of environment and bring out of pollute, and destroy natural resources and bring into the world a new sources of land pollution. For the last one hundred years resources of consumptions of humanity to increase by 100 reason. Imminent changes of international climate is result of activity grows of economy.

In soil makes one hundred millions ton of mineral fertilizer and approximately four millions ton of pesticides every year. The most part of them carry out to rivers, lakes, sea and ocean. The biggest quantity of its pile up in artificial reservoir. In this connection, soils loses ability of revolts and soils has stopped restorations of natural resources.

According to article 66 of Constitution of Ukraine as regards the legal defence of land, everyone is obligated doesn't makes of damages of nature, states and quality of land. If by change land was polluted by hazardous substances indemnity of them for losses.

The most harmful of point of view of ecology security is deterioration of qualitative characteristics of land and soils was polluted by hazardous substances. Parameters of content harmful substances be others and it depends on their sorts. As a matter of fact, hazardous substances is accepted of classify. The first group is regarded substance, which do harm to radioactive of land polluted, namely caesium and strontium. The second group consists nitrate and pesticides.

Chapter 5

COUNTERMEASURES TO CRIMINALITY AND IMPROVEMENT OF ACTIVITY OF CRIMINAL AND JUSTICE AFFAIRS

V. Dryomin
Doctor of law Sciences
Vice Rector for Scientific Affairs,
Head of criminology and penality law Department,
National University "Odessa law academy"

CRIME AND CRIMINALITY THROUGH THE PRISM OF INSTITUTIONALISM

The institutional analysis methodology of public processes and the phenomena got special relevance in recent years. It is obvious that such high interest to this problematic is connected with crisis of institutional bases of the state and political system in many countries of the world. Deinstitutionalization of the settled world order is appeared in destruction of economic, legal, political systems and traditions, caused conflictive society in its own essence. The crime is one of important factors of a social strife and a consequence of disintegration of steady institutional system. The crime as the most difficult social phenomenon couldn't remain out of institutional researches. Since the time of E. Durkheim, to some extent the analysis of deviant behavior assumes the studying of social institutes.

Analyzing crime through a prism of economic, sociological, politological institutionalism, scientists form significantly different scientific directions. The author considers the concept of criminality from the position of institutional methodology. Crime is one of the significant factors for social conflictness, crisis of institutional basis of the state, economic and political order, collapse of sustainable institutional system of the society. The author substantiates the conclusion, that crime reflects the level of legitimacy of institutional structure of the society.

S. Sharanich
Candidate of Law Sciences,
Associate professor of criminal and legal disciplines
and International Department
of the European right and jurisprudence Faculty,
Uzhgorod National University

DEPUTY IMMUNITY AND CRIMINAL LIABILITY: EUROPEAN EXPERIENCE

In this article a comparative legal analysis of European law regulating the field of establishing the limits of the exercise of powers guarantees parliamentarians. Including performance features explored immunity and its limits in the case of criminal prosecution .

Given that at present, our state is moving steadily towards the development of European standards for the operation of public authorities, then, accordingly, should be given considerable attention to the experience of European countries to regulate the procedure of bringing a National Deputy of criminal responsibility.

Analyzing European legislation can be concluded that in most countries of Europe institution of parliamentary immunity is enshrined at the constitutional level or in law. Only in the Constitution of Bosnia and Herzegovina, the Netherlands, constitutional acts of Vatican City State and the constitutional acts of the England no rules on parliamentary immunity. In most European parliamentary immunity has been limited, with such restrictions as may be relevant to a particular time period or term of office of members of the Parliament taking certain proceedings against a person with "immunity" and the degree of severity of his wrongful act.

Note that the complete abolition of parliamentary immunity from prosecution is not a typical feature of most European countries. This practice is characterized mainly countries with Anglo-Saxon legal system.

Action immunity in most European countries not covered by the flagrante delicto, that is, when the deputy arrested right on the spot of the crime or the day after the crime. It should also be borne in mind that some European countries action immunity does not extend to cases of certain types of offenses: small (insignificant) offenses, crimes that do not involve incarceration, offenses for which the liability established by imprisonment for a fixed term.

Practice the complete absence of immunity of members of parliament are not typical of most European countries, the appropriateness of the abolition of parliamentary immunity in Ukraine is questionable. Analyzing European legislation can be concluded that the content and scope of parliamentary immunity in different countries varies. However, no example of mapping immunity is not absolute and is limited to particular time range of subjects of the offense and more. What is the procedure of bringing parliamentarians criminal charges and removal of immunity here traced much of modern Ukrainian legislative regulation of these procedural issues.

V. Konopelskyy
Candidate of Political Sciences,
Associate Professor,
Head of the Department of Criminal Law and Criminology,
State Internal Affairs University of Odessa

PENAL PRINCIPLES' PECULIARITIES OF COMBATING AGAINST ORGANIZED CRIME IN UKRAINE

As the social practice of the penal principles of combating organized crime in prisons and correctional facilities Ukraine have their content elements and features. These in particular include the following:

Neither objective or objectives of penal legislation of Ukraine directly the question of combating organized crime in the penal institutions do not provide (Article 1 of the CEC "The aim and objectives of the penal laws of Ukraine" , Art. 92 " Separate prisoners to prison in prisons and correctional facilities " , Art. 104 " Operational activity in the colonies ", etc.). At the same time, some special laws of language is indicated opposition. For example, in Art. 8 of the Law of Ukraine "On remand " states that separate these institutions hold persons suspected or accused of committing crimes stipulated in Articles 200-235 of the Criminal Code , which qualified by a " commission of a crime by an organized group ," and the defendants or suspects in one and the same criminal proceedings , if the relevant decision of the person or body engaged in criminal proceedings , no doubt , creates formal barriers to illegal activities of organized criminal groups in pre-trial detention facilities . However, in the future – after the conviction of members of organized crime groups – counteracting their activities are regulated by the relevant normative acts. This approach can't be considered a logical and reasonable for the following reasons:

In accordance with the requirements of Part 2 of Art . 19 of the Constitution of the State authorities (in this case – control and penal institutions) and local governments and their officials are obliged to act only on the basis and within the limits and in the manner provided by the Constitution of Ukraine and laws of Ukraine , which means that combating organized criminal groups in prisons and correctional facilities should also be based on the requirements of the principle of legality. However, as noted in Section 1, the decision of the Constitutional Court of Ukraine of April 16, 2009 № 7-rp/2009 " in the constitutional provision of the Kharkiv city council for official interpretation of the provisions of Part 2 of Art. 19 of the Constitution of Ukraine, p. 25, § 14, article 46, of Sections 1, 10. 59 Law of Ukraine "On Local Self-Government in Ukraine " (the right to cancel the acts of local self-government), the local government has the right to make decisions, make changes and / or cancel them on the basis and within the limits and in the manner envisaged by the Constitution and laws of Ukraine.

H. Zharovska
Candidate of Law Sciences
Associate professor of criminal law and science Department,
law faculty of Fedkovich National University of Chernivtsy

ORGANIZATIONAL ASPECTS OF COMBATING TRANSNATIONAL ORGANIZED CRIME IN UKRAINE

At the beginning of XXI the transnational aspect of criminality was the visual manifestation of the truth that the problem of criminality is a global problem that can't be solved at the level of individual state, or legal-normative act. Understanding this fact should be the basis of the global organizational principles restructuring to combat this phenomenon.

The purpose of this paper is to determine areas of improvement of combating transnational organized crime in Ukraine, which is dictated by the realities of today's socio-political and criminogenic situation, prevailing in the State at the beginning of 2014.

It is time to organize a law enforcement agencies system of for counteraction to transnational crime. Therefore, creation of operative forces of agencies of Interior Ministry, Security Service, customs and tax agencies where it is dictated by operational and criminal situation, would enhance the effectiveness of the prevention and alleviation of transnational crime problem. One of the conditions to combat transnational crime is a kind of monitoring to inform state agencies about the legitimacy of national business structures actions abroad.

In this regard, to coordinate efforts in carrying out search operations and investigation on transnational crimes facts, as well as collecting and analyzing data on the activities of Ukrainian criminal organizations abroad, it is advisable to examine the possibility for creation in the Ukrainian diplomatic missions of special groups for the collection and analysis of relevant information.

This proposal can be implemented within the framework of appropriate automated information system creation. The offered system should have the interstate status and concentrate the information of all law enforcement agencies, including tax, customs, border guard agencies and others.

Finally, the information and expertise exchange should be carried out within international conferences and thematic meetings, seminars and other forums on the territory of Ukraine with participation of foreign countries representatives.

Police officers in particular are vulnerable to the need for specialized training of persons engaged in operative-search activities. Such training must include the study of international legal regulation of operative and procedural activities issues, study of foreign countries languages and cultures, and so on.

Taking to attention the above mentioned and foreign experience, we consider relevant and appropriate the establishment of the educational centre for training and retraining of police officers, who are involved in the fight against transnational crime, on a National Police Academy basis.

These arrangements should increase the effectiveness of the fight against transnational crime and create the conditions for improvement of law enforcement agencies activities to prevent and resolve the crimes of a transnational nature.

R. Komisarchuk
Candidate of Law Sciences,
Associate professor of criminal science Department,
Odessa National University "Odessa Law Academy"

TACTIC OF EXAMINATION OF SITE OF OCCURRENCE AT INVESTIGATION OF TRANSPORT CATASTROPHES

Deep socio-economic transformations to Ukraine resulted not only in positive achievements of community development, but, unfortunately, provoked sharp growth of large-scale transport catastrophes the last years. It takes place in connection with growth of scales and complication of production: inefficient, from point of technogenic safety, placing potentially of dangerous objects on territory of country; by the considerable making progress wear of capital production assets, arriving at in a number of industries of industry 80 – 100%; by the decline of professional level of workers; by absence or low quality of the checking of situation systems; by the decline of level of accident prevention .

A most danger in a technogenic sphere is presented by radiation and transport failures, catastrophes the amount of which remains large. At the same time there is a 2-multiple increase of number lost in one catastrophe. It is necessary to examine catastrophes as incidents with the tragic nearest and remote consequences.

In the scientific understanding of the similar phenomena there are both objective information and picture of essence of the phenomenon and a number of «white spots», eliminating the integral understanding of the phenomenon, establishments of reasons of his origin, development and prognostication of remote results.

The consequences of transport catastrophes are especially tragic, as the people engaged in them, becoming victims, frequently lose majority from individual signs, allowing to identify them among the large number of lost, and also to make the integral picture of development of event, coming from descriptions of damages, signs of external influence, individual displays of the biological state.

It should be noted that authentication of mass victims of transport catastrophes has not only criminal law and medico-legal, but also social-moral and civil legal value.

To the present tense a concept vehicle is not yet developed on this question. It is possible to establish absence any of solid methodological base and exhaust methodical going near the decision of a number of diagnostic and identification problems, arising up at investigation of a transport catastrophe and liquidation of its consequences.

The problem of investigation of transport catastrophes is complicated a number of circumstances and is a multi-stage algorithm.

The real research is devoted the complex study of tactical problems, arising up at examination of place of catastrophe within the framework of investigation of transport catastrophes.

A. Morgunov
Candidate of Law Sciences
the chief of special physical preparation Department
National University of internal affairs

ESSENCE AND THE CONTENT OF RIGHT EDUCATIONAL WORK IN LAW-ENFORCEMENT BODIES

In order to clarify the nature and content law-pedagogic work in law enforcement agencies in the article: it turns out the social content of education; legal education is characterized as a process of forming a legal consciousness of the individual; result set of legal education of law enforcement officers; legal education of policemen seen in broad and narrow sense; defined goal, goals, objectives and content of the educational work of police officers, set its basic laws.

Also, the purpose of the article is to clarify the nature and content pravovyhovnoyi work in law enforcement agencies. In this connection it is planned to: determine the social content of education; describe legal education as a process of formation of legal consciousness of the individual; establish the legal education of law enforcement officers; consider the legal education of policemen in broad and narrow sense; define the purpose, goals, objectives and content of the educational work of police officers, establish its basic laws.

In general, education is seen as a process of identity formation and its particular characteristics, the enrichment and improvement of subjective personal and spiritual world. In a narrow sense under social education is meant to target people from public institutions in order to create some of her knowledge, attitudes, beliefs and moral values.

Also, as a conclusion found that the basic factors that influence the effectiveness of the content and form of legal education of law enforcement officers, are not separately but in close relationship: the greater extent implemented in any of them, the more opportunities created for implementation of others. They appear as the main trends in the development process of education in general.

M. Paseka
Doctor of Law Sciences,
Assistant of Justice Department
Faculty of Law,
Shevchenko National University of Kyiv

SOURCES CRIMINALISTICS MEANINGFUL INFORMATION ABOUT THE FACE OF MINOR OFFENDER AND HER USE ON THE STAGE OF PRE-TRIAL INVESTIGATION

Sources criminalistics meaningful information about the face of minor offender and her use it is reasonable on the stage of pre-trial investigation, that in the process of vital functions of person there is a process of reflection of her properties, signs, internals as certain tracks in an environment, that and form information generators about this person. On the basis of understanding criminalistics meaningful information as information regardless of origin and basic having a special purpose setting, that matters for establishment of certain circumstances, objects and facts in the process of investigation, certainly, that by sources criminalistics meaningful information about the face of minor offender there are material objects of living and lifeless nature, that come forward as transmitters of information about properties and signs of face of minor offender, and keep her in imaginary or material.

Sources criminalistics meaningful information about the face of minor offender divided into three groups, depending on the form of reflection of properties of this person and method of storage of information about her on: 1) ideal information generators; 2) material information generators; 3) difficult sources – as a system of combination of two elements a "man is a thing".

By ideal information generators (by transmitters) about the face of minor offender there can be living persons: а) persons that are the participants of event of offence; б) persons that own information on the event of offence; в) persons that own information on the face of offender.

To the second group of sources criminalistics meaningful information – material information generators about the face of minor offender, documents, things, objects, body of man, belong, material tracks of crime and others like that.

E. Kisilyuk
Applicant of department of criminal law of National academy
Internal affairs of Ukraine

D. Moshenets
Candidate of law sciences,
Associate professor
Deputy Chief of criminal law department
National Academy of internal affairs

CONDITIONS LEGITIMACY OF NECESSARY DEFENCE, CHARACTERIZING ENCROACHMENTS

The paper analyzes the conditions for the legality of self-defense in the application of criminal law in Ukraine. The features of these conditions in relation to the establishment and development prospects assault criminal law in this area. Also Actuality of the theme which is that self-defense as a circumstance precluding criminality has properties that distinguish it from other similar circumstances precluding criminality. Particular attention should be paid to the peculiarities of the institution due to the fact that self-defense, as a legitimate action, is causing harm to another person, which otherwise qualifies as a criminal. This special importance is the question of the legality of the conditions of self-defense. Terms legality of self-defense in the criminal justice literature is called the base and the signs of self-defense. While on the subject among lawyers there is no single point of view. Thus, Y. Baulin, M.I. Bazhanov, V. Borisov consider only signs of self-defense, V. Tkachenko shows that the properties called self-defense conditions of legality inaccurate. From our point of view when considering the properties and characteristics of self-defense is more faithful to the term "conditions of legality of self-defense." Acts committed in a state of self-defense, according to their external features fall under the elements of a crime. So that these actions were recognized as legitimate , in other words – self-defense, must be complied with certain conditions. These conditions, a person in a state of defense, indicating that its actions comply with law, that is legitimate. Based on these provisions, developed the theory of criminal law terms the legality of self-defense, which most scientists are divided into two groups: 1) the terms of the legality of self-defense that characterize socially dangerous encroachment; 2) the terms of the legality of self-defense that characterize protection.

O. Pasko
Candidate of Law Sciences
Associate Professor of psychology and pedagogic Department
National Internal Affairs University of Odessa

PHYSIOLOGICAL AND PHYSICAL READINESS OF THE INVESTIGATOR TO PROFESSION

The article is devoted to the physiological and physical readiness of the employees of the preliminary investigation and the characteristics of its species according to the structural and logical model of the investigator.

Professionalism of the prejudicial investigation of employee depends on a large number of requirements to which it has to correspond to be highly qualified specialist of law enforcement agencies. However during of state creation there is a certain set of requirements to obtain a certain position that leads to incompetence of workers and unavailability at the high level to accomplish functional duties.

Actuality of research is determined with necessity to employ more of highly qualified specialist of law enforcement agencies who can accomplish qualitatively and effectively professional duties. That's why it's necessary to create certain requiems to which must to correspond the worker and according to them train of the cadets.

Prospects of use of results of research are connected with necessity of development and formation of physiological and physical readiness in cadets.

O. Ryashko
PhD in Law, Docent,
Lviv State University of Internal Affairs
I. Brych
Post graduate student,
Lviv State University of Internal Affairs

INVESTIGATIVE ACTIONS IN CRIMINAL PROCEDURE OF UKRAINE: CERTAIN ASPECTS OF ORIGIN AND EVOLUTION

Over the course of history states of various socioeconomic formations fight against crime applying specific forces, means, forms and methods.

Historical background of states shows the necessity for regulation of different kinds of social relations with the aim to ensure public order that is an integral part of legal society establishment, in which all questions were decided by virtue of any active actions. Because of this fact the study of historical experience regarding sources of evidence of guilt application is considered to be a substantial condition in the examination of investigative actions institute nowadays, that in its turn gives an opportunity to determine the necessity of certain investigative action existence while forming of criminal procedure.

Certain group of authors identifies the notion of procedural with investigative actions. From other side, authors propose to examine the notion of 'investigative actions' in a wide sense, having recognized as such the whole range of actions committed by the investigator while investigating the crime till the decisions that regulate the flow of investigation of criminal offence, measures to ensure the rights of criminal trial (acquaintance with the rights and duties, summaries of experts) etc. Other scientists contemplate investigative actions as those with the help of which reveal, formalize and check evidences that are integrated to the number of procedural evidences. However, we could not forget that the legislator in the article 223 of the Code of Procedure of Ukraine outlines a precise definition: investigative actions are considered to be actions, referred to the reception of evidence and checking of the obtained ones in a concrete criminal proceeding.

For that particular reason, the presented article is devoted to the study of historical experience concerning the application of means of fault proof that is considered to be essential condition in the analysis of the institute of investigative actions nowadays.

N. Turman
Ph.D.,Assistant lecturer of the law Department in Fedkovych
National University of Chernivtsi

THE SPECIFICITY OF REALIZATION OF COURT HEARING WITH JURY PARTICIPATION

The article is devoted to the Institute of Jury in Ukraine, which is establishing and every day becoming increasingly important for a complete, full implementation of the court hearing and rendered lawful and fair judgment in those categories of judicial proceedings where a jury participation is legally provided according to the norms of current laws.

This court can exist only in legal state, where is the law, which determines what is forbidden and guarantees freedom to each person, before one brokes the law. Beside this, the important stipulation in the court activity is the confidence from the side of society. For this, the society should be characterized by sense of ability and justice.

Analyzing theoretical and practical moments, which regarding to the institute of jury. Also should be mentioned, that the real guaranty of the acceptance of legal and fair decision, adherence of laws and people lawful interests could be the jury court with its minuses and pluses, the advantage of which is absolutely. The vitality and capture of such model of proceeding, as jury court, indicates that there no any alternative to it. Long ago the society understood that it is harmful to economize on judicial procedure.

A lot of considerations could be, but legal practice proves, that judicial procedure will be more equitable, only in the case when a few persons, without any class relations, who gathered for the first time in the composed body jury only during the trial, who has the independent vital decision. They took it from their own practice and use it in delivery of judgment “guilty” or “not guilty.”

A. Buryachok
Applicant of criminal law, process and science Department
Mechnikov National University of Odessa

DESCRIPTION OF SUBJECTS OF NARCOTIC CRIMES

Drug addiction and narcotic crimes represent problems of such social character that a state policy in this area is supposed to be more social rather than just medical. Implementation of these tasks requires, as well, bringing in legal measures, including measures of criminal law.

Criminal law of Ukraine (as both a branch of law and a branch of legislation) appears as a certain system, consisting of two sub-systems: the General part and the Special part. Each of the sub-systems comprises of a systemized group of articles, rules of which govern various criminal law institutes. A science of Criminal law and a learning course of Criminal law also appear as a certain system.

It is worth mentioning that at the detailed analysis, the Special part of the Criminal law is seen differently by scholars in terms of its organizational structure. One of the tendencies is dealt with the possibility to classify all crimes, which the legislator has collected in the Special part. This gives an opportunity to not only single out certain groups of crimes, but also to define more precisely their content and signs, and, consequently, to better understand them in terms of the theory and the practical implementation. The article states that there exist diverse official (legislative) and theoretical methods of systemizing different groups of crimes and the main thing is what criteria are used as the basis of the systematization.

The same approach should be used while systemizing crimes within each large group (chapters) of the Special part. Such a precise process again assists in better understanding of the content and signs of a smaller group of crimes, of a separate crime. Here also diverse criteria are possible to apply, but in the modern conditions a specific object of crimes matters for this aim.

The author takes an attempt to prove the possibility of applying also other criteria of the systematization of groups of crimes. It is indicated that the mechanism of committing a crime in many respects is connected with the qualities of a person committing a certain crime. This is true, according to the article, with narcotic crimes, which demonstrate that regardless the fact, that all these crimes are combined into one group, *the only thing* that unifies motivation, aims and actions of persons committing these crimes is a subject of the crime: drugs; other their signs differ. The article underlines that understanding this will facilitate working out and applying proper state measures of criminal law and criminology.

T. Kas'ko
Postgraduate student of Criminal Law and Procedure
and Science Department of the Economics and Law Faculty,
Mechnikov National University of Odessa

QUALIFICATORY CHARACTERISTICS OF DESERTION

The article is dedicated to the research the qualificatory characteristics of desertion, the crime stipulated by Art. 408 of the Criminal Code of Ukraine. Said qualificatory characteristics are set forth in part 2 of the article and constitute commission of desertion "with arms" or in a group of persons with a prior conspiracy.

While researching the first characteristic – commission of the crime "with arms" the author tackles the controversial question of inclusion of cold steel arms into said category. The arguments towards such inclusion are that cold steel arms share the characteristics of arms in general: they are constructively intended to strike a live or other target and are, as well as firearms equipped by the personnel of the Armed Forces of Ukraine. Apart from that, the author arguments towards the inclusion of ammunition, explosive materials and devices into the list of objects of the crime in question, since desertion with these objects, as well as with armaments violate the order of circulation of armaments, ammunition, explosive materials and devices and therefore is equally dangerous.

Analysis of the second qualificatory characteristic of desertion – commission of the crime in a group of persons with prior conspiracy allows to state that in order to qualify the crime as such, three characteristics are to be established: unity of intent of the committers; act of conspiracy, as an illustration of said intent; endowment of the committers of all the characteristics of the subject of desertion.

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