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

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

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

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Chapter 1

THEORETICAL AND HISTORICAL STUDY OF STATE AND LAW

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FORMATION OF THE CONCEPT OF SEPARATION OF POWERS

The article is devoted to investigates about the formation and development of the principle of separation of powers, scientists thought, who are founder of this principle, are analyzed. First referred to the authorities which is seen as a very complex i responsible activities that since the formation of human society is divided on certain areas and entails the division of labor at realization of powers, ranging from simple forms in primitive society to structural differentiation of social, political, economic functions in modern society. In relation to state the process of social division of labor due to the distribution of knowledge and opportunities that are embodied in the machine control. Indicated that the division of labor and division of power concepts are not identical, although interrelated and some signs are very similar, because with such power distribution is concentrated in a single body or person between authorities and there is no system of checks and balances, and people are removed. Analyzed the views of Plato, Aristotle and Polybius in the context of the division of labor in government.

The article noted that the theory of separation of powers as an independent and integral political doctrine formed during the bourgeois revolutions XVII-XVIII centuries. Its appearance is connected with the appearance the theory of John. Locke in England in the XVII century containing theory of constitutional parliamentary monarchy through the mechanism of providing social balance, which consisted of sovereignty, the rule of the legislature in the face of parliament and the executive prerogatives of the King, in charge of the federal government is also in charge of foreign policy.

Particular attention is drawn to the doctrine of separation of powers SH.-L. Montesquieu, according to which the state should have three types of government – legislative, executive and judicial, in the presence of a system of mutual checks and balances between them. So he gave it a classic look as a three-term division, enriching it with new provisions that gave impetus to a new stage of development of this theory, declaring a division of the government political principle of government that provides freedom of citizens in society. This design is not only simply separation of powers into legislative, executive and judicial branches, but also mutual containment and cooperation.

JJ Rousseau put forward the idea of national sovereignty, arguing that the three authorities – no more than a single manifestation of power – the supreme power of the people, and the combination of ideas of popular sovereignty and separation of powers are unnatural. According to this theory the principle of separation of state power has a secondary importance. Kant pointed out on the presence in the power system 3 powers, which are make union will.

During the developing his own concept of legal statehood G. Hegel, in general agreeing with the ideas of John. Locke and SH.-L. Montesquieu calls the proper separation of powers in the state as a guarantee of public freedom. However, he believes that the

assertion of powers and independence of their mutual limitations is false, because in a such approach as if already assumed their mutual hostility,clear opposition. The scientist advances for such organic unity government, in which all three branches of power are going out of a face and its organic parts.

The article states that the context of the separation of powers Ukrainian experience is also interesting. Ever since Cossack times were attempts of separation of powers between several persons (bodies), for example, the hetman and the National Assembly, the hetman and Cossack officers, courts that can be seen as the first attempt of its division made the Cossacks in acts of constitutional importance, in particular such as Hadiach agreement and the Constitution of P. Orlik.

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CHARACTERISTICS OF SUBORDINATE NORMATIVE ACTS IN THE FIELD OF DEFENSE

In this scientific article the analysis of regulatory legal acts which regulated relations in the field of defense. The author emphasized the disadvantages of these acts and proposed amendments to some of them.

The relevance of the theme is to note that in 2013-2014 he cont. 150 adopted legal acts of different legal force, which allowed: 1) Improve the principles of the state policy in the sphere of defense, to develop directions for technical re-equipment of the Armed Forces of Ukraine; 2) expand the boundaries of participation of the Armed Forces of Ukraine in international peacekeeping and security, and the cooperation of individual countries to continue constructive partnership in the framework of international cooperation; 3) raise the prestige of military service and competitiveness in the labor market through a phased increase over two years of pay of military personnel and standardize the payment of January 1, 2014 monetary compensation for sublease (hiring) premises. Decisive place in the regulatory legal acts devoted Decree of the President of Ukraine "On Strategy of Sustainable Development of Ukraine 2020" whose aim is to introduce in Ukraine European standards of living and access to Ukraine's leading position in the world. For this forward movement will be carried out in four vectors: 1) a vector of development; 2) vector security; 3) vector liable: 4) vector development. The strategy provides a framework called the four motion vectors implementation of 62 reforms and program development. Yes, as part of the security vector provides for reform of national security and defense; reform of the military-industrial complex.

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VOLYN (KREMENETSKIY) LYCEUM: CONTRIBUTION TO THE HERITAGE OF THE NATIONAL LEGAL EDUCATION

The article covers the process of Volyn (Kremenetskiy) Lyceum founding and functioning as an institution of a special type that served as a high school for Volyn, Podil and Kiev provinces of the Russian Empire. During some periods, the institution had the status of Senior Gymnasium (1805-1819) and Lyceum (1819-1833) that along with general and vocational education provided substantial legal knowledge.

The main goal of its functioning was to prepare young people to serve the country as well as native south-western province. The institution had its unique structure that differentiated in a large measure from the structure of Russian Gymnasiums of those days, training program's complexity level of which corresponded to university course. The full apprenticeship was designed for 10 years and divided into two levels: lower – 4 one-year courses and a higher one; and 3 two-year courses, thus combining three levels of education (primary, secondary and higher) general background as well as professional. It was proved that primary and secondary education anticipated special knowledge while higher one – encyclopedic.

Major disciplines were figured out for each two-year course: physical-mathematical, scientific, historical, verbal and legal sciences. Such set of training courses reflected university faculties of that time. Special attention was paid to the law study starting from the lower grades from so-called moral sciences. In respect to the higher courses, organization of law teaching was on the lines of a small university department. Second-year students studied natural law, political (including individual rights of citizens, trade law and a law of procedure) as well as international law; the third-year students studied the Roman law and local acts (that presumed Polish-Lithuanian law). Teaching lawyers used innovative methods of law schooling (such as role-playing games – court sessions). The main form of studies was lectures; knowledge tests were hold during the annual and final exams. Affirmed that college graduates have different legal statute they enjoyed the rights of university students obtaining various official ranks.

The author defines the role of Lyceum teaching lawyers during lawyers training process forming by these means an intellectual elite of the region and demonstrating the existence of a long-term national legal traditions in the sphere of education.

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ON THE ISSUE OF PROTECTION OF CHRISTIAN RELIGIOUS BELIEFS IN LEGAL REGULATION OF TRADE IN THE RUSSIAN EMPIRE AT THE TURN OF XIX – XX CENTURIES

The phrase "religious feelings" in the modern world has found highly relevant sound. This proved to be very susceptible to external influences the scope of the human perception of the world today is being seriously tested. With a high degree of subjectivity in the determination of the category of "insulting the feelings" it is especially important to distinguish between a real insult to the feelings of believers of innuendo. Because an appeal to the historical experience of society and the state to respond to attacks against religious feelings is timely and important.

The purpose of this work – to reveal the peculiarities of the mechanism of legal regulation of trade at the turn of XIX – XX centuries, designed to protect the religious feelings of Christians in the Russian Empire. It was necessary to solve the following scientific objectives: to identify in a huge reservoir of imperial law 1881-1913, Regulating trade relations, laws and regulations designed to protect the religious feelings of the Christians; to establish the motives of their decision; analyze the contents of these acts; assess the adequacy of legal regulation of its tasks, as well as the public interest.

Having studied the archival records and analysed the normative acts of the Russian Empire, the author has revealed the specific character of legal regulation mechanism of trade of religious items to honour Christians which must protect their religious beliefs in orthodox state. The author emphasizes that the problem of insulting religious beliefs at the turn of XIX – XX centuries is closely connected with economic interests of different communities.

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COUNTERACTION TO PLUNDERING SOCIALISTIC PROPERTY IN UKRAINE IN THE SECOND HALF OF 1940-TH YEARS

In the article certainly, that cardinal change of economic relations and relations of property after establishment of soviet power in Ukraine with the increase of level of etatization of society and liquidation of peculiar, became one of reasons of changes of descriptions of economic crimes. Gradually in soviet society of all greater scales it began to acquire plundering of socialistic property: the forced of collectivization and ignoring private interests of citizens, from the side of imperious structures was not changed by essence motivations of acts, related to aspiring to the domain, use and disposing of property.

An author came to the conclusion, that plundering of socialistic property was carried out in many cases at participation of leaders of different levels. Participating in the criminal acts of higher workers of vehicle of ministries was quick an exception, than by a rule. However bigger part of leaders of point-of-sale organizations, enterprises of food industry, took part in plundering of socialistic property. The most widespread reason for doing this was the personal enriching.

Alongside with it there is non-acceptance, by an especially west Ukrainian population, of a collective farm system and distribution of hunger in 1946–1947 instrumental in distribution of plundering and thefts of socialistic property in the environment of villagers.

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SOCIAL PROFILE OF PROPER VALUE OF LEGAL ORDER

Contemporary legal axiology, while solving the issue of values in the legal field, their structure, features, development, and movement in the course of formation of society, comes out of the most general references and concerns to the fact that during the analysis of axiological problems one must come from the opinion that legal phenomena may be considered in two dimensions: either the ones that possess a proper value or the ones that possess an instrumental value.

It is significant that while determining the proper value legal order is most frequently considered in the framework of precisely legal values; this fact emphasizes the exclusive status of this phenomenon. In favor of this position there is also the fact that the law by nature is a value-normative order system and thus, the very phenomenon of order should necessarily be present as the basis of any law. By the highest standards, this allows to affirm that legal order is this very legal value which, at great extent, determines the value of the proper law.

In this article, the proper value of legal order is investigated not in the usual legal scope, but in the social one since legal order may be considered as a value in the context of institutional basis creation of social institutions and, therefore, conveys a part of more general patterns of the life of the socium – social order.

Presumably, from the point of view of social value of legal order reasoning it would be more expedient to prove "from the reverse". It is evident that legal order as a specific state of society stands against the social entropy as far as a nonorganic, an unstructured substance of society is subordinated to the growth of entropy. The lively substance is structured into the social institutions and possesses anti-entropy properties. Notwithstanding the fact that entropy constantly accumulates itself in autonomous systems the organism permanently clears off from it by way of rhythmic efforts and exchanging the substance and energy with the environment.

Thus, social order is the state that opposes social entropy. In this sense, legal order opposes legal anomy and, therefore, contains its social value.

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THEORETICAL AND ONTOLOGICAL ASPECTS OF LEGAL CONSCIOUSNESS AND ITS IMPACT ON LEGAL BEHAVIOR

The article deals with the relationship between the actual legal behavior and legal consciousness, analyzed their characteristics in theoretical and ontological terms. The genesis of thought of Ukrainian scientists as to structure of legal consciousness are studied. Legal behavior, as one of the structural elements of legal consciousness are showed. The factors that express the content of legal consciousness and influence to the formation of legal behavior are researched. The factors are divided into objective and subjective.

It is proved that the legal behavior and legal consciousness are interdependent legal phenomena, because from the level of legal consciousness depends legally, actively and lawfully citizens participating in the exercise of any its activities. In other words, legal consciousness acts as urgent and necessary condition for the formation of individual readiness to legal behavior. The concepts of "behavior" and "consciousness" of man is showed .To establish more detailed link between legal behavior and sense of legal consciousness ,structure elements of legal consciousness investigated, because they express willingness to legal behavior.

Element of behavior in the structure of legal consciousness is studied. The structure of legal behavior, as a structural element of legal consciousness, should include: legal behavior, values, beliefs, goals (goal), motives, legal thinking. It is proved that the behavioral components of legal consciousness are essential links in the process of formation of subjective rights and legal obligations and they are intermediaries between the rule of law and conduct of individual in the stage of action. To establish a connection of objective legal behavior and sense of legal consciousness investigated the factors that express the content of legal consciousness and influence to the formation of legal behavior. They should be divided into objective and subjective.

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HISTORY AND PROBLEMS OF FORMATION OF THE PRISON SERVICE

The article describes the historical development of the penitentiary system in the light of the determinants of conditions that contributed to the improvement of the system of prisons. For example, US analyzes the main problems that arise in the operation of the prison system. Background is that being on the verge of reforming law enforcement Ukraine should focus its attention on the shortcomings and problems that interfere with the prison system. Since it takes the first step towards "recovery" of prisoners in the process of re-socialization. Experience of other countries in the field of penal law will detail the differences while embracing the positive and negative aspects of institutions of this type.

Calls for humane organizations, prison in connection with the ideas of law and justice in penal policy is contained in the "Award for justice and humanity" Voltaire, where he wrote: "It should not be that prison was like a palace. We should not, that it was like a slaughter ... Imprisonment is punishment in itself; it therefore must be appropriate to the magnitude of the crime ... It would almost continued imprisonment, it is torment. When to condemn him for life, it is unbearable torment. " Therefore, many attempts were made to access the best option existence of prisons that caused the least harm to prisoners and contributed to correction.

The purpose of the article. Show in the light of the historical development of the penitentiary system advantages and disadvantages of the operation of prisons in the United States. Discover the essence of the formation of the system to track the major problem areas of prisons and establish an optimal model of their existence.

The conclusions are that the origins and functioning prison system in the United States has many gaps and shortcomings exist, but the current state prison existence demonstrates that by trial and error can achieve the desired result. Symbiosis best features and obornskoyi of Pennsylvania showed that resocialization should start with the walls of an institution, in which it is located, adherence to international standards in the operation of such a facility will help remedy prisoners. The US experience shows that the prison system has many problems in the functioning of institutions of this type. Therefore, the implementation of a number of requirements, including the requirements of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or degrading, inhuman or degrading treatment or punishment; facilitate the organization of the penal inspection on the basis of probation, ensuring transparency of the penal service to democratic civilian control; development of logistics penal institutions and detention centers in international projects; adapting national legislation to international standards documents.

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THE VALUES IN JURIDICAL AXIOLOGY

The article considers the basic foundations of juridical axiology. The author draws attention to the general problem of understanding the category of "value" at the philosophical discourse and concludes that the phenomenological interpretation is the most successful, as it enables to overcome conflicting extremes of their subjectivistic and objectivistic interpretations. The delimitation of the categories of "value", "needs" and "interests" was also highlighted.

Further, the author goes on to analyze the essence of the juridical values. At the same time, he draws attention to the fact that the juridical axiology, as the philosophy of law and jurisprudence in general, includes not only the law but also the state (as legal form of organization) as the subject of the research.

Then attention is drawn to the fact, that every area of activity has its own separate and additional values, while they obey basic, universal values and represent their development. State and law are the most important common values in jurisprudence. They are necessary forms of social life which are designed to provide higher universal values - justice, equality, freedom, common good, order, security, or some of them. Law and the state, which is guided by law are the values, which guarantee from tyranny and lawlessness. There are some juridical values, that do not include state and law in general, but only some aspects of these complex phenomena parties, such as law enforcement, legal provision, the Constitution and others.

The author concludes that the legal category of value axiology operates in three substantially different meanings: universal or ethical values (justice, equality, freedom); the state and law as self-sufficient values; and separate juridical values (legal provision principles of law, constitution, etc.).

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GENESIS OF LAW AS A SOCIAL PHENOMENON: THE FORMULATION OF THE PROBLEM

The purpose of the article is to study the genesis of law as a social and legal phenomena in it connection to the phenomena of objective reality. The existing views on the emergence and development of law as one of the types of social norms were herein analysed.

The genesis of law is understood as a purely objective historical process that is independent from the subjective expression of the will, which can be described as a socio-positivism understanding of origin of law and as a broader concept that includes objective, social objective and subjective bases of the genesis of law.

Therefore, the different theories of genesis of law differently interpret the origin of law as a social phenomenon: law emerges in in communication process as a mean of the social interaction (communication theory); emerges at a certain

stage of development of the society in the institutionalized forms of motivation to law (evolutionism); arises together with the emergence of industrial relations (marksism); arises from a social game (Heyzenhy concept); was formed as an adaptation to the world and as a social function (functionalism); law arises spontaneously and develops naturally through nation's spirit (historical school).

Despite the differences in the views regarding the origin of law among scientists most of them notably tend to highlight both objective (historical, ethnographic, social, economic, natural) and subjective (collective and individual consciousness) and factors of development law. Law is the product of social and cultural consistent patterns and is inseparable from the nature of man as a social being.

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SLAVIC STATE-LEGAL SYMBOLS IN LEGITIMIZATION OF STATE AUTHORITY

Modernization of the state – one of the unique phenomena of our time, which results in not only a change of policy or management company, but practically all the elements and structure of the state. Along with the transformation of a society of great interest causes a change in methods of legitimizing state power at all times carried out with the help of state-legal character. However, the characters themselves in modern conditions have also undergone a significant evolution. Therefore, the investigation category "legitimation of power" from the standpoint of the study of the evolution of state-legal character in a historical perspective using modern methodology is one of the most urgent challenges facing the general theoretical jurisprudence.

Summing up the concept of a character in the context of the Middle Ages, should make such conclusions:

– symbol in the Middle Ages there most clearly in two dimensions: the theological and legal;

– in the study period there was a certain two-tier system of legal characters: the first level is verbal, object symbols, and the second – the procedural code (specific actions), consisting of a set of characters of the first level;

– there is a direct functional relationship of customary law (hereinafter and so-called "barbarian" is true), and legal character, particularly in common law, where the legal symbols were used in the process of legal regulation, which, on the one hand, acted as signs, confirming the occurrence of legal relationships between subjects, and on the other – were the main factor pravoukreplyayuschy (increased stratification of validity and the legal status of legal entities).

Thus, we note the importance of the Slavic state-legal character in the process of legitimation of state power.

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MATERIAL AND PROCEDURAL LAW: THE QUESTION OF VALUE

Separation of material and procedural seems simple at first glance, but in reality it is perhaps the most difficult problem in the legal process. And still should not be breaking the laws of formal logic, perform classification directly by several reasons. The division of any effects on components should be the only sign, otherwise classification will be unreal. Between material and procedural there are no clear boundaries, but this is not yet the existence of a law other than material and procedural. Other kind of law – will be in a different classification to be carried out on other grounds.

For example, the process is a subspecies of the procedure, it serves only relations. But because it is not necessary to find the right «material procedures» and «procedural procedures» need only define the process as jurisdictional and unjurisdictional .

In our view, should determine: mechanically hold the distribution of all the rules of the legal system on material and procedural, with the allocation of each specific rule to only one group -unreal. «Procedural – is a regulatory function of legal rules, which they take with respect to certain («material») norms of law, regulation behavior because ... «materiality» and «procedural» legal norms – is conditional terms that reflect the functional properties of norms due to their role in the legal regulation».

Chapter 2

CONSTITUTIONAL AND ADMINISTRATIVE AND LEGAL MECHANISMS FOR SUSTAINABLE DEVELOPMENT OF UKRAINE

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THE NATURE OF CONFLICT PREVENTION IN THE SYSTEM OF LOCAL GOVERNMENT

Today in Ukraine made systemic changes aimed at reforming the system of local government. It is logical that the reform process accompanied by aggravation of social and legal contradictions that could pereformuvatysya in conflicts. One of the strongest tools is preventive measures to minimize the various conflicts that arise in the legal field, and unlawful behavior in general. It should be noted that the issue of conflict prevention in local government is insufficiently studied. Has analyzed some issues elaborated in individual areas of law (criminal, labor, administrative, etc.), but single conceptual approach to this institution is not yet formed.

Purpose of research is to determine the nature and content of conflict prevention in the system of local government.

It must be emphasized that the reform of local government, changes in legislation necessitate the development of an integrated approach to the study of the mechanism for conflict prevention, a clear definition of its conceptual apparatus.

In addition, since 2011 in Ukraine established and functioning anti-corruption system, which is primarily preventive in nature and aimed at developing a society of effective mechanisms to prevent corruption. Therefore enhanced requirements for fair conduct of persons authorized to perform the functions of local government, and the requirements to be applied as a norm in the activities of these people.

Conflict prevention is more effective and efficient mechanism than the consideration and decision. Prevent legal conflicts in local government is much easier than to solve it constructively. Preventive measures, of course, require substantial expenditure of energy, time and money, while warning even minimal destructive impact that causes conflict. Therefore, the prevention of conflict behavior in local government have directed considerable efforts of society and the state.

Prevention of legal conflicts in local government is necessary activity, aims to identify, neutralize or eliminate the causes and conditions conducive to the emergence of conflicts, to minimize them. The content of this concept includes elements such as the need for specificity, object, object and purpose.

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PROBLEMS OF REALIZATION OF CONSTITUTIONAL RIGHT ON ENTREPRENEURIAL ACTIVITY

This article describes the state of ensuring the implementation of the constitutional right of everyone to the entrepreneurial activity in Ukraine by analyzing the basic and most vital issues that actually interfere with the right of entrepreneurial activity, thereby inhibiting power increase business potential.

It was established that the main challenges of implementing the constitutional right on entrepreneurial activity should be considered inadequate legislation (adoption of legal acts by legal force lower than those that must be taken to resolve relationships in the implementation of the trade license; differences between normative legal acts of inconsistencies, gaps, lack of clarity of the text of legal acts, their ill-advised financial support and low scientific validity, existence of old and nevidminenyh legal acts, frequent changes in legislation, which caused its low level), the failure of legal regulations in practice (as by entrepreneurs, and on the part of officials and state and local governments), and excessive interference by public authorities in the activities of businesses (businesses are virtually unprotected against arbitrary multiple of the inspection, which are widely used and virtually unchecked law penalties and fines).

The author of this article states that address these pressing issues is an absolute prerogative and a direct function of the state will provide a powerful impetus to the development of entrepreneurship, attract to this area the broad masses of the population of Ukraine, still separated from her artificially created barriers. Among the proposals to address issues clarified, the author emphasizes the need for the Law of Ukraine «On Self-Regulatory Organization», which it believes is essential and appropriate step in the development of entrepreneurship and improve the efficiency of state economic management.

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ACTUAL PROBLEMS OF DETERMINATION LEGAL NATURE AND ESSENCE OF ADMINISTRATIVE EXECUTION

The article is devoted to the research of the category "administrative proceedings", its concept, significance and role in administrative procedure of Ukraine.

Analysis of the current scientific works in jurisprudence made it possible to reveal the absence of consensus among the scholars concerning the content of the procedural category "administrative proceedings"; besides the reform processes in the sphere of national system of administrative procedural law necessitated a review of the current scientific perspectives in understanding the essence of the concept "administrative proceedings"; clarification of the characteristics of its use in the modern conditions.

It is proved that the structure of administrative procedure includes a complex of separate administrative proceedings, each of which is a set of interrelated unity of consecutive executable procedural actions aimed at consideration and resolving individual administrative cases. Assignment of concrete administrative proceedings within administrative procedure is associated with the need to regulate certain qualitatively homogeneous administrative and procedural legal relations.

It is found out that, despite the existing differences in the points of view of various scholars in the field of administrative law concerning the legal nature, essence and definition of the term "administrative proceedings", their views coincide in one thing: the stated component of the administrative procedure is considered as a settled legal procedure of realizing proceedings in solving specific individual administrative cases united by the common object or as administrative procedural activity (set of proceedings) of the competent subject, carried out within the concrete administrative case in order to solve it.

Based on the scientific approaches we should understand under the administrative proceedings the basic element of the administrative procedure, which is a system formation, set of interrelated and interdependent actions, which: first of all, compose a definite set of administrative procedural legal relations that are marked with objective characteristics and connectedness with relevant material relations; secondly, they point on the need to establish and ground all the circumstances and evidence of the specific individual administrative case; thirdly, they necessitate of consolidation, execution of the obtained procedural results in the relevant act-documents.

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FEATURES OF GOVERNMENT CONTROL OF ECONOMY

The article is sanctified to researches of theoretical questions of government control and his role in development of economy of Ukraine. Problems of finding out of essence of adjusting of economy, forms and methods of government control. Essence and functional setting of government control of economy are educed. And also the models of government control are examined in foreign countries in the context of potential possibilities of their use in government control of economy of Ukraine. Principles and specific facilities of state influence are examined on an economy. The legal framework is a priority direction of development of the legislation regulating relations in the economy Modern legal base of the national economy is represented by a system of laws and normative-legal acts, without allocating a separate branch of law, which would regulate relations in the sphere of economic activity. Legal regulation in the sphere of socio-economic processes carried out in the areas of implementation of policies for economic growth and raise living standards of Ukrainian citizens. It is certain that government control has considerable influence on development of national economy of country, therefore his research are an important aspect. In fact, in any country an economy does not do without participating of the state in her adjusting. Therefore, primary objective of state interference with economic development there is providing of continuity of process of reproducing of national economy as single unit, achievement of economic efficiency on a macrolevel. Her realization comes true through conscious determination of public needs, possibilities and ways of their satisfaction.

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REFORM OF THE CIVIL SERVICE IN THE INTERNAL AFFAIRS OF UKRAINE: TRENDS AND MAIN ASPECTS

In the article the main aspects and trends of police reform in particular focuses on reforming the civil service in the Interior. The authors investigated the need to upgrade and systematization of normative and legal acts concerning the status and organization of the police. The basic sections of the Concept of civil service in the internal affairs of Ukraine; list of tasks binding decision; ways to implement the concept and developed on the basis of programs and plans.

In the process of reforming the civil service in the internal affairs of Ukraine should solve the following main tasks: to make the transition to a new model of law enforcement, which is characterized by a guide service to society and citizens, respectful attitude towards persons with high professionalism while maintaining sufficient strength and towards offenders ; ensure respect for the rule of law in the internal affairs of Ukraine, to create a system for this purpose legal basis for their functioning according to certain laws of competence; create and implement mechanisms to prevent the use of internal affairs of Ukraine political party, group or personal interests; organize personnel work on the basis of the full use of science, advanced domestic and foreign experience; develop and continuously improve the regulatory framework, to regulate the civil service in the internal affairs of Ukraine; clearly define the tasks and powers of Internal Affairs of Ukraine, separating them from the competence of other law enforcement agencies, including internal and external threats to national security; develop modern technologies to establish compliance with the individual qualities of a person requirements to employees of internal affairs of Ukraine; develop criteria and evaluation of the civil service in the internal affairs of Ukraine; create mechanisms to coordinate the activities of internal affairs of Ukraine and other law enforcement agencies in accordance with certain competence; and to increase the efficiency of the civil service in the internal affairs of Ukraine by streamlining its main and auxiliary organizational structures and systems management, optimization of staff number of employees; to ensure the creation of MIA of Ukraine effective system for responding to crimes and other offenses – defined regulatory interconnected and coordinated actions of internal affairs of Ukraine of information about a crime (other offenses) to ensure

full protection of the interests and rights of victims and the state; streamline the organizational and legal conditions, personnel, financial, logistic support of Internal Affairs of Ukraine depending on the complexity and level of responsibility for the performance of their duties; to implement effectively the existing systems and mechanisms of civilian democratic control over the activities of internal affairs of Ukraine; compliance with constitutional rights and freedoms, respect for dignity and identify her humane treatment; prevent torture and other violations of law in the daily activities of the internal affairs of Ukraine; establish effective mechanisms to prevent corruption of the ATS Ukraine; increase public confidence in the internal affairs of Ukraine, to ensure their partnership and cooperation.

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THE LEGAL BASIS OF ADMINISTRATIVE ACTIVITIES IN THE STATE PENITENTIARY SERVICE OF UKRAINE

There is not a question which is concerned information about activity of bodies of the Public criminal and executive service of Ukraine in modern scientific justification of activity of bodies and establishments of the Public criminal and executive service of Ukraine (DKVS of Ukraine). One of administrative activity characteristics is that it is based on regulations of law. During we were analyzing various points of view which concerned administrative activity we also found that most of authors say that it is based on subordinate legal acts. Really, if understand it as one of the directions of ensuring public safety, that the main normative documents are departmental instructions, orders and so forth. However, if defend a wide format of understanding, such one which we also follow, it becomes obvious that only legal regulation is not enough for its complex ensuring.

The problem of legal regulation is rather developed in modern legal science. However, there are little works which are devoted to features of administrative and legal regulation of the criminal and executive sphere.

Execution of Punishment – is a set of arrangements which changes with the transformation of the legal status of convicts (which usually happen, as a rule, in the result of changes in penal legislation) and other objective conditions (including economic and social development of the country, morale society, etc.). For the purpose of a quick reaction on similar changes, it is necessary updating of precepts of law which have to correspond fully to current trends of the penitentiary work, and also cover all complex of points of order of process of execution of criminal penalties.

Management in bodies and institutions of execution of punishments is regulated by laws and other acts of the Verkhovna Rada of Ukraine, the existing international contracts, the consent to which obligation is provided by the Verkhovna Rada of Ukraine, acts of the President of Ukraine, the Cabinet of Ukraine, normative legal acts of the central executive authorities. Analyzing these legal acts, it is possible to tell that the questions of the organization of activity of bodies and establishments of execution of punishments is devoted insignificant number of articles, indicating that the lack of regulation of diverse activities for Ukrainian DKVS.

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SERVICE DISCIPLINE OF THE CIVIL SERVANT: THE NATURE, CHARACTERISTICS, MEANS OF SUPPORT

We consider it appropriate to consolidate this legal definition: official discipline public servant is in compliance with current legislation, respecting the oath of a public servant, the steady performance of assigned duties and requirements for conduct defined by regulations, job descriptions and conditions.

Achieve high and effective level of state services is possible through separation and certain ways to ensure implementation of discipline. The classic means of ensuring the law and discipline in government is monitoring and appeals. But next to them are required to use persuasion by the authority of the head of the business, promotion of lawful behavior, material and moral encouragement.

In summary, we note that the appropriate level of discipline in the public service should be provided by the following conditions: 1) compliance with applicable laws in official activities and execution of work rules state authority; 2) education and promotion managers and other officials of state bodies subordinate to high professional and business skills, conscientious attitude to duty, respect for human rights and freedoms; 3) a combination of leaders at all levels methods of persuasion, education and encouragement of disciplinary measures on subordinate civil servants; 4) creation of the necessary institutional, economic and other conditions for the effective combination of performance and everyday demands leaders to subordinate civil servants with a constant concern for them, they respect the honor and dignity, providing humanity and justice. The combination of these rules and implementing them in a public-relations officers undoubtedly will promote social justice in the civil service, civil servants effective implementation of their duties and, therefore, rule of law and discipline in the civil service.

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THE CONCEPT AND PRINCIPLES OF THE OFFICIAL INTERPRETATION OF THE RIGHTS AND FREEDOMS OF MAN AND CITIZEN

This article explores the features of the official interpretation of rights and freedoms of man and citizen. The author shows that there is no uniform opinion regarding the characteristic features of interpretation of basic rights and its particularities. There is even no common opinion if these particularities do exist. It is proved that an official interpretation of the rights and freedoms of man and citizen, along with other principles inherent in official interpretation generally, is based on the principles of autonomy, broad interpretation and evolutive approach. Autonomy means that basic rights, guaranteed by the Constitution, must not be read in the light of legislature. Contrary, these rights are granted their own meaning. Dynamic interpretation principle means that rights must be read in the light of current affairs and need of man. They are not guided by dead-hand arguments as the former legal science used to argue. And the principle of broad interpretation means that there is usully ni good reason to narrow the margin of a right with interpretation. In some extraordinary cases nevertheless a right can be construed narrowly for the sake of public interest. These principles are reflected in the case law of the constitutional court of Ukraine.

These principles allow: a) to protect the constitutional and legal status of persons from being leveled by legislator; b) adapt constitutional and legal status of a person under the new requirements without changing its formal look in the Constitution; c) to secure this rights from being narrowed.

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AXIOLOGICAN DIMENSION OF THE CONTENT OF UKRAINIAN CONSTITUTION

The author analyzes one of the most complicated theoretical problems of modern Constitutional Law of Ukraine, i.e. Constitutional values. The author analyses the value dimension in the content of Ukrainian Constitution, driving at the conclusion that the Constitution contains the values, which reflect the most essential fundamentals of social life and operation of the state.

Constitution of Ukraine reflects existing social values and acts as a basis for these values. The text of the Constitution contains the whole variety of axiological structures. Therefore the axiological "dimension" is quite significant under the conditions of current Constitutional reforms. The main axiological determinants of the Constitution, as a rule, first of all are being enshrined in the preamble of the Basic Law, in the form of norm-purposes. They find their further systematized stipulation in constitutional norm-principles, as well as in legal norms and provisions regulating the fundamental legal relations. Constitutional values can be grouped in the interpretation into the normative expressions into three groups: norms – targets; norms-principles; norms – regulating the fundamental public relations.

The author arrives at the conclusion that the values to a different extent are reflected in all Sections of the Constitution. However the main emphasis on values is made in the Preamble and the first two sections of the Fundamental Law, which establish the bases of the Constitutional regime and the interrelation of an individual, the society and the state.

Chapter 3

CURRENT PROBLEMS OF COMBATING CRIME AND IMPROVEMENT OF JUDICIAL AND LAW ENFORCEMENT

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THE HISTORICAL BACKGROUND OF ROBBERY AS A SOCIALLY DANGEROUS PHENOMENON

The article provides a historical analysis and interpretation of the robbery, which belongs to the "traditional" crimes in the structure of common crime as a socially dangerous phenomenon for centuries. Pointed out that the concept of robbery remained constant – the violence, danger to life and health of the victim, which was used for the purpose of taking possession of his property. It was found that the penalty that applies to robbers always been one of the highest.

The article also reveals the behavior of offenders, as well as a set of features that allow you to draw conclusions about certain defects of the person, the nature of the driving motives, change personal qualities through a negative or positive effect, and more. Summarizing these data we receive the answer to the question of specific groups of traits underlying objective and subjective determinants of robbery.

Robbery, murder or assassination weighed on him, or arson attack on him punished more severely than a simple warehouse robbery. This penalty was set on one article of the law and there was no further need to indicate pages that were punished for murder. Analysis of legislation shows that the robbery consider any attack with the purpose of larceny, accompanied by violent actions, from which "drew a clear danger to life, health or liberty."

At the present time "setting for violence", by which should be understood expression value orientations in the form of socially determined individual susceptibility to the choice of violence as a means to realize their interests and meet their needs, has become quite common. Therefore, the opposition robbery requires not only taking drastic measures today, but deep study and understanding of the causes and conditions that give rise to it – for the future.

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SYSTEM OF CRIMES AGAINST THE NATURAL ENVIRONMENT

The article is devoted to the problem of the system of crimes against the natural environment. Principles of law that establish responsibility for crime encroachments on the environment are system formation combined with single object – the natural environment of Ukraine. Their main functions are the protection of the natural environment and providing ecological safety as a condition of normal existence and vital activity of the human. Differences in the natural objects determine the existence of a significant number of criminal and legal principles of law in the sphere of environment protection. Successful systematization of crimes against the natural environment is very important and useful both for the theory of criminal law and for the law-enforcement activity and legal practice.

It was noted that the structure and the order of arrangement of chapters of the Special part of Criminal Code serves as a certain indicator for the implementation of Constitutional regulations of Ukraine in the criminal legislation. Taking into consideration that, the crimes against the environment infringe on the very basis of the biological existence of human, it is considered to place this information in the fourth chapter.

Special attention in the research is paid to the study of problems of classification of marked encroachments. Analysis of existing classification systems of crimes against the environment gives an opportunity to determine their optimal model based on a four-stage classification of the crime object and to a considerable extent is liable to the requirements of logics and consistency.

The author considers the most appropriate classification of crimes against the environment is based on the direct object of a criminal encroachment: crimes that infringe on the environment in general and constitutional environmental rights of citizens; crimes that infringe on separate elements or objects of the environment. Depending on the type of natural object, on which is aimed the criminal encroachment, the crimes of the second group is reasonable to divide into: crimes in the sphere of land protection; crimes in the sphere of natural resources protection; crimes in the sphere of water protection; crimes in the sphere of air protection; crimes in the sphere of animal world protection; crimes in the sphere of plant world protection; crimes in the sphere of natural territories protection and objects of special protection.

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THE VALUE OF JUDICIAL PRACTICE IN LIMITING JUDICIAL DISCRETION IN CRIMINAL LAW

The article investigates the problem of judicial practice as a method of limiting judicial discretion in criminal law. It turns out the place of the judicial practice in the system of sources of criminal law, the reasons for the necessity of its existence. The author determines the models the judicial practice in Ukraine is developed in and also the tendencies of its recognition and approval in Europe.

Indeed, the trend of the Roman-Germanic law is the development and approval of a judicial law, which raises the reason for the existence of judicial discretion as the basis of legal thinking. Traditionally situation where precedent is the result of legislative activities of the courts are not formally recognized, but actually there. The model of the legal precedent in Europe is judicial practice that serves as a method of interpreting the law. This situation gives rise to a legal precedent of interpretation.

So the limits of judicial discretion in criminal proceedings are borders of a choice of a decision that determined by the provisions of the Criminal Code of Ukraine, the Constitution of Ukraine, the generally recognized principles and norms of international law, the European Court of Human Rights, the legal positions formulated by the Constitutional Court of Ukraine, and explanations of the Plenum Ukraine Supreme Court and the High Specialized Court of Ukraine for Civil and Criminal Cases, which allows to distinguish legitimate from abuse actions of judges.

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THE FEATURES OF PRE-TRIAL INVESTIGATION OF ALIMONI PAYMENTS EVASION BASED ON INFORMATION FROM STATE EXECUTIVE SERVICE OF UKRAINE

Initiation of the pre-trial investigation plays a significant role in criminal proceedings. Further steps in the proceedings depend on resolving the issue of entering the offences or reports into the Integrated Register of Pre-Trial Investigations. It concerns both this particular proceeding and other ones that are subjected to investigator or to investigation units, because backlogs in criminal proceedings can negatively affect the quality and frequency of the investigation. One reason for this is the uncertainty of the requirements at the legislative level to the application and report on criminal offences. Article 214 of the Criminal Procedure Code of Ukraine provides only one requirement for applications and reports that can be entered into the Integrated Register of Pre-Trial Investigations, that is the availability of data on criminal offences.

However, the aforementioned norm is not always understood properly, and as a result, it is misapplied by domestic investigators, that, in accordance with the requirements of art. art. 214, 216 of the Criminal Procedure Code of Ukraine, enter the information concerned in the Integrated Register of Pre-Trial Investigations and conduct pre-trial investigation of criminal offenses stipulated by the Criminal Code st.164 Ukraine (Failure to pay alimony for support of children) as to determining the persistent failure to pay contributions (alimony) for support of children.

The Law of Ukraine is not also always applied correctly by the state executives in determining certain actions of the debtor. They file reports to the Ministry of Internal Affairs of Ukraine to bring a person to criminal responsibility without any verification activities, and, consequently, without any data about the persistent failure to pay alimony. In turn, domestic investigators enter the information into the Integrated Register of Pre-Trial Investigations, violating the provisions of part 1, art. 214 of the Criminal Procedure Code of Ukraine, without providing any data about the criminal offences to the body of the State Executive Service of Ukraine, only taking into consideration the information about the failure to pay the specified payment within six months. As a consequence, the proceedings are terminated and there is a great number of backlogs in the work of investigators and supervisors of pre-trial proceedings.

It is possible to avoid these violations in case the domestic investigators follow the requirements of the Criminal Procedure Code of Ukraine, The Law of Ukraine on Citizen's Statements, the Law of Ukraine on Militia, and departmental legal acts concerning the questions of entering the applications and reports on criminal offences.

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FEATURES MOTIVATION DECISIONS OF INVESTIGATOR ON ENSURING THE SAFETY OF PERSONS INVOLVED IN CRIMINAL PROCEEDINGS

The article is devoted to the peculiarities of the reasoning of the investigator's safety of persons involved in criminal proceedings. On the basis of the provisions of the Criminal Procedure Code and the Law of Ukraine "On the safety of persons involved in criminal proceedings" singled out the following elements of motivation systems creating procedural decisions investigator as factual, legal and ethical grounds and reasons for his decision.

As grounds for the decision are considered external causes (objects and phenomena of objective reality) that motivate an investigator to act a certain way and determine the direction of such action. Depending on the reasons which formed the basis of, the grounds are divided into factual, legal and ethical. The grounds for a decision on safety data are available that indicate the presence of a real threat to life, health, home and property of persons involved in criminal proceedings. Legal basis there are certain rules (regulations) law (especially criminal and criminal procedure) which must be guided by the investigator when making a particular decision. As such grounds taking decisions on investigating the safety of persons involved in criminal proceedings serve international instruments, the provisions of the Criminal Procedure Code and other legal acts. Ethical grounds for taking decisions investigator serves as a set of rules of conduct, moral norms that prevail in society (except ethical principles set out in the Criminal Procedure Code, the investigator shall seek the opinion of such persons the possibility and need for protection measures).

Motives decision defined as a set of considerations and arguments on which the investigator came to the decision and that it leads to validate their own conclusions. They are divided into factual, legal and ethical. Actual decisions based on safety judgments are investigating the availability of threat to life, health, home and property of persons involved in criminal proceedings, its reality and adequacy of information for the decision. The legal decision based on security is an investigator in respect of judgments of the legislation governing security and to be applied in certain criminal proceedings. Ethical decisions based on safety judgments are investigating the possibility and the need for security measures tailored to specific kinds of desire the person to whom they are used with a view to ensuring the constitutional rights and freedoms of individuals.

A list of issues to be addressed in the judgment of the investigator to ensure the safety of people and drawn attention to the need for consolidation in the Criminal Procedure Code.

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THE HISTORICAL ASPECT OF GENESIS THE FORMS OF CRIMINAL LAW AND MILITARY CRIMINAL LAW OF UKRAINE

The problem that arises in this article relating to matters of research and historical aspects determine the formation and genesis of different sources (forms) of criminal law in Ukraine. The article dedicated the existence of diversity of criminal law in times of formation and criminal law.

System sources (forms) Criminal Law of Ukraine historically has diversity and interdependence correlation military criminal and criminal law. That indicating the need to determine the existence of criminal law theory difference of sources (forms) of criminal law in Ukraine.

The author considering the historical sources (forms) of military criminal law. And it should be noted that they have a genetic relationship with the modern military criminal law. There are essential mean for the science of military criminal law and its direct a component – criminal law, an understanding of the current state, trends and prospects genesis of military criminal law. The historical sources (forms) of military criminal law systems are an essential element of sources (forms) of military criminal law and criminal law.

The military criminal law is not an independent branch of law is considered as part of the criminal law as it applies to the commission of war crimes application of the General Part of criminal law to justice for these crimes.

The author also can not to accept the presence of tradition being the only source (forms) of criminal law in Ukraine – only criminal act in criminal law of Ukraine.

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ACTUS REUS UNDER THE LAWS OF THE UK AND THE US

The article "Actus reus under the laws of the UK and the US" illustrate comparative ways of study "Actus reus" in different countries of Anglo-saxon law system, with examples, that gives scientists possibility to understand better foreign law policy.

In criminal law, the concept of "crime" is one of the most important and meaningful. With it's normative refer to a particular crime, a description of the elements and features that are essential to the existence of criminal law and criminal law doctrine. In fact constitutes a crime – a complex interdisciplinary Institute, which is part of the theory of law, philosophy, law, international, criminal and other branches of law. However, the concept of a crime, the content and scope of its elements and attributes its functional load and legislative regulation may not be the same, when it comes to criminal law traditions of different countries, especially if these countries belong to different legal families. But also within the same legal family sometimes observed fairly significant differences in the approaches to the understanding of the individual characteristics of a crime. Moreover, a significant difference on the definition and understanding of the elements and the elements of the crime can be observed even within the criminal law of a State, when it comes to the position of various criminal law schools. In view of the above provisions, the purpose of this article is to develop a comprehensive implementation issues of an offense in terms of its comparative legal knowledge of the road legislation of Great Britain and the United States.

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THE HISTORICAL DEVELOPMENT OF AUDIO -, VIDEO CONTROL FACILITIES IN THE INVESTIGATORY PRACTICE AND NORMATIVE REGULATION OF THEM

According to the decision of the National Security and Defense Council of Ukraine on January 15, 2008 "On the implementation of reforming the criminal justice system and of law enforcement bodies" approved by the order of the President of Ukraine, reformation of the criminal procedural legislation to international standards require finding effective means of attachment of evidence obtained by conducting operative and search measures and led to expansion of investigative (search) action. The result was the assignment of the "covert investigative (search) actions" institute in the new Criminal Procedure Code of Ukraine, whither some operational and investigative activities were transformed.

Covert investigative (search) actions are the kind of investigative (search) actions, information about the fact and methods of which can't be disclosed. Currently there is the dual nature of these investigative actions: 1) a procedural; 2) an investigative operational.

The article examines the evolution of audio, video monitoring in the historic area under the influence of improvement of means on receiving the information and origin and development of fixing technical devices.

The author analyzes the development of auditory and visual means of control and allocates two periods.

The first period is the use of human capabilities by invention and direct fixation of information, the second period is using fixing technical devices by an authorized person and improving ways of getting information that is important for the criminal proceedings. An author divides the second period into two stages: 1) the emergence of tools of the electronic control over the auditory information, and later by visual, in law enforcement activities; 2) awareness of law enforcement bodies the prospects and effectiveness of using results obtained by means of audio, video fixing equipment in investigating activity, and the development of the normative regulation of actions specified by the legislator. Improvement of audio, video control always depended directly on scientific and technological progress, with the discovery of new opportunities for information transfer, criminal investigation immediately looks for ways to obtain it.

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REASONABLE SUSPICION AS A CRITERION OF LAWFUL RESTRICTIONS ON THE RIGHT TO LIBERTY AND SECURITY OF PERSON IN CRIMINAL PROCEEDINGS

The article studies the definition of "reasonable suspicion" as a criterion of lawful restrictions on the right to liberty and security of person in criminal proceedings. In order to deeper understanding of the provisions of the European Convention on Human Rights, the article has comprehensively reviewed and analyzed the European Court of Human Rights activity. It mentions the questions of lawful arrest or detention of a person for the purpose of bringing him before the competent legal authority on reasonable suspicion for commitment of an offense or when it is reasonably considered to prevent his committing an offense.

The article emphasizes that "the grounds for the suspicion," the existence of which is the ground for the detention and a preventive measure in the form of detention is an integral part of preventive safeguards against arbitrary restrictions on the right to liberty and security of person in criminal proceedings. The existence of "reasonable suspicion" means that there are facts or information, which are able to satisfy an objective observer as the person, which has probably committed a criminal offense. The article establishes that the concept of "reasonable suspicion" requires the prosecution at the earliest stages of pre-trial investigation to prove all the elements of the offense, as this standard does not require that the prosecutor had sufficient evidence for a final decision on the guilt of the person and charge. In connection with this fact it determines that the facts that caused suspicion need not to be one of those that are necessary in order to justify not only condemnation and produce a charge that is the next stage in the investigation criminal proceedings. It also states that "grounds for the suspicion" in all cases, depending on the particular circumstances of the criminal proceedings.

Based on the research the article summarizes the main features of the definition of "reasonable suspicion" as a criterion of lawful restrictions on the right to liberty and security of person in criminal proceedings.

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ENSURINGOF A COURT PRACTICE UNITY BY A HIGHER JUDICIAL INSTANCE: EUROPEAN EXPERIENCE

Due to European vector in the reform of Ukrainian judicial system, the author stresses the need of studying the experience of building the judicial systems in Europe and the place and role of that court instance, which provides the unification of judicial practice.

Generally, this responsibility belongs to a higher or a supreme court of the state which is responsible for the identical application of substantive and procedural law, judicial review of decisions which are passed by lower courts.

In some states the higher (supreme) courts perform a function of legislative review – the review of the laws` constitutionality(for example UK), while constitutional courts have casual jurisdiction and verify international treaties, monitor elections, etc. (for example Austria).

In the article author analyzed the European experience of ensuring court practice unity by the highest judicial authority of the Great Britain, France, Latvia, Slovenia, Poland, Belgium, the Federal Republic of Germany, Sweden and concluded that there is no single model of the highest judicial institution. Regardless of names and some other features, function of ensuring court practice unity remains unchanged. In Ukraine this function belongs to the Supreme Court of Ukraine. And a judicial reform, carried out in our state, strengthens authority of the court in this area. The Law of Ukraine "On ensuring the right to a fair trial" expanded the powers of the Supreme Court of Ukraine, as well as the grounds for review of the court decisions by the Supreme Court. The parties have the right to apply directly to the Supreme Court to review decisions of Appeal courts whereas formerly courts of the Cassation instance were able to decide whether to forward such applications to Supreme court on their own. The new grounds for review of the decision are: the unequal application of procedural rules by the courts of cassation, which hinders further proceedings; improper application of the rules of jurisdiction by the courts of lower instance and discrepancy cassation instance decision to the legal position of the Supreme Court. The legal position of the Supreme Court are obligatory for all public authorities, including lower courts, which, however, may deviate from this position for good reasons.

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ADVANCED TRAINING AND PROFESSIONAL PREPARATION OF JUDGES: THE CONCEPT OF DISCOURSE

Effective functioning of the judicial system as a guarantee of professional and impartial justice, adequate protection of the rights and freedoms of the case and of high quality, interdependent on the competence and expertise of judges hearing the case. The cause of wrongful decisions taken in violation of the law is no qualification of judges and inadequate training of judges through ignorance.

From the analysis of legislation is not clear what distinguishes preparation raising the qualifications of judges. So to avoid identification of these concepts offer the Law of Ukraine "On the Judicial System" to provide terminological definition of this concept. Thus, training can be conducted only in respect of judges, in the event as preparation is carried out in accordance sitting judges and judges appointed for the first time. Advanced training is conducted in the form of seminars, which last 1-2 days and mainly relate to the practical application of new rules of law, actual problems of application of the regulations – regulations, and preparation is carried out in a period for two weeks and wherein held with the participation of relevant categories of judges, for example, can be trained with local judges and appellate.

In Ukraine, it is appropriate to introduce the following changes in the law: 1) to train judges appointed for the first time and for a permanent specializations – general, economic, administrative, civil, criminal, which will deepen their knowledge in the direction of the judge; 2) eliminate regional offices of the National School of judicial preparation of judges and create a single center to improve their skills by judges in Kiev, which will provide an increase in the judiciary, savings and judicial training highly qualified judges; 3) implementing the results of the exam preparation judges as final quality control training; 4) to improve the quality of preparation and professionalization conditions apply to the judges – teachers, including at least three years of service or availability candidate for the degree of practical orientation training and updating on important issues and problematic practices of judges; 5) develop and adopt a comprehensive state program of preparation and development; 6) implement electronic registration of students to undergo preparing; 7) create a registry of teachers who prepare.

Chapter 4

INTERNATIONAL LAW UNDER GLOBALIZATION

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INTERNATIONAL CONFLICTS: THE PURSUIT OF DEFINITION

Complex system of international relations directly influences internal and external processes that have been taking place within a particular state or a group of states. The processes, including those having complex conflict character, need to be comprehensively analyzed. In many respects such conflicts are generated by the conflict of interests of subjects of international law. Intention to satisfy certain interests may lead to international armed conflicts.

International armed conflicts have had their history. It is worth to mention that the systematic study of the conflicts was inherent to the past century when their number and scales had widely extended. Along with the scientific works on the subject matter there were passed appropriate international laws, such as the Geneva Convention, 1949, and the Two Amendment Protocols to it, 1977.

Active development of these complex processes needs special examination of the essence and signs of the conflicts under study and creation measures to stop and prevent them.

While analyzing international armed conflicts it is necessary to pay attention on conflicts that, on the one hand, have many common signs with the international armed conflicts, and, on the other hand, essentially differ from them. It is a question of the non-international (internal) armed conflicts. In order to define the concept and signs of such conflicts we need to consider real aims of the actions, a character of the actions, subjects of the actions, etc. It is made a statement that all the mentioned signs should be examined thoroughly in order both to determine the essence of the conflicts in question and to differentiate them from other kinds of conflicts.

Special attention is drawn to the necessity to evidence different kinds of damages incurred as a result of the conflicts. In the article it is also given a priority to the effective law protection of civilians and of various civil objects directly suffering during the conflicts.

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SOCIAL SECURITY OF THE POPULATION OF SOME COUNTRIES IN EUROPE AND AMERICA: COMPARATIVE LEGAL ASPECT

Social and legal status of the person and the level of welfare, the effectiveness of the security and social mechanism of the state remain the main indicator of the humanistic principles in the legislation of the country. Therefore, doctrinal analysis of the practical implementation of social security in the world is important and timely focus of scientific research. The purpose of this article is to study the specific social policies of individual countries in Europe and America in the field of social security of the population, including the operation of the pension systems and the order of social benefits. Proclamation strategic political course of Ukraine towards integration into the EU, changes in government priorities for the future development necessary to determine the strategy of reforming social security systems in the Ukrainian state, taking into account the positive experience of other countries.

On the basis of experience of legal regulation of social security in the Netherlands, Finland, Canada, Lithuania should state that the social security system in developed countries of Europe and America are an integral part to implement material welfare of citizens, promote social cohesion and solidarity in society. Features welfare in these countries are based on the introduction of measures prevention and poverty reduction, particularly in most countries there is an extensive system of social benefits and services; increasing the retirement age significantly affects the amount of pension you receive person reaching the age of retirement; introduction of savings provides a guaranteed right to additional pension payments in accordance affect the increase in pension payments in general; broad popular participation in private pension provision indicates the efficient operation of private pension funds, which promotes public confidence.

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THE NOTION AND REGULATORY REQUIREMENTS OF THE BASIC PRINCIPLES OF INTERNATIONAL LAW

Russian aggression against Ukraine in 2014-2015 years stipulated discussions concerning crisis of the modern system of international law and necessitate recourse to legal analysis of the basic principles and modalities of a modern system of world order. A key role in this system plays a fundamental principles of international law, and then – return to the analysis of concepts and regulatory requirements is important in finding answers to questions not only about bringing state-aggressor accountable and responsible, but the forecast for the further development of international relations and international law in particular.

The basic principles are the "Ten Commandments of international law", the key to this system, without which its existence is impossible. This is causes their consequences for the stability of international relations. The current world order based on cooperation among states in peace, and can be saved only by universal recognition and respect for these principles. The recognition by the international community of a major threat to international legal principles in connection with aggressive war by Russia against Ukraine demonstrated during the 2014-2015 biennium. It was done by inclusion of appropriate provisions to acts of global and regional organizations, the EU states and groups of states, world leaders applications .

This is largely due to the important trend, due to a number of factors inherent in modern processes of the global community (globalization, the intensification of the entire spectrum of international relations, the development of weapons, improved methods of cross-border criminal gangs, international terrorism) – gross violations of basic principles and especially those which are directly related to the maintenance of international peace, are dangerous to the international community as a whole, not only for the region.

Important in the analysis of events associated with aggressive war by Russia against Ukraine, in the context of the basic principles of international law, is the consideration of the availability of legal obligations of our state directly respect these principles in dealing with them enshrined in many existing multilateral and bilateral international treaties, and consideration of the specific content of these obligations.

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INTERNATIONAL STANDARDS SUPPORT OF RIGHTS AND LEGITIMATE INTERESTS OF THE CHILD AND IMPLEMENTATION OF LEGISLATION IN UKRAINE

In this scientific article analyzes the international standards of the rights and legitimate interests of the child and their implementation in the legislation of Ukraine. Actuality is among the basic democratic values prominently occupies protect the rights, freedoms and legal interests of the child. Each State Party UN has committed itself to the international community, implementing effective legal and economic mechanisms for their implementation. Under these conditions, the national public administration in the face of state agencies and local governments to ensure compliance with international standards at the national and regional levels, subject to the rule of law and law in their daily activities.

Today produced a number of international legal acts concerning the rights, freedoms and legal interests of the child. The first of the documents in this area was the Geneva Declaration of the Rights of the Child, adopted by the General Assembly of the League of Nations in 1924, which stressed the need to ensure the physical and psychological well-being of minors, regardless of place of residence, race, language, religion, and so on.

The report of the Human Rights International Model UN "Promotion and protection of children's rights", in 2012 stressed that analyzed legal act was not an ideal instrument in terms of legal technology, including undefined notion of a child, the principles of which is declaration not defined rights of the child and the responsibilities of the state. However, the importance of the Geneva Declaration of the Rights of the Child is essential, because it started securing the rights of children in international instruments, its principles are based on existing documents in the field of protection of childhood.

After the adoption of the Universal Declaration of Human Rights 1948 and International Covenant on Civil and Political Rights, 1966, where centuries. 24 indicated that every child without any discrimination based on race, color, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status, from its family, society and the state, international legal protection of childhood takes concrete shape in the system of human rights and freedoms.

Also the analysis of international standards guaranteeing the rights and interests of the child, as well as their implementation in national legislation Ukraine declares

that the provisions of domestic law is generally consistent with democratic requirements in this area. At the same time, to settle some legal gaps should be made above the proposed changes, particularly to the UK of Ukraine Administrative Code, Laws of Ukraine "On Social Services", "On Protection of Childhood", "On the rights and freedoms of internally displaced persons" "On mobilization preparation and mobilization."

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THE INSTITUTIONAL SYSTEM OF EUROPEAN CIVIL PROCEDURE

The paper analyzes the institutional system of European Civil Procedure, supranational EU legislation of Civil Process, which is the basis of two recent pan-European procedures of trial in civil and commercial matters. These two main regulations occupy a central place in the European Civil Procedure and establish common procedures for European Order for Payment Procedure and the European Small Claims Procedure.

These modern-wide procedures were the major achievements of harmonizing civil procedural law in the EU and a start of building ECP system. Given that they provided the only common to all Member States Remedies EU citizens in cross-border cases, European procedural law has been demonstrating signs complete system of justice in civil matters – from the beginning of the litigation to enforce the judgment and the protection of civil rights.

It was also analized procedures that facilitate efficient consideration and resolution of civil and commercial cross-border matters, including the service of judicial and extrajudicial documents, regulation of evidence, recognition and enforcement of judgments etc.

The formation ECP plays an important role in protecting the rights of residents of EU relations with third-States not members of the EU, which leads to the relevance and necessity of its study. For this purpose, first of all, we should identify the system of European Civil Procedure.

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THE LEGAL PROTECTION OF COMPUTER PROGRAMS AND DATABASES IN THE EUROPEAN UNION

XXI century is a century in which the society is based on knowledge and the results of human creativity in the cultural, technical, economic spheres. So today Intellectual property plays a much greater role in human life, than in all previous human history.

Notable among intellectual property occupies a computer program (computer software) that in the era of information technology is one of the main strategic resource state as a whole and its individual components.

Dual legal nature of a computer program, caused by the inability of its practical use for the purpose pozatehnichnyh making and creating its similarity to traditional copyright as well as its complexity and versatility, became the basis for the emergence of legal science different approaches to the legal protection models the said intellectual property rights.

The issue of legal protection of computer programs have been the subject of research at different stages of development, especially in the 80 – 90 years of the twentieth century, due to the intensive development of the object of protection.

Concluding our analysis of the process of unification and harmonization of the legal protection of computer programs in the European Union, we note that in this field adopted Council Directive sets the bar high enough in the legal protection of computer programs and creates certain prerequisites for further positive progress in this legal area in the context of further development of information technology and global information networks, which largely operate on the basis or using computer programs.

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UKRAINE'S IMPLEMENTATION OF EUROPEAN STANDARDS OF THE WELFARE STATE, DECLARED IN ASSOCIATION AGREEMENT WITH THE EU

Goal of this article is to clarify the preconditions for historical and legal aspects of the formation of the modern national idea of the welfare state, due to the requirements of Chapter 21, "Cooperation in the Employment, Social Affairs and Equal Opportunities" Chapter V «economic and sectoral cooperation" of the Association Agreement between Ukraine and European Union of 27 June 2014, ratified by Ukraine on 16 September 2014 № 1678-VII.

The task of the material presented on the chosen problem is to study the prerequisites historical and legal aspects of the formation of the modern national idea of the welfare state, due to the Association Agreement between Ukraine and the European Union on 27 June 2014; covering the essence of the concept of quality of life as one of the main European standards of the welfare state; consideration of implementation by Ukraine the Association Agreement with the European Union in the field of legal regulation of social relations. The objective of this article is the author's intention to propose recommendations for adaptation of Ukraine in the social sphere to European Union law and the provisions of the Agreement.

Consequently, basing on the ratified Association Agreement between Ukraine and the European Union on 27 June 2014, which actually declared European standards of the welfare state, the Ukrainian community in implementing these standards into national legislation must necessarily take into account the specific formation of modern national social state in Ukraine. That is, in our view, the achievement governed by this Agreement, is possible only if: 1) a clear understanding of what we want to implement in the latest state-social status of our country as the rules of Article 1 of the current Constitution of Ukraine has constitutional status recorded as Ukraine the welfare state, which, in turn, legally enshrined in legal acts of social direction; 2) a clear definition of social priorities in the state of Ukraine with their mandatory specification, taking into account: a) current processes of social and state changes, b) features of national mentality Ukrainian community, c) the effect of political, economic and social doctrines on state formation real social state in Ukraine; 3) developing a coherent model of social development direction Ukraine, developing and implementing the concept of the welfare state, which would meet European standards of social development.

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HARMONIZATION AS A UNIVERSAL TOOL TO BRING THE JUDICIAL SYSTEM OF UKRAINE IN ACCORDANCE WITH GENERALLY ACCEPTED INTERNATIONAL STANDARDS

The article is devoted to the current issues of legal integration of the national judicial system to world order. The author analyzes the forms and methods of interaction of the national judicial system and status of judges of Ukraine with generally accepted international standards in modern conditions of legal integration into the international community. Considering analyzed material author draws conclusions for legislative harmonization.

Firstly, implementation is characterized by spatial limits, time limits, subject scope of international law application. Implemented international rules do not always reinforce international standards, do not promote the formation of general legal principles and scientific concepts in the field of justice, and not always can be properly carried out with existing procedural rules of national law.

Secondly, adaptation, as a way of integration of the national judicial system to the world space, concerns only areas of legislation and European integration. Adaptation is just an element or a separate stage of the overall process of rapprochement of national judicial system with international standards.

The unification of the national legal system with international standards characterized by categoricalness that devalues the uniqueness of national legal systems and can be considered as a defect of international law.

Therefore, harmonization is an objective method of bringing the national judicial system in conformity with international standards.

Chapter 5

CURRENT PROBLEMS OF CERTAIN AREAS OF MODERN LEGAL SCIENCES

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EUROPEAN STANDARDS OF RIGHT OF EMPLOYED WOMEN TO PROTECTION OF MATERNITY AND THE LEGISLATION OF UKRAINE

According to part three article 51 of the Constitution of Ukraine the family, childhood, motherhood and fatherhood are protected by the state. The constitutions of foreign countries Family and maternity protection is guaranteed, for example, part of the fourth article 6 of the German Basic Law, Art. 39 of the Spanish Constitution, part of the first article 41 of the Constitution of Ireland, Art. 67 of the Constitution of Portugal, part of the third article 68 of the Constitution of Poland, part of the first article 38 of the Constitution.

The current labor legislation of Ukraine provides for appropriate safeguards and benefits for pregnant women and women with children because of known circumstances can a par with other workers to fully perform the duties stipulated in the general rules of labor relations.

This focus national legislation regulating labor relations involving pregnant women and women with children, consistent with the maintenance of many acts of the Council of Europe and the European Union. Make a comparative analysis of legal norms applicable labor legislation acts of Ukraine in the field of the rights of women workers on maternity protection with European standards is an important task of science of labor law in Ukraine.

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THE PRINCIPLES OF CIVIL LAW OF UKRAINE IN A CONTEXT OF THEIR RATIO WITH DCFR

In article are considered questions of definition and the characteristics of the principles of civil law of Ukraine and a ratio of this concept with concept of "a basis of the civil legislation of Ukraine". On the basis of the received result the essence of the category "principles of civil law of Ukraine" is investigated and the relation to each other of the last of the project created by the European lawyers "The principles, Definitions and Model Rules of the European private law" is established. Results of research consist in adaptation of the civil concept, the principles of civil law and bases of the civil legislation of Ukraine in European private law on the basis of DCFR.

Evaluating the overall direction and content of the Draft Common Frame of Reference (DCFR) – Principles, Definitions and Model Rules of European Private Law, in particular the principle, we can conclude that the crisis of the modern concept of private law, which detractors hope exists only in their imagination and mentioned concept, based on the basic values of European civilization in the twentieth more updated and developed in accordance with challenges.

In addition, there are other reasons for practically important conclusion that in the context of the desire to integrate Ukraine into the European Union and the need for appropriate adaptation of Ukrainian legislation, DCFR should be considered in finalizing the concept of civil rights, particularly in improving national concepts principles of civil law and civil legislation.

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THEORETICAL AND LEGAL ANALYSIS OF LEISURE TIME EMPLOYEES IN UKRAINE

This article provides general theoretical description of the meaning and essence of leisure time employees. Courtesy of the author's definition of "rest time". Displaying the main features of the legal phenomenon.

Actuality is that in modern conditions of reforming industrial relations great importance is the question of leisure time employees. This is because the regulation of working time in the current legislation stands as one of the guarantees of the right to rest. Equally important in this aspect is the question of improving the legal rules of national law that give effect to the citizens of their labor rights, namely the right to rest.

Any productive work is impossible without rest. In connection with this extremely important issue is quality regulation of work and rest, establish a balanced combination of work and rehabilitation. That is why there is a need for research in the chosen subject.

The article is a comprehensive general theoretical analysis of vacation time employees in Ukraine.

Also conclusions are that the rest is extremely necessary legal phenomenon for each employee, which is why this issue has to be better regulation. So. an important step in improving this mechanism would be the adoption of the Labour Code, which will be modernized regulation we studied topics.

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THE PRINCIPLE OF PUBLICITY OF FINANCIAL ACTIVITY

The aim of the article is to investigate the principle of publicity of financial activity in representative bodies. It is proved that the principle of transparency is publicly consideration of financial and legal issues in representative bodies. The principle of transparency is consideration of financial and legal issues in representative bodies. The principle of publicity means bringing the results of such proceedings and other matters affecting public financial interests to the public.

The principle of public financial activity disciplines the officers and has educational value for potential offenders who can operate in the financial sector.

Sometimes the principle of planning regarded in the complex with transparency: publicity and transparency of individuals' activities of financial control provided through the establishment of relations through consideration and provision with written or verbal information to citizens' appeals (requests, complaints, claims) in agreement with the initiator of control measures .

The open access to public information is actively implemented in Ukraine. According to the Law of Ukraine on January 13, 2011 "On Access to Public Information", public information is reflected and documented by any means and in any media information that was obtained or created during the process of individuals' implementation of their public authorities required by the Law, or that is in the possession of government agencies and other public information specified by the Law.

In pursuance of this law, the various information, that has public signs, is publicly available on official websites of entities of public financing activities in the section «Access to public information». Access to the information is provided by: 1) regular and prompt information disclosure in official publications; on official web sites in the Internet; on information boards; by any other way; 2) information on requests for information.

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LEGAL ACTS OF THE SUPREME COURT OF UKRAINE IN THE SYSTEM OF SOURCES OF LABOR LAW

In the present scientific article the key issues regarding the place and role of the legal acts of the Supreme Court of Ukraine in the sources of labor law are examined. It is emphasized on the fundamental role of the Supreme Court of Ukraine in ensuring judicial review of compliance with labor rights and other human rights, ensuring law (legality) of sources of labor law. The powers of the Supreme Court of Ukraine are analyzed. It is grounded to attribute acts of the Supreme Court of Ukraine to the auxiliary sources of labor law. It is noted that in the context of modern codification of labor legislation and adoption of a modern market Labor Code seems appropriate to consider its position in the position of legal acts of the Supreme Court of Ukraine, and fix the rules to ensure legitimacy (legality) of sources of labor law. The key areas of improvement of the legal status of legal acts of the Supreme Court of Ukraine in the system of sources of labor law are the following: providing high-quality and modern system of codification of labor laws; determining future Labor Code system sources of labor law, their hierarchical structure, including through the provision of judicial control on the part of the Supreme Court of Ukraine; recovery powers of the Supreme Court of Ukraine generalization of judicial practice and develop meaningful regulations that ensure the uniform application of labor law throughout the territory of Ukraine, will be directed legislative, and judicial rule-making practices in a single line, with international and European standards. It is emphasized the importance of strengthening the legal definition of the powers of the Supreme Court of Ukraine generalization of the judicial practice of providing guidance in the courts of common approaches to the application of labor law regulations.

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THE METHODS OF PROMOTING GENDER EQUALITY IN THE WORKPLACE

The article emphasizes the importance of gender mainstreaming in the application of international labour standards, as it helps to ensure equal access for men and women to the benefits established by these standards. A complex series of economic, demographic, and behavioral factors contribute to persistent and increasing gender-based gaps in the labor market. There are four key ILO Conventions that promote gender equality: Equal Remuneration Convention (№ 100), Discrimination (Employment and Occupation) Convention (№ 111), Workers with Family Responsibilities Convention (№ 156), and Maternity Protection Convention (№ 183).

It should be mentioned that Convention № 183 also calls for protection during a period following a woman's return to work after maternity leave but leaves it to national laws or regulations to define that duration.

Also Convention № 183 stipulates that the burden for proving that reasons for dismissal are unrelated to pregnancy, childbirth or nursing "shall rest on the employer".

The article defined equal pay, overtime, working hours, vacation, benefits to mothers and family responsibilities, health care, and human dignity at work- are promoting gender equality in the workplace.

The authors underline that national employers' organizations can play a major role in increasing awareness of the business case for appointing women in leadership roles.

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ADMINISTRATIVE AND LEGAL REGULATIONS AND THE LABOR MARKET IN UKRAINE

Actual problems of this study is employment and unemployment in Ukraine, in particular, the nature and forms of employment, causes, forms and levels of unemployment, especially its manifestation in territorial aspect. Special attention needs forecasting labor market issues and peculiarities of its formation in Ukraine, the problem of an effective system of employment. Given the experience of capitalist countries to labor market regulation, the questions about the role of public employment services as probable increase in the number of unemployed increased period of finding appropriate work. The paper highlights areas of social protection, as required by the growth of the unemployed, etc. "pomeryzatsiya" of society.

The current stage of development associated with a new look at labor as one of the key resources of the economy. This new view – evidence of real growth of the role of the human factor in conditions STC process stage, where there is a direct correlation of the results of production quality, motivation and character of the workforce as a whole and the individual employee in particular.

The new, more efficient organizational terms there is a connection of labor and employment, inclusion innovation and production process of the creative potential of workers, training and retraining, problem solving and social protection of workers, etc.

Intensive economy, living in a periodic mode Technological and organizational recovery gradually turns into a continuous development of the economy, characterized virtually constant improvement of production methods, principles of management, performance products and forms of services.

The labor market is the most important element of national and global market civilization, it formed a creative type of human resources engaged in the daily evolution of society. We are talking about some form of initiatives, production autonomy, the pursuit of perfection of technology and methods of public service.

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THE SYSTEM OF ECONOMIC SECURITY AND PECULIARITIES OF ITS CONSTRUCTION (PROBLEM)

The article is devoted to the analysis of scientific approaches to understanding the nature of the origin of the concept of "economic security", its features and interpretations, the main theoretical foundations of the system of economic security and its role in ensuring functioning. The basic level of economic security, impacts on economic security entities in the light of the fundamental purpose of economic security as a category. The mechanisms of interaction and interconnection system of economic security factors of sustainable business entity. Exposed location system of economic security in its environment functioning as part of a general mechanism.

Analyzing approaches to understanding the nature of the system of economic security, it can be argued that the system of economic security of each individual enterprise is its completeness and effectiveness depend on the state of the existing legal framework, the volume of logistical and financial resources on understanding the importance of each employees guarantee business security, as well as the experience of the leaders of the security services businesses. Reliable economic security is possible only comprehensive and systematic approach to their organization.

This system provides the opportunity to assess the prospects for growth of the company, to develop the tactics and strategy of development, reduce the effects of the financial crisis and the negative impact of new threats and dangers.

Factors shaping the appropriate level of economic security, diverse, and each branch of production has its own specifics. However, there are common, typical factors that influence the level of economic security, regardless of ownership and industry.

The article presents the classification factors demonstrating the nature of economic security in only one section – functional, the directions of the entity, but more appropriate allocation factors of economic security environment and source of origin.

Therefore, it is possible to distinguish internal and external factors of economic security, which in turn distributed to certain groups.

This great variety of impacts on economic security entities demonstrates the complexity of the mechanism of interaction of the system by providing it with the external and internal environment. But to understand the mechanism of operation of the system we need to understand its place among the functioning of the enterprise.

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LEGAL MECHANISM OF TRANSFER OF LAND LOTS FOR FARMING

The article is devoted to the research of organizational and legal procedure of transfer of land lots for farming into the ownership of the citizens of Ukraine from the state or municipal ownership. Despite the fact that conditions and procedures for transfer of land for farming regulated by the Land Code of Ukraine and the Law "On the farm", there are a number of gaps and contradictions in the organizational and legal mechanisms of their transfer, which leads to incorrect practical application of provisions of mentioned laws of Ukraine.

Getting to the established order of land in Ukraine citizen ownership title is the fact that a legal basis for the establishment and operation of the farm. The main legal form of the acquisition of private ownership of agricultural land is privatization, which actively implement the farms.

Procedure for privatization of land by citizens of Ukraine set st.118 Land Code of Ukraine, and the rules of free privatization of Article 121. For transmitted farming agricultural land in the amount of land (share), determined for members of agricultural enterprises located on the territory of the Board.

The authors reveal the conditions and procedures for the transfer of agricultural land for farming, pay attention to the absence of a list of approved documents proving experience in agriculture and their own view of the range of such documents.

Ownership of the land for farming (newly formed) there is a citizen of Ukraine since its state registration, which is carried out by state registrars State Registration Service.

The fact of obtaining land is the basis for registration of the farm. From the moment of state registration economy acquires legal personality and can carry out their activities.

It is proposed to improve current procedure of transfer of land lots for farming by making appropriate changes to current legislation.

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THE OUTRAGE OF EMPLOYMENT DUTIES AS AN ESTIMATIVE CATEGORY OF LABOUR LAW

The development of labour legislation and its adaptation to the provisions of international legal norms increasingly attracted the attention of scientists. Today the main thing among the problematic issues that require urgent solutions take questions of terminating the labour contract. Still unexplored is the question of termination of the labour contract caused by the one-off outrage of employment duties.

The aim of the article is a detailed analysis of the concept of " outrage of employment duties which allows not only to specify the meaning of, but will also facilitate its use in practice.

The questions concerning the interpretation and specification of evaluation concepts in the law is a subject of research of such scholars as: S. M. Chernous, V. V. Lazarev, M. I. Bary, O. V. Kobzeva, O. A. Stepanova, M. Voplenko, G. G. Shmeleva, S. M. Prylypko, O. M. Yaroshenko, G. I. Chanysheva, etc.

Take the position that the inclusion of estimative concepts in the norms of labor legislation is intended to give flexibility to the legal regulation of employment and related relations in market conditions. It is necessary to define the limits of using of appropriate estimative categories in both the legislation and practice of its application. The tentative solution is to specify that the form should be defined as the provision of a particular object, phenomenon or process as much certainty and clarity. Thus, for the purpose of specifying the evaluation of the concept of "outrage of employment duties" and therefore relief law enforcement practice, we consider it necessary to legislate that a outrage of employment duties are: (a) material damage and (b) moral damage.

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FEATURES OF THE OPENING OF PROCEEDINGS IN CASES THAT ARISE FROM CREDIT RELATIONSHIPS

The article is devoted to topical issues of the features of the opening of the proceedings in cases that arise from credit relationships, including analysis of conditions of the right to sue.

The research of the proceedings of this category of cases is not only important for improvement of civil-procedural legislation of Ukraine, it is primarily the need of the practice. Therefore, the relevance of research defined pressing social need to determine by analyzing the judicial practice conceptual foundations of the proceedings in cases, that arise from credit relationships, to form the unity of their practical application.

Noteworthy author analyze the recent legislative changes, the judicial practice and the legal opinions aimed at settlement the features of the opening of proceedings in cases that arise from credit relationships, from the standpoint of their possible practical applications.

The author identifies the problems of theoretical and practical nature of opening of the proceedings in cases that arise from credit relationships. Also, the author provided the necessary recommendations to improve civil-procedural legislation of Ukraine.

The article is written at the appropriate level; a problem and its connection with important scientific and practical tasks is proved; recent research and publications are analyzed; objectives and purpose of the article (problem) are formulated; the main research is set out with full justification of scientific results; conclusions of this article and the further research in this direction are formulated.

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PREPARING CASES WHICH ARISE DUE TO THE DISSOLUTION OF THE LABOR CONTRACT ON THE INITIATIVE OF THE EMPLOYER FOR TRIAL

The author emphasizes that one of the main social and economical right which is declared in the international legal acts and Constitution of Ukraine is the right to work. The writer states that the procedure of dismissal is defined in the Labor Code of Ukraine.

The article is devoted to the research of preparing cases which arise due to the dissolution of the labor contract on the initiative of the employer for trial. Legal procedure nature, aim and assignments of preparation stage are being studied. Boundaries, peculiar features, procedural form, place in structure of civil procedure are being researched.

Special attention in this research is paid to the preliminary hearing and its particular importance in cases about rehabilitation at work. Preliminary hearing is a legal proceeding when an issue of law or fact is tried and evidences are presented to help determine the issue. It is usually held soon after arraignment, it can also be best described as a "trial before trial" at which judge decides, not whether someone is "right" or "wrong", but whether there is enough evidence to start a trial.

To conclude it should be mentioned that overall the problem of law enforcement practice of the preparation of civil cases for trial are revealed in this article. The ways of solving are proposed, recommendations directed on the improvement of civil procedure legislation of Ukraine are formulated.

At the end of the article the author notes that it is very important to inviolately adhere the requirements of the legal acts.

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SELF-DEFENSE BUSINESS ENTITY THEIR RIGHTS AND INTERESTS

In terms of economic and political problems that have developed in recent years, businesses increasingly find themselves in a situation where surplus funds and material resources to protect their rights and interests from encroachment on the part of others missing as such. Unable remains adequate protection and by public authorities and local governments, whose activity in the relevant area often leads to worse relations participants than what was the appeal for protection. Unregulated in these circumstances is economic conflict and dispute, since only one decision of a third person like a court to renew normal relations impossible.

The corresponding situation necessitates paying considerable attention to ensuring independent from external factors different rights and interests protection and implementation of the law to protect personally. First of all, it is the primary type of self-defense of the independent, non-judicial protection of rights and interests of businesses. Actually because of self-defense as possible to prevent the emergence of an economic dispute or conflict and their further development and settlement of the existing one. The corresponding settlement is possible and independently, and through various other ways that are implemented comprehensively. However, a common understanding among scientists notion of self-defense does not exist.

At the same time contains no specifics and laws of Ukraine, which, although it contains the basic provisions on self-defense, such as the rules of the fifth paragraph of Article 55 of the Constitution of Ukraine, Article 19 of the Civil Code of Ukraine, Article 20 of the Commercial Code of Ukraine, but is rather inaccurate.

The article is to study the self-entity their rights and interests as one of the types of extrajudicial protection of rights and interests of businesses, its peculiarities and problems of classification methods.

The objective of the article is to develop advanced theoretical understanding of the entity self-defense of their rights and interests and perspectives of Ukraine's legislation specified subject.

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MONETARIST CONCEPT OF CENTRAL BANKS ORGANIZATION

The history of central banks development for the two last centuries indissolubly connected with change of concepts which depict different models of functionary of monetary institutions. One of such concepts which representatives of worked out the model of organization of central banks on the bases of historical experience of activities of monetary institutions is monetarism.

According to representatives of monetarism, central banks have to concentrate on the quantities which they can control. In this situation the major task of monetary institutions must become steady speed expand grow of money mass and make impossible of sharp vibration in their policy.

Trough different understanding of aims of functionary of central banks, there is consent in literature as for necessity of making subordinate activity of central banks to the rules to monetary-credit policy. These rules have to be defined on the law level and it will allow to ensure fulfilling longtermin aims of monetary policy, to reduce the tendency of making central banks discredit, decision and enlarge transparence and fortelling their activity.

On the other hand refusal from monetary policy enlarges discredit decisions of central banks and makes warning of the level of their independence. Formally independent but isn't supplied with constitutional functionary of mechanisms, independence of central banks does not guarantee effective functionary of independence of monetary institutions.

At the end of 80-s of the XX century representatives of monetarism revised basic postulates of monetary organization of monetary system. As a result it was defined firstly: there are no reasons why the definition of means of exchange can't be performed with help of mechanism of the market. Secondly: the absence of state prudence into monetary-credit regulating and defining bank mechanism with the help of market could be resulted in better than we have at presenting.

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DEFINITION AND CLASSIFICATION OF AGREEMENT OF RETAIL SALE AND PURCHASE OF GOODS

By its legal nature, Agreement of Retail Sale and Purchase of Goods is a kind of general type of Purchase and Sale Agreement and serves as a regulator of relations that arise between the buyer and seller. The rapid development of science and technology progress, the emergence of new types of products, different ways of entering this agreement compel a state to ensure a high level of legal regulation of such relations and call on to implement a proper system of its participants protection.

In this paper is examined the concept of Agreement of Retail Sale and Purchase of Goods in order to identify its specific features the presence of which characterizes it as a separate type of Agreement. Special attention is focused on the classification of Agreements of Retail Sale and Purchase of Goods.

Based on the made analysis of dividing of Agreements of Retail Sale and Purchase of Goods contained in the Civil Code of Ukraine author makes a conclusion that there is no single classification criteria and are left aside by legislator some types of Agreements of Retail Sale and Purchase of Goods.

Therefore, the author proposes to conduct a classification of Agreements of Retail Sale and Purchase of Goods taking as classification criteria of dividing some of its conditions, such as object, method of acquaintance with the goods by buyer, method of agreement execution, form of agreement, due date payment, delivery of goods obligation, the moment of acquisition of ownership, the moment of taking the goods and the method of their serving, etc.

The proposed classification criteria for dividing of Agreements of Retail Sale and Purchase of Goods allowed the author to trace the characteristics of certain types and some problems of their legal regulation, and also to identify the types of Agreements of Retail Sale and Purchase of Goods that actually were ignored by legislator.

During the analysis of types of Agreements of Retail Sale and Purchase of Goods author traces that the legislator in Article 702 of the Civil Code of Ukraine actually identifies such two types of Agreements of Retail Sale and Purchase of Goods as distance and selling goods on samples, in this connection the author provides arguments in accordance with which these types of agreements are of separate kind and proposes to make relevant changes in legislation.

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ISLAMIC RESEARCH TORT LAW IN THEORETICAL AND LEGAL LITERATURE

Investigation of general theoretical aspects of Islamic tort law in the domestic legal literature has been neglected. As a rule, we are talking about the study of individual institutions of Islamic tort law. It must be admitted that the recent Arab researchers, mainly in the Russian universities, defended his thesis devoted to the criminal law of a State, but these jobs are not adequately disclose the essential features of Islamic law tort law. Moreover, as it is not sad to celebrate, but these studies are rather quantitative and not qualitative.

The article investigates the Islamic tort law in the theoretical legal literature. Systematized the existing literature on this subject, in which there are two groups of studies. The first group of research consists of studies on comparative criminal law. Noted that there are not too much works in this area, and not in all of them the authors pay attention to the study of the Muslim criminal law system. The second group consists of studies on various issues of Islamic tort law. Regarding the fundamental works – they are few, and they are not characterized by a particular variety.

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INFORMATION RIGHTS AND LIBERTIES OF A MAN, THEIR JUDICIAL DEFENSE IN THE CONSTITUTIONAL REGULATIONS OF LITHUANIA

The Lithuanian Constitution as well as Ukrainian one ensures human rights to information and freedoms. Limits on rights in both countries are possible but they are different. Restrictions of within-named rights to information and freedoms are permitted under the law and only in the interests of national security, economic welfare and human rights. The Lithuanian Constitution envisages the restrictions of rights to information and freedoms only on the ground of the court decision rendering any arbitrariness of the state impossible. It is more democratic.

Some national restrictive standards concerning human rights on information are more concretized in Lithuania. They minimize the illegal state interference (this is the sign of a stable democracy).

The comparison of national and Lithuanian constitutional provisions guaranteeing the human rights to information and freedoms has shown a strict conformity of Lithuanian constitutional provisions with the European Convention on Human Rights. It provides a higher level of democracy in the Lithuanian proceedings before the court.

The priority of petitions in Lithuania is so critical in this state that Saeima's controllers can respond to any abuse of the officials (both public and organs of self-government) or their manifestation of bureaucracy by the dismissal of guilty officials through the court. Should that be the case, gathering evidence for court is carried out by the Saeima's controllers. It promotes the efficiency in the courts.

To ensure the human rights to information related to the environment, the Constitution of Lithuania directly refers to the generally recognized principles and norms of International Law. It ensures the simultaneous development of the legal system of Lithuania with the legal systems of democratic countries. Under these conditions, any one of the residents of Lithuania may apply to the court for setting their rights to information and freedoms based on the international treaties ratified by the Saeima. The value of this approach is that the country ratifies an international treaty easier than develops an appropriate national law (a law in Ukraine requires three readings and it is long enough).

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THEORETICAL AND LEGAL BASES OF THE CONCEPT OF CHARITY

In the scientific article analysis of notion of charity, determination of role of the state in realization of eleemosynary activity are considered. The decision of such problems can not be formulated in a normative-legal plane only, it is necessary to conduct speech about a system state policy the most important direction in which is related to law making process. Three basic history types of charity are examined, characteristic for West Europe mentality.Philosophical interpretation of charity is explored in understanding narrow and wide.

A conclusion is done, that the inclusion in Law of descriptive determination of charity answers tradition of the East Europe legislation, unlike the modern West Europe legislation which, as a rule, does not give determination of eleemosynary activity, substituting him by the simple list of those legal signs which lie in the basis of this notion.

Going out from legislative determination of notion of charity, it is possible to select the such basic lines of eleemosynary activity, as voluntarily and disinterestedness.

Own suggestions of author concerning the legislative fixing of principles of charity for adduction of her in accordance with the European standards and increases of efficiency of state policy in this sphere are formulated. It is offered to fasten the following principles of eleemosynary activity in Law: principle of equality of rights of all members of society at the receipt of eleemosynary help regardless of age, nationalities, social origin, residences, religion, property position, presence of previous conviction, belonging to public associations, except for public associations, that propagandize violence, separatism and terrorism; principle of minimum: grant of necessary volume of eleemosynary help, that satisfies the base necessities of its recipients; principle of address: grant of eleemosynary help of concrete beneficiaries according to the wishes of philanthropists and recipients.

REVIEWS

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REVIEW
ON A MONOGRAPH BY HOHULYAK VYACHESLAV VISSARIONOVICH,
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"MILESTONES OF BECOMING OF FINANCIAL LAW"

Ukraine's transition to new socio-economic and political conditions of led to fundamental changes in the legal regulation of social relations in various spheres of society, including - in the field of public finance. The state actively using financial mechanisms inherent in the market economy, law establishes rules of conduct aimed at a combination of state and private interests in their own financial activities. As public matters arising in the implementation of financial activities, are the subject of finance science, this branch of knowledge received an additional powerful impulse for their own development. Of particular importance is the problem of subject and method legal regulation of social relations in the sphere of public finances, active research into the problems of financial control, financial and legal regulation of public insurance, banking and state credit and so on.

The development of science finance law is impossible without studying the concepts of theoretical propositions and conclusions of scientists who were involved in research on the finance at different historical stages of this branch of law knowledge. This study formation and evolution of financial law as a science and Discipline in the national system of legal education monograph devoted to V. Hohulyaka "Milestones of becoming of financial law". In this monograph the author examines the process of formation of financial and legal science in its close relationship with the existing socio-political and socio-economic processes and phenomena, which, in its expression, is both a source of financial and legal research and their destination, meter objectivity and their origin.

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REVIEWS

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