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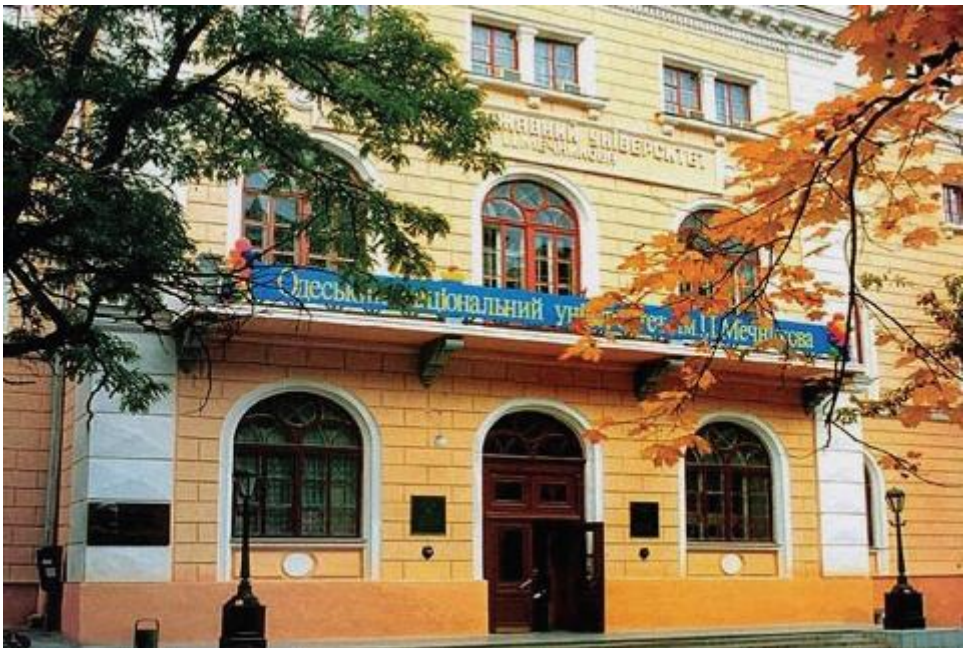
150 YEARS ODESSA NATIONAL UNIVERSITY I.I. MECHNIKOV



Odessa National University I.I. Mechnikov from the date of its establishment, 1 (13) in May 1865 takes a leading position in shaping the education system, the development of scientific research and culture in Ukraine. He is one of the oldest universities in Ukraine and actually determines the state and prospects of development of education, science and culture in the network of education in our country. ONU I.I. Mechnikov - the world famous university with a high international prestige in the world ranking is an honorable 48th place among the 75 best universities in the world.

The history of higher education in southern Ukraine began in 1865 with the establishment of the Imperial University of Novorossiysk and its continued development is inextricably linked with the activities of ONU I.I. Mechnikov. The national impact ONU I.I. Mechnikov education is that much of the higher educational institutions in southern Ukraine on the basis of established university departments (Odessa State Medical University, Odessa State Economic University, Odessa National Academy of Law).

Many wrote brilliant pages in the history of Ukraine and the world-famous university distinguished scholars: physiologist I.M. Sechenov - founder of the national physiology, first president of Ukraine, academician, microbiologist D.K. Zabolotny,

academician, nerd V.I. Lipsky, biologist O.O. Kowalewski; physicist F.N. Shvedov; physicist, founder of the Mathematics Department Novorossiysk Society of Naturalists M.O. Rozymiv, academician of the USSR, the founder of the world famous school of organic chemists M.D. Zelinski, academician of the Russian Academy of Sciences and the USSR historian and archaeologist F.I. Uspenskyi, academician, member of the Presidium of the National Academy of Sciences of Ukraine, the founder of the Physical-Chemical Institute NAS of Ukraine O.V. Bogatsky, corresponding member of USSR, founder of the Odessa planetarium astronomer V.P. Tsesevych, mathematics M.G. Crane, O.I. Lyapunov and I.M. Zanchevskiy, famous historian M.E. Slabchenko; Grigorovich V.I., zoologist D.C. Tretyakov, a geologist O.N. Kryshtarovych, chemist L.V. Pisarzhevskii and many others.

One of the brightest pages in the history of Odessa University scientists wrote biologist and Nobel laureate I.I. Mechnikov, who taught here over twenty five years. In connection with the era of reforms and experiments of Soviet power in higher education in Ukraine, was eliminated Novorossiysk University in 1920. Instead, new institutions: medical, physical, mathematical and humanitarian and social, transformed into the Institute of National Economy, Agriculture, Polytechnic. In 1930 the institute was reorganized and the economy, instead of 1930 created three other institutes of social education, vocational education and physical-chemical and mathematical.

After the closure of universities in Ukraine recognized the experiment failed, and in 1933 became the Institute of Social Education Pedagogical Institute, and at the other two established Odessa State University. He had to train for higher and secondary specialized schools and secondary schools and care for the development of the Soviet school.

The first rector even before the official opening of the University was appointed professor I.D. Sokolov. During the first 25 years of its existence the university had 145 faculty professors of theology, ordinary and extraordinary professors, associate professors, assistant professor, foreign teachers and lecturers. Currently, the rector of

the Odessa National University I.I. Mechnikov is Doctor of Political Sciences, Professor I.M. Koval.

It should be noted that three of the six presidents of the Academy of Sciences of Ukraine professors worked ONU II Mechnikov, academics D.C. Zabolotny, V.I. Lipsky, O.O. Bogomolets. Now ONU I.I. Mechnikov are 5 winners of state prizes, 15 distinguished educators and scientists and engineers.

The main objective of the University - training of qualified personnel to meet the needs of different sectors of the economy and production specialists in education, science, art, economics, law, business and so on. The measures are aimed at achieving the goals set forth in the Charter of the University, approved by the Ministry of Education and Science of Ukraine.

International recognition ONU I.I. Mechnikov as one of the leaders of the national education network is confirmed by the fact that nearly 40 prominent universities cooperate with the university under long-term contracts, including 5 projects TEMPUS-TACIS, numerous programs INTAS, know-how, SCOR and others.

In ONU I.I. Mechnikov are 28 known scientific schools. 24 University scientists are members of 18 scientific and professional councils of Ukraine. Research focused in 30 research units, including 4 research institutes, 11 research centers, 14 research laboratories. In the past three years staff ONU II Mechnikov published about 8700 works. Among them - 116 books, 395 books, more than 2000 educational-methodical publications. In internationally recognized journals published more than 2,150 papers.

Odessa National University I.I. Mechnikov is generally a leading higher education institution in the group of traditional universities, national, scientific and cultural center of Ukraine.

PERSONS

IN MEMORY OF ACADEMICIAN ANATOLY S. VASILIEV

Well-known lawyer Anatoly S. Vasiliev born with. Trinity Lyubashivka district of Odessa region. He studied at the Faculty of Odessa State (now National) University I.I. Mechnikov.

As a specialist and organizer of science A.S. Vasiliev made great efforts in the process of formation and development of legal and economic education in Odessa National University I.I. Mechnikov and Ukraine. Candidate of Juridical Sciences thesis A. Vasiliev "Administrative responsibility of officials farms" has successfully defended in 1971 at Odessa State University named after II Mechnikov. In 1989, the

Institute of State and Law. V.M. Koretsky NAS of Ukraine Anatoliy S. defended his doctoral thesis on "Problems of legal regulation of organization and decision-making in public enterprises (associations)."

A.S. Vasiliev served as Rector of Odessa National Law Institute University I.I. Mechnikov (1993-1997), Dean of Economics and Law Faculty of Odessa National University I.I. Mechnikov (1997-2006). And head of the Department of Administrative and Commercial law.

Since the creation of the legal institution consisting of Odessa State University I.I. Mechnikov at the initiative A.S. Vasiliev were introduced not only new faculties, but also unusual at the time for law schools of the department, such as administrative law and management, maritime and customs law, and comparative social theories and others. In this regard, a lot of work being driven by the introduction of new progressive forms and methods of training, preparing intensively studied. Doctoral theses and defended by innovative themes and trends in science, which required life itself.

In recent years, under his leadership were prepared and defended five doctoral and more than 26 master's theses, including foreign graduate students from Russia, Italy, Poland, Jordan, China and Iraq.

As someone creative and effective manners, Anatoly S. Vasiliev worked successfully not only in science but also fond of journalism and literary work. Back in school years he began writing essays, articles and other materials that were published in newspapers, magazines and other periodicals. This youthful passion in literature Anatoly Semenovich left for life.

March 9, 2015 Academician Anatoly Vasiliev died. His memory will forever remain in our hearts.

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FORGOTTEN NAMES: ALEXANDER IVANOVICH ZAGOROVSKY
(on the occasion of 150th anniversary of the Odessa (Novorossiysk) university)

Summary

The article is devoted to the memory of Professor A.I. Zagorovsky, known as a lawyer in the area of family law, who had worked at the Novorossiysk University for more than 25 years. His life is a way of scientist; he had devoted himself to the science and education of future lawyers, who have continued the glorious traditions of the university.

Key words: civil, family, criminal law, legislation, comparative law.

Problem formulation. Right - the foundation of life of any nation, and since ancient Rome, it was based on the experience of past generations, starting with the customs and traditions, then the interpretation of the right lawyer. Development of law - is, above all, the continuity through time, determined by the laws of the national legal system, the organic link between the different stages of the development of jurisprudence, when regardless of political changes reserved essence of the right, its content, functions.

Analysis of recent research and publications. Studies devoted to the memory of Professor A.I. Zagorovsky, a renowned expert in the field of family law, reflected in the pre-revolutionary works of G.F. Shershenevich, N.S. Suvorov, M.P. Chubinskogo, D.I. Bagaley, S.P. Pokrovsky. In the post-Soviet period were engaged in research in this direction O.Y. Shiloxvost and V.A. Tomsinov.

The purpose of the article. Our duty is living in the XXI century, a kind word to remember those who have kept the continuity and was unjustly forgotten. It is to

such people and belongs to Alexander Zagorovsky, one of the many forgotten today Ukrainian jurists whose works, although not reprinted in the Soviet Union, but still retain their scientific value.

Statement of the basic material. A.I. Zagorovsky born January 1, 1849 a priest's family in the province of Kiev. Secondary education first county in Radomyslsky noble school, and then in the Zhitomir school. Then, in 1867 he entered the law faculty of the University of St. Vladimir in Kiev [1, p. 122; 2, p. 453].

During his studies at the University of A.I. Zagorovsky he engaged mainly civil and criminal law. His fascination with the criminal law has been associated with the name of Professor A.F. Kistyakovsky known criminologist, a talented orator, deservedly attracted many listeners probably why his final work relates to the field of criminal law "History of torture in Russia."

A.I. Zagorovsky graduated from a university course with a degree in law in 1871 [3].

By this time, it began in 30-40 years. conversion on legal education, were at a high level, university statute, convert the entire course of studies, and in particular the legal, also gave the opportunity to update the law schools and the new disciplines and new talented teachers.

In this period, A.I. Zagorovskiy, thanks to the influence and support of the Dean of the Faculty of Law V.A. Nezabitovskogo dealing with international financial law, the history of Russian law, a scholar was invited to stay to prepare for a professorship in the department of civil law.

Since March of 1872 on March 1875, he was a professorial scholarship, these years were not spent in vain, leaving some of the criminal law, it is engaged in issues related to the history of Russian law. In 1875, A.I. Zagorovsky for the Protection of the University of St. Vladimir Pro venia 1egendi thesis entitled "Historical Sketch of Russian loan to the right end of the XIII century," and after reading the two trial lectures on the theme: "Civil marriage" and " On expropriation ", was promoted to assistant professor in civil law [4].

In May 1876 by the Council of the University of St. Vladimir, and by order of the Minister of Education A.I. Zagorovsky was sent abroad for two years for scientific purposes.

Once in Germany and France, he vigorously engaged in civil law, Roman law studies, attended lectures of professors Otto Charles in Heidelberg, Bernhard Vindshteyna, Karl - Georg von Wechter and Adolf Wach in Leipzig, Duverger and Labbe in Paris.

During his trip abroad he was working on a master's thesis: "Bastard of Saxon and the French Civil Code in connection with the fundamental solution to the issue of illegitimate at all."

Several deviated from the biography of A.I. Zagorovsky, I would like to say a few words in general about the style of work - lawyers XIX beginning of XX century. Reading them, you get a real pleasure, not only from the large number collected their material on a particular topic, but also on the coast thought possible only if such knowledge learn problem when the material suggests the necessary generalization, when you understand what labor invested for that proposal was so simple and so profound in meaning.

All of this can be fully attributed to the works of A.I. Zagorovsky. His writings in the field of Russian and European family law were the first of the serious scientific work in this area, which has long been brewing issues need full discussion, as their decision to act at the time the legislation was imperfect. Works on comparative law was extremely small, as a rule, they belonged to the pen of the German, French, English legal scholars, perfectly owning material and become an example for Russian scientists are just beginning to develop comparative law.

Works A.I. Zagorovsky are comparative legal nature, they can find a lot of valuable information on the history of the rights of various foreign countries. They were written with skill, and in many respects it was promoted by his trips abroad.

So, defended his master's thesis "The Bastard of Saxon and the French Civil Code in connection with the fundamental solution to the issue of illegitimate in general" in

1879, A.I. Zagorovsky was awarded the Faculty of Law of the University of Kiev St. Vladimir master's degree of civil law [4].

G.F. Shershenevich, assessing the work, said: "In this work, the author, after a review of the historical development of the issue, compares two opposing systems, Saxon and French, speaks strongly in favor of the first, finding that it is not only consistent with the principles truth, law and legislative policy, but also has the last word of science and condemning the second system, rejecting all contact illegitimate child with his father" [5].

In 1878 - 1879 years. A.I. Zagorovsky was assistant professor in the department of civil law at the University of St. Vladimir.

In September 1879, at the suggestion of the Moscow school district trustee was appointed associate professor of the Demidov Juridical Lyceum (Yaroslavl) in the department of civil procedure and commercial law.

The next step in the research and teaching activities of A.I. Zagorovsky linked to the Law Faculty of Kharkov University, where he was in June 1880 he served as assistant professor in the department of civil law and procedure, and since September 1884 has been approved by the extraordinary professor in the same department . Here he begins to work on his doctoral dissertation: "Divorce by Russian law", for which he was awarded in 1884, the law faculty of Moscow University degree of Doctor of Civil Law, and in September 1886 the Imperial Academy of Sciences - the Uvarov Prize.

In his essay "On the divorce of Russian law" A.I. Zagorovsky given mainly to trace the historical course of justice in the Russian Institute of divorce (foreword), but is not limited to one story, and gives behind her dogmatic - critical analysis of Russian law.

After defending his doctoral dissertation in 1886, he g.byl approved at the rank of full professor in the department of civil law. In the same year he was elected a member of the Law Society of Kiev at Kiev University and a member of the Society of History and Philology at the University of Kharkov.

In 1884 - 1888 years. at Kharkov University, in addition to their subject, read on behalf of the Faculty of Law lecture on the vacant chair of commercial law.

By the early 90s his health had deteriorated, he needed a milder climate, and in January 1892 A.I. Zagorovsky was transferred to the Imperial Novorossiysk University, where he began his last and most fruitful, in the scientific sense, stage of life .

From 1892 and until the last day of his life he continued to work at the Law Faculty of the University of Novorossiysk.

He was in Odessa, at the time of its heyday, it became not only a commercial but also a cultural and scientific center of the South, and a considerable role in this belonged to the Novorossiysk university and its alumni, who has already established himself as a brilliant scientists.

It was in Odessa in 1902 comes, in fact, the main work of A.I. Zagorovsky - "Course of family law." He became the first textbook for law faculties of universities in the field of family law and different from all such courses to its encyclopedic character.

A.I. Zagorovsky before you consider any of the institutions of family law gave a short course of its history, which allowed students to fully trace the origin and development of various legal institutions and legislation. Such a presentation of the material was very important for the understanding of the Russian family law. Possessing a wealth of historical material, he revealed the specific features of Russian family law.

With rich experience in the field of comparative law, he compared the Russian family law with similar institutions in the right Austria, England, Belgium, Germany, Italy, France, Switzerland, which allowed to determine when comparing national characteristics and cultural significance of the Russian law in a number of other laws.

In the second edition of the "Course of Family Law" in 1909, it significantly expanded the text, especially in those moments that relating to marriage, children out of wedlock, in this respect, he used the material collected by him in Germany and France. In addition, since the first edition of the "Course" (1902) in the field of family law legislation in a number of countries have made significant changes, and that they were taken into account in the second edition of the "Course". Joining in the research

institutes of family law, historical, comparative and dogmatic methods of study he wrote a work that is still relevant today. That is why, given the importance of this work and of modern civil law, in 2003 publishing "Mirror" in his series of "Russian legal heritage" reproduced the second edition of the "Course of family law" A.I. Zagorovsky, first published in Odessa in 1909 city

In 1898, A.I. Zagorovsky celebrated the 25th anniversary of its research and teaching and was left the Ministry of Education to further service a full professor of Novorossiysk University for 5 years.

In 1903, the 30th anniversary performance A.I. Zagorovsky, May 14, 1904 was approved at the rank of Professor Emeritus of the University [4].

After 30 years of teaching service in accordance with Art. Art. 205 and 106 of the university statute, he no longer had the right to occupy the post of full professor and was transferred to part-time service, retaining the title of Distinguished Professor and member of the Faculty of Law. In this position he remained until 1919

In his teaching activities, A.I. Zagorovsky long before the recognition of the Ministry of mandatory practical training in universities, gave them great value and led them over the years, keeping, however, the rules "is not a theory to practice and practice to theory" .

By giving their time and energy, mainly studies professor and scientist A.I. Zagorovsky also devoted his spare time, these studies and journalistic activities, working for many years in the organs of the metropolitan and local press, mainly on legal and pedagogical issues.

In addition, A.I. Zagorovsky engaged and jurisprudence, in 1884 he gained the title of a professor available to the jury assistant, and from 1905 to 1917 was a barrister of the Odessa District Court of Justice, in particular by providing its assistance to the Ministry of Public Education In his court cases, then as a legal adviser, then as a commissioner. In particular, in 1886 and 1891 the Ministry of Education has instructed him to pursue its claim to the Ministry M.D. Novohatskaya [4].

Along with teaching at the University of A.I. Zagorovsky he taught civil law in 1909 - 1917 years. Higher rates in Odessa.

Beyond its direct responsibilities, continuously since the introduction of the statute of the university in 1884, he was a member of the legal commission of the Test Kharkov and Novorossiysk University, and since the publication of the rules on the professor's disciplinary court, was a member of this court.

Throughout 1909, 1910, A.I. Zagorovsky appointed about. Dean of the Faculty of Law.

His scientific - practical achievements were crowned the Uvarov Prize (1886), the title of Distinguished Professor (1904), the rank of State Councilor (1896), the Order of St. Stanislaus second degree (1887) and the first degree (1908), St. Anne second degree (1891), St. Vladimir of the fourth degree (1901) and third degree (1905), Medal: Silver Medal on the ribbon of the Order of St. Alexander Nevsky (1898 .), Light - bronze medal in memory of the 300th anniversary of the reign of the Romanov dynasty (1913).

A.I. Zagorovsky Died June 20, 1919 and is buried in the old Christian cemetery in Odessa.

Even such a brief sketch of the life of A.I. Zagorovsky demonstrates that he is undeservedly forgotten, and the example of his life can be judged how great spiritual and intellectual potential of Russian science, and what an enormous contribution to the development of legal science researchers have the legal faculty of the Novorossiysk Today Odessa University.

Major works A.I. Zagorovsky "Historical Sketch of the loan for Russian law before the end of XIII century." (1875), "Lectures on Russian civil law reads. in Novoros. un-te "(1896)," The course of Family Law "(1909)," Bastard of Saxon and French codes in connection with the fundamental solution to the issue of illegitimate in general "(1879)," On the illegitimate children of the new law (June 3, 1902), in connection with the provisions of their Western European Civil Code "(1903)," On the divorce of Russian law "(1884)," Essays on the civil proceedings in the new administrative-judicial and judicial institutions "(1893)," Family Law " (1902).

Conclusions. The artistic heritage of A.I. Zagorovsky in Russian and European family law were the first any serious scientific research in this area, which is long

overdue issues deserve a thorough discussion, as their decision to act at the time the legislation was extremely imperfect. His works are rather-legal character. They can find a lot of valuable information on the history of the rights of various foreign countries. Compositions A.I. Zagorovsky and today retain their scientific relevance.

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SCIENTIFIC ACTIVITIES OF A.S. VASILIEV

Summary

The article analyzes the scientific works of Professor A. Vasiliev, who had worked at the problems of administrative law and public administration theory in Odessa I. I. Mechnikov National University for more than forty years.

Key words: Professor A. Vasiliev, scientific way, administrative responsibility, management relations in administrative law.

A. Vasilyev lived in an era of tumultuous social change, when the role of law in society and the state constantly changed the opinion initially influenced by the transition from communist to socialist society, and later through the implementation of the policy of "perestroika" in the 80-ies, and with the development of Ukraine as an independent, democratic legal and social state.

In all these periods in legal science were made important discoveries. And if we recognize the existence of "continuity of knowledge" in legal science, the development of administrative law at any given historical period depends not only on the achieved level of production and social conditions, but also on previously accumulated stock of scientific truths produced a system of concepts and ideas that summarized previous experience and knowledge. After successfully build a new theory of administrative law can only carefully keeping it real, valuable, and so that paid off in old theoretical concepts.

In this sense interesting is the PhD thesis of A. Vasiliev "Administrative responsibility of officials farms", which was successfully defended in 1971 at Odessa State University named after II Mechnikov. It would seem that collective farms (the farms) as the dominant form of agricultural business in Soviet times, have lost their meaning for the modern legal system of Ukraine. In this connection, we could talk about the loss of relevance of the thesis for the modern administrative law. But the

scientific activity and its results as theses or monographs and so different from any instructions and practical recommendations are temporary and momentary effect, containing recommendations for the future of a generalized nature. Indeed as a form of collective management in rural areas have disappeared from the national legal system, in their place came the agricultural cooperatives and farms. With the changing forms of economic activity in rural areas in the past left and use the term "official of the farm," but nowhere were persons who are, firstly, the right to act on behalf of agricultural cooperative or farm and, secondly, to represent them in dealings with public authorities and local governments, international organizations, corporations and individuals. Therefore, changing forms of economic activity in rural areas, has not solved the problem existing today to administrative liability of board members and chairman of the cooperative agricultural farm.

In his Ph.D. thesis Anatoly Semenovich raised a number of issues that are under discussion today in the scientific community and are not resolved at the legislative level. First, this ratio concepts of "official" and "officer". Was there a need or a broader interpretation of the concept "officer", which traditionally had in administrative law (this approach at the time used the criminal law), or a clear distinction between official who sells exclusively public authority and officer which implements organizational and administrative or administrative-economic duties in public institutions and entities of private law. We would like to note that today in the Code of Ukraine on Administrative Offenses (hereinafter CAO), the term "officials". However, the legislator tried to expand the meaning of the term, defining officer in Art. 12 CAO as the person in whose duties include implementation or security regulations established by current legislation in the relevant field of public life. But this approach has a negative impact, both at the administrative responsibility of the features of special subjects, among them as separate species should be allocated to officers and employees and the quality of administrative and legal regulation of their responsibility, because the article of the CAO is missing individual approach to responsibility of officials of state and local governments, officials of government agencies and legal entities of private law.

The second question that was raised A. Vasiliev in his thesis, and which has its relevance today, is the need to study subjects of administrative responsibility, that the definition of criteria for classification and mapping legislatively specifics of their involvement in the administration. These issues are resolved today in science and administrative law at the legislative level. Moreover, the idea of Anatoly Semenovich entered its development not only in the works of his students – O.I. Mikolenko, V.A. Prodayevycha [1; 2; 3], but also in the works of students of his students – O.V. Doolina, M.R. Syrotyaka, A.V. Stukalenko [4; 5; 6].

For example, surprised by the fact that today the term "an administrative responsibility" is widely used by scientists in academic papers, theses, books to explain or clarify concepts or other legal phenomena, but at the same time, he has not acquired a particular meaning. So commonplace in many complex scientific identification work was "the subject of administrative responsibility" and "the subject of an administrative offense." Generally, there are three modern approaches to value these concepts. The first is that the subject of administrative responsibility is not always is also the subject of an administrative offense, because the subject of an administrative offense can only be a natural person and the subject of the administration - individuals and legal entities. The second approach is that "an administrative offense" is broader in meaning than the term "subject of administrative responsibility," for a person who committed an administrative offense, under certain circumstances, may not be brought to administrative responsibility. The third approach is the concept of "an administrative responsibility" combines two components, one of which is mandatory - "an administrative offense", and the second is optional - "subject, which brought to administrative responsibility. " This third approach to value the subject of an administrative offense and administrative responsibility supported entity A. Vasiliev and tried to pay attention to it his students. According to recent studies, which were performed at the Department of Administrative and Economic Law, it was proposed to characterize the subject of an administrative offense allocate general and special features that characterize it, and when describing the business administration - general and special features. However, common features of both entities are the same, so

closely linked to the administrative notion of administrative tort. Thus, the signs of the subject of administrative responsibility in general can be divided into three groups - general, special and particular, and among the structural elements of the subject of administrative responsibility to allocate general, special and particular subjects. In addition, features that characterize a particular subject of administrative responsibility may, on the one hand, to influence the procedure itself bring the person to justice and, on the other, influence the type, size or type of administrative sanction measure of influence provided by applicable law.

Thus, we can say that today the views expressed Anatoly Semenovich back in 1971, continue their development in the works of his students and employees of the Department of Administrative and Economic Law Odessa University.

It noted that the issues of administrative responsibility is one of the main research school of administrative law named after A. Vasiliev. It Anatoly S. laid the first brick in the foundation of scientific research administrative responsibility at the Odessa National University I.I. Mechnikov. A significant contribution to the development of this line of research in the Odessa University did E.V. Dodin, who from 1975 to 1980 headed the department of criminology, criminal law and procedure Odessa State University named after I.I. Mechnikov (Department provided reading objects not only forensic but also administrative cycle), and from 1990 to 1997 under the direction of A. Vasiliev served as Professor of Administrative Law Faculty of Odessa State University named after I.I. Mechnikov. Working together under one roof two schools of administrative law, which led prof. A. Vasiliev and Professor. E.V. Dodin positively reflected not only in the quality of students and young scientists but also contributed to the mutual enrichment of new ideas and concepts, including on ways and development in our state institute of administrative responsibility.

In 1989, the Institute of State and Law V.M. Koretsky NAN of Ukraine Anatoliy S. defended his doctoral thesis on "Problems of legal regulation of organization and decision-making in public enterprises (associations)." Thesis is interesting because in the Soviet era administrative law considered and determined as "administrative law", that industry that regulates the procedure for the formation and

functioning of the public administration, which attributed not only executive power but also public institutions and administrations businesses. Anatoly Semenovich drew attention to the fact that management relations are mainly governed substantive administrative law and smears remain undeveloped procedural (procedural) rules of administrative law. For subjects of public administration was assigned to a large range of powers, including the special place occupied by the authority to make management decisions in the area of jurisdiction of the subject of public relations. But the Soviet legislation does not regulate the process of preparing a management decision, the procedure of passing in different situations and organizational features of its implementation. Such substantial gaps in administrative law to appear in general negatively on the quality of public administration entities.

Today, the integration of Ukraine into the international community and the role of administrative-legal regulation of the rights and freedoms of man and citizen, there was a problem clarify the subject of administrative law. Different approaches scientists who are trying to suggest criteria for the classification of public relations, administrative law governing very different and contradictory in nature. In addition, there is a definite bias toward exaggerating the importance of "service" relationship with simultaneous "devaluation" value management relations in administrative law.

From the standpoint of today, Anatoly Semenovich doctoral thesis touches a number of problems that remain relevant today. By the way most of the ideas raised in the paper was developed in the works of his students – P.P. Bilyk and V.O. Orlova [7; 8].

First, as already noted, Anatoly Semenovich draws attention to the need for legal regulation of administrative procedural (procedural) rules of administrative law. The basic principle of legality in the implementation of activities of state and local governments can be described as a thesis - "allowed only what is written in the law." This raises an interesting situation - Authorities entitled to make a management decision that is written in the law, but it uses when procedures are not appropriate in the current legislation fixing. It is a management decision can be considered legitimate? Unfortunately, today management (intra-organizational) activities of state

and local governments is without proper administrative and legal regulation. To solve this problem at one time were called job descriptions, but they went through simplification, that anticipated in the content management structure, formation of management levels fixed by each subject authority control (substantive rules) and not the procedure provided for preparation of management decisions, order decisions on specific issues (so-called decision-making algorithms, such as in emergencies) and the order of making and monitoring its implementation (procedural rules).

Second, due to the fact that the number of state-owned enterprises over the past twenty years in Ukraine has decreased dramatically, doctoral dissertation A. Vasiliev attracted attention in another aspect, namely whether the subjects of administrative law the administration of public institutions and enterprises? The attempts of some scholars to reduce administrative law only to the legal provision of executive bodies and their relationships with citizens arbitrarily impoverishes the subject of administrative law. Despite the desire of scientists, management relations in the subject of administrative law will always occupy a worthy place, as these relations are closely connected with the formation and activity of subjects of public administration. A public administration, as you know, can be implemented both in the activities of state executive, and outside of the executive authorities, for example, in public enterprises, institutions and organizations in the management of staff of the administration. Thus the administration of state enterprises, institutions and organizations are subjects of administrative law, and intra-organizational (managerial) relations arising in these organizations are subject to administrative law and subject to investigation by specialists not only the theory of management or labor law, and specialists and administrative law.

You can not avoid another work party A. Vasiliev. This is the textbook "Administrative Law Ukraine (Chapeau)," which was first published in 2001 [9]. Anatoly Semenovich one of the first scientists who proposed a new way to look at the subject of administrative law, abandoning the Soviet perception of administrative law as a management area. And today in the scientific community sustained discussion on

the subject of administrative law and public relations division of criteria that governs administrative law. For example, still not clearly established value management relations, which are the subject of administrative law, and other social relations are inherently non-management. Considering the fate management relations in the subject of administrative law, allows today to talk about the three concepts of administrative law, which are presented in the scientific literature: 1) administrative law - administrative law; 2) Administrative Law - service law; 3) Administrative Law - polistructured right. A. Vasilyeva can be attributed to the concept of third-administrative law. He is one of the first proposed to allocate administrative law in the subject of three public relations: a) relationship management (which is in the process of governance); b) law relationship (which is in the process of ensuring public order law enforcement agencies); c) law-providing relationship (consisting in ensuring the implementation of the state apparatus subjective rights and interests in relations with state authorities). Thus, claimed A. Vasilyev, the subject of administrative law is a set of interrelated and relatively homogeneous social relations arising in the field of foreign and intra-organizational management, law enforcement and law-providing the state. This characteristic of the object of administrative law, firstly, underlines that the range of public relations, which are governed by the law branch, quite varied. Along with management relations, in which directly implemented functions and powers of the management bodies of executive power, its subject also includes security and law-providing relations and foreign relations organizational arising in connection with certain public bodies and external organizations-powered functions and powers. It suggests, for example, some focus on the service or the second part of the repressive social relations. Second, this approach to the subject of administrative law at the same time shows that social relations are governed by administrative law, have internal integrity, and can be considered regarded as independent and self-sufficient branch of law in the law of Ukraine [9, p . 4-8].

Continuity in administrative law as a branch of law is not possible without continuity in science, which expresses the continuity of all knowledge of reality as a single process change internally ideas, principles, theories, concepts, methods of

scientific research. Thus, each higher step in the development of science of administrative law occurs based on the provisional or preliminary steps to the conservation of all valuable that has been accumulated earlier. The basis of the findings, which are now offered young scientists assigned, including the ideas that were expressed by scientists in the Soviet era and the 90s of last century. The ideas of Professor A. Vasiliev, which he expressed during his life, remain relevant for the modern science of administrative law and continue to develop in the writings of his ideological followers.

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THE INFLUENCE OF JOIN-STOCK COMPANIES ON THE DEVELOPMENT OF CREDIT POLICY OF THE RUSSIAN EMPIRE AT THE BEGINNING OF THE XX CENTURY

Summary

The article analyses the activity of joint stock companies of the Russian Empire at the beginning of the XX century and especially their impact on the development of credit policy. It defines the basic functional methods of the interaction of these two systems and their regulatory support. The legal and financial situations that arose in the Russian Empire at the beginning of the XX century with the participation of join-stock companies and banking institutions are reviewed and analyzed.

Key words: joint-stock company, bank, chamber of commerce, financial institutions, legal act, capital and legal persons.

Formulation of the problem. One of the pressing issues of modern historiography is the consideration of joint stock companies, their regulatory support in the Russian empire XVIII - XX centuries., And especially their impact on the development of monetary policy. At the current stage of the credit relationship is also very important historical experience this problem.

Russian historians, historians of law, economists today are paying enough attention to this large area of research, in contrast to the Ukrainian

researchers. Last just beginning to explore the material contained in the collections of Ukrainian archives and libraries.

Analysis of recent research and publications. The first publication of the corporations - namely, the banks were at the beginning of the XIX century. Of credit institutions second half XIX - early XX century. generally paid little attention. By the early 90's. XIX century. researchers have observed a limited number of works. Among the pre-revolutionary economists renowned researchers of credit institutions were Alexander Antonovich, D.A. Batiushkov, M. Bunge, S. Witte, M. Wessel, P. Mihulin, D. Pihno, M. Tugan-Baranovsky, L. Yasnopolskyy, E. Lamanskyy, L. Hodskyy, I. Levin, O. Beaman, O. Zak, Y. Zhukovsky, V. Sudeikin, Yu. Serbinovych, M. Sobolev et al.

In pre-revolutionary period there was a significant amount of historical, legal and applied economic literature on the commercial banks. Particular attention was paid to the history of the bank, stock exchange and founding of activity, the evolution of the banking legislation. Among the most fundamental is the study of the Ukrainian school and, in particular, the book of Kharkov University Professor P. Mihulina "Our bank politics 1729-1903". Notable were the work of professors of Kiev University M.H. Bunge and D.I. Pihna.

Legislation of the Russian Empire has always attracted the attention of scientists. This issue in the first third of the twentieth century. were devoted to the works of F. Dyakov, G. Kolozhnikova and G. Kremeneva, and at the present stage of the study involved - S. Tychynin and Z. Hadzhuova. However, researchers often escaped on how to reform the financial legislation, which tried to use the power themselves or society.

The purpose of this article is analysis of JSC Russian Empire at the beginning of the XX century and especially their impact on the development of monetary policy. Identify the basic functionality of the interaction of these two systems and regulatory support. Reviewed and analyzed the specific legal and

financial situation which arose in the Russian Empire at the beginning of the XX century. involving joint stock companies and banks.

Presenting main material. The development of trade and industrial activities in the Russian Empire at the beginning of the XX century. little economic importance. That is why the research question, joint stock companies in the named period of empire we manage relevant. Yes, and the current development of credit relations are very important historical experience this problem.

Legislation days of empire has long attracted the attention of scientists. This issue in the first third of the twentieth century. were devoted to the works of F. Dyakov, Kolozhnikova and G. Kremeneva, and at the present stage of the study involved - C. and S. Hadzhuova Tychynin. However, researchers often escaped on how to reform the financial legislation, which tried to use the power themselves or society.

The proposed article concerns the aim to reproduce and analyze the laws of the monarch government and representatives of trade and industry, which included making important changes in the regulatory framework of joint stock companies and their unions. It is believed that the disclosure definite questions will help better assess the development of legislation in the Russian Empire and the problems faced by domestic financial trading community in pre-revolutionary period of development.

The company acted as a new form of economic relations with the European Empire capital: there is inflow of foreign capital in railway construction, banks and industry. Thus, another feature of the joint-stock movements in the period were a significant number of foreign participants. In 1900, they accounted for 29% of the total capital of the company empire. The fact that the percentage of profit acclaimed Russian shares was higher than in other European countries. In addition, intensified and activities of foreign corporations that carry out their operations in the Russian Empire. In general, the 1898 in there were 98 Belgian, German, British, Swiss and American corporations [6 p. 22].

Stimulating the development of joint stock companies, the state at the same time kept national interests. Thus, when the end of the XIX century a significant number of

railway companies turned debtors treasury, the state began to buy private railway. This was possible because, firstly, much of the capital of these companies consisted of public funds, and secondly, in the charters of these companies supposed right of the state to ransom for a certain period. In the absence of funds for such redemption, practiced specific financial transactions. According to the government treasury shares began its bonds. The state acquired the shares in his ownership Railway Society, swim, while assuming all obligations of the partnership. For the first time the state compulsory redemption of shares occurred in 1895 when there were 14 Treasury shares 22 of the railway corporations [5, 12]. Given all the historical features of it was, you might say, the first experience through the purchase of de first experience of using government securities operations, indicating the possibility that the share capital represented for change of ownership [4, p. 31].

In the context of economic recovery, growth of profitability of joint stock companies in 1893 began regular exchange boom. However, due to an excess of offers of shares in the absence of free provision of funds in 1899 was almost entirely suspended the issue of new shares. The government took over the loans secured by joint stock companies existing shares.

When analyzing the legal regulation of public credit institutions in general in Ukraine in the XIX century. should bear in mind a number of circumstances. Russian Empire, which included Ukraine was, spread into the territory of its own banking system, which was manifested in the creation of offices, branches, agencies of central banks in its territory or the formation of a network of other banks that have corresponding analogues in Russia. In Russia, banks emerged later than in Western Europe, due to its backwardness from other countries in industrial development. This is reflected both in the structure of the banking network and its economic potential. For Ukraine, by virtue of its status as these circumstances have direct and immediate value. The dynamic development of the banking network observed here as in Russia as a whole, only in the post-reform period.

In the pre-reform period of public credit institutions were underlying cash storage, orders of public concern, the State Loan Bank and the National Commercial Bank,

established in 1818, which opened its offices in Ukraine. The decision to open the office of the State Commercial Bank in Odessa, was taken on Oct. 24, 1819, in Kyiv - May 24, 1839 in Kharkiv - February 9, 1849.

A characteristic feature of public banks in the pre-reform period was that with all regulatory - legal specifics of their activities they performed the same operations: taking deposits and providing loans against estates. A substantial part of the contribution of the State commercial bank loan was transferred to the State Bank, which effectively turned it into a deposit bank.

An important component of reforms in the banking activities that were carried out in 60-ies of XIX century. Was the creation of the State Bank, which became the central bank of Russia. He had nine offices, three of which were in the territory of Ukraine, Odessa, Kiev and Odessa.

The Russian economy XIX - early XX century., Reflecting global developments, characterized by craving for monopolization. While the old imperial legislation still did not know all the familiar procedures of reorganization of legal entities (joining, merger, division, separation, etc.), so the fusion of companies was based on mutual purchase of shares. According to Belinsky, syndicates and trusts have not been legalized, they occurred mainly in the form of joint stock companies [3 sec. 20]. In any case, one can not deny the fact that monopoly arose or that actual monopoly position which took the market some of the largest joint stock companies or by contractual relationship, which eventually could grow beyond that and become are organizational or using those methods whose implementation was possible thanks to the very specifics of corporate ownership: for example, through the centralization of major stakes. If necessary stock form was a convenient form for the construction of monopolistic structures not to change the formal status of input in their enterprises.

The immediate cause of corporatization of existing businesses could be a need for new capital. Even recourse to bank credit could be a stimulus for auctioning. Banks preferred lending to businesses in the form of shareholder whose activities are easier to control. In return for stocks of close links with the bank provide permanent financial assistance and support in exchange. Financial ability of banks and joint stock

companies were uneven: the first was mobilized capital and the free and the second capital - bound to produce. The most widely used credit issued by commercial banks against securities. A major form of financing was the adoption by banks over the implementation of new issues of shares of joint stock companies. Banks not only acted as co-owners of joint stock companies, such as acquiring their shares on the stock exchange, but also using shares owned by it, and shares clientele, temporarily in their possession as collateral, held in governing bodies of companies representatives, consolidating thereby its relationship with companies [8].

During the global economic crisis (1900-1903 biennium.) Observed a decrease joint stock was founded.

The process of growth of the shares of Russian joint stock companies influenced political events. Thus, the Russo-Japanese War led to a decline in the shares, and the revolutionary events in 1905 in the Russian Empire caused the reduction in demand for securities.

In 1906 there was economic growth again. Total in 1914 in virtually all sectors of the Russian economy, there were 3101 joint stock company (excluding railway companies) with total capital of 4.538 billion. Rubles [1 p. 217]. The First World War caused a change in stock market conditions and the impact on the nature of the joint-stock founder. In January-July 1914, the average monthly opened 20 companies with a capital of 27 mln. Rubles, and in August-December - 7 companies with a capital of 14 mln. Rubles [7 p. 51].

During the war there was a tendency to invest in stocks, as the real value to avoid losses when devaluation of the ruble. Suffice it to say that just from the beginning of the war until the end of 1916 was created 417 Russian and foreign commercial and industrial joint-stock companies with a capital of 637 million. Rubles; 117 joint stock companies that are already operating, increased its capital to 272 million. rubles [2].

By the summer of 1917 there was an excessive surge in the creation of joint stock companies. But this happened on the eve of major social and political upheaval.

After the February 1917 revolution canceled all legislative acts of the Russian empire, limited joint stock companies. In particular, joint stock companies were exempted from restrictive rulings against foreign nationals and Jews (except nationals of States that war with Russia), contained in the existing laws. Questions corporations to resolve discovery with the permission of the Minister of Trade and Industry. However, the interim government, with certain circumstances did not go for a full joint-stock reform legislation.

Joint laws of the Russian empire XIX - early XX centuries maintained its strength after the October Revolution until the transition to the policy of the Soviet government nationalization of industry in June 1918

Conclusions. Thus, to the activity of JSC Russian Empire at the beginning of the XX century. and especially their impact on the development of monetary policy. The basic functionality of interaction between these two systems and regulatory support. Reviewed and analyzed the specific legal and financial situation which arose in the Russian Empire at the beginning of the XX century. involving joint stock companies and banks.

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PERIPHERY IN THE MODERN UKRAINIAN STATE AND ITS LEGAL FORMALIZATION

Summary

The article is devoted to the questions of legal support of the peripheral areas development in the modern Ukrainian state. The main emphasis is made on the issue of the periphery legal status formation in the context of political and legal institutionalization of the centre-periphery relations. It is concluded that the lack of effective urbanization in Ukraine creates obstacles for the legal development of the periphery, since it has no independent value and is always dependent on the centre. Analysis of the existing legal acts in this area shows that attempts to transfer the problem of the periphery under the state control can not succeed, that is why main emphasis should be placed on the formation of the legal status of the periphery within the local government. In this regard, the sustainable development of the peripheral areas (as well as centers) requires reforming the system of local government with a focus on decentralization and deconcentration of power. This will speed up the institutionalization of centre-periphery relations in parts of the public space and thus solve the problem of the economic autonomy of the regions.

Key words*:* centre-periphery relations, legal urbanistics, periphery, legal formalization of periphery.

Formulation of the problem. One of the most promising and progressive trends of modern jurisprudence at both the general theoretical generalizations and legal

practice in the plane of life is legal Urban Studies, which is formed as an interdisciplinary theory of spatial characteristics institutionalization of law. The uneven legal exposure associated with the factors of justice, legal mentality and traditions, specific legal normative models of behavior, etc., requires figuring out how deep the differences in legal development in urban and peripheral areas. In this context it becomes urgent problems of municipal law, as well as the legal communication between cities as centers and peripheral areas. That is why using a methodology center-peripheral relations in the analysis of the role of cities in the formation of public space, including in Ukraine requires recourse not only to the problems of legal registration of cities in terms of institutionalization as centers of legal and state development, but also the formation of the modern image of the periphery which also plays a role in the content of the legal and public space.

Analysis of recent research and publications. The issue of legal registration peripheries in legal science examines extremely rare. You can note the existence of scientific developments and the specific social role of the periphery in sociology, economic geography and political science. In particular, very important methodological role of I. Pylypenko, M. Dnistrianskyi, Ivan Mishchenko, O. Gafurov, O. Pavlova and others.

The purpose of the article is to identify major trends and issues legal registration periphery in laws of Ukraine.

Presenting main material. Fair look remarks of experts in the field of social geography - a scientific discipline that is often regarded as one of the structural elements of urbanity. They emphasize that despite the existence of regions of different forms, types, species, size, their center-periphery structure in many cases, there is common traits, characteristics, problems. In social geography main object of study is usually the center and centrality (places, events, phenomena, processes, etc.). Although traditionally (and probably correctly) believe that greater influence on social development with centers at the same time, peripheral regions in the area, they number more and more diverse in their types, kinds, geospatial scales. Accordingly, peripherals complex and ambiguous as the object of study requires special attention. Insufficient

theoretical and methodological elaborated this point in the national geography social studies poses a special problem - holding taxonomy peripheries and peripheral [1, p. 141]. It is often possible to meet an approach under which the periphery of public importance - is part of the public space within which the rate of social processes is minimal or vector does not coincide with the vector of the nuclei of social life, which include primarily large and medium cities [2, p. 85].

It should be borne in mind the fact that, according to I. Pylypenko genetically to distinguish between "center - periphery" as the basic (natural, geospatial - the result of topology and, consequently, heterogeneity and self metric geospace) and derivatives (piece , management - the result of socially conscious provision of central or peripheral functions are popular with certain topological and metric characteristics) [3, p. 47]. This distinction is particularly important in the context of our study, because it will show how empowering this or that sense different cities contributes to their formation as centers, or vice versa - the loss of their central role in the national, regional or local level. Really seems to be in the social organization of space centers often just stand by symbolic function of objects located in them, and not by purely geometric centered zones (such as in most Ukrainian cities such symbolic buildings often perform the function of district or regional councils, which are typically one of the main streets).

It seems that the content of most of the problems associated with the legal institutionalization periphery in Ukraine, has two main dimensions. First, we should recognize that the interdependence of center and periphery is expressed on many levels: global (when talking about a multi-polar universe with many centers of influence on the geopolitical situation in the world in general), or regional (eg the center of Europe in geographical and symbolic sense - a different way: geographically it is in Ukraine, while Ukraine is symbolically located on the periphery of Europe), national, local (center-periphery organization area or smaller area) and inner (central and peripheral areas of the city). The logical assumption here is that the legal institutionalization of the periphery in such gradations possible only in the context of the deployment of local center-peripheral relations, when city centers appropriately issued and structuring itself around a peripheral zone.

Second, peripherals, based on the methodology outlined by us, there is always a secondary structure, dependent on the center. Therefore, it is logical that the legal status of its execution is delayed, compared with the legal institutionalization cities. This is often expressed in rather significant problems of peripheral areas in the country, which are becoming less attractive to their residents, leading to their demographic, economic and cultural exhaustion.

In particular, as stressed N.M. Krestovskaya lack legal status and generally reflected the legal problems of rural spaces leads to a significant complication of urbanization [4, p. 35-37]. This also emphasizes I.V. Mishchenko. According to the researcher, consideration of "growth poles" within each enclave can not forget about the periphery, as if it is ineffective, the center is rapidly losing its properties. Dependent status of rural areas is determined, above all, the inability to successful rural development without effective urbanization, no matter how paradoxical it may sound [5, p. 100-101]. For almost inaccessible rural areas are factors of advanced development, what is often the emphasis in a variety of rural development programs in Ukraine, but because rural development depends on the development of cities. This situation appears to have get their adequate reflection on the level of decentralization reform government.

Indeed, analysis of Ukrainian legislation on the development of peripheral areas (in the Ukrainian context is mostly rural areas), their legal institutionalization as a whole does not meet the image of Ukraine as a state-oriented model of agrarian economy. This, in turn, significantly reflected in the development of the legal regulation of the status of cities.

Today the Ukrainian legislation on the status and development of peripheral software acts based on regulation. Yes, including the decisive act is the State Program of Ukrainian village till 2015 [6], whose main provisions are aimed at "ensuring sustainability of agriculture, competitiveness in domestic and foreign markets, guarantee food security and maintaining the peasantry as a carrier Ukrainian identity, culture and spirituality. " The main focus of the program - economic (in particular, it defines the necessary measures for the establishment of the agricultural market and

financing the agricultural sector), although it contains a number of measures of social nature. But seems this program can hardly be called satisfactory, especially considering the fact that it declared expected results very far from the real situation of the Ukrainian village that everything becomes more "depressed" periphery.

In 2010 the concept was adopted alternate - Concept of the State Target Program sustainable development of rural areas for the period up to 2020 [7], which was canceled six months after its approval. The Concept stated that the definition of a strategy for sustainable development of rural areas based on optimization of their social and productive infrastructure, improving rural employment, reducing labor migration, improving the competitiveness of agricultural production, increasing its volume, improve the quality and safety of agricultural products, environmental protection and reproduction natural resources is the best option for rural development and an end to their degradation. However, it is difficult to assess whether this approach is promising considering the fact that today in Ukraine there is no legal act that would regulate the status of rural areas.

The only act that establishes the basis for the development of peripheral areas is the Presidential Decree "On basic principles of social village" [8], which, however, is more a source of "soft" law because the regulatory power is significantly reduced by the use of in it the words "consider", "focus" and so on. In other words, this decree contains reference standards. Most of them have a clear social orientation and covers issues such as the development of social infrastructure, the development of social services in the village and so on. Again, it is difficult to ascertain the validity or promise of this document, especially 15 years after its adoption. This once again underlines the thesis that the urbanization process in Ukraine can not develop effectively without proper regulatory support peripheral areas. Software adjustment here is not enough. Meanwhile, the rules of "soft" law are not only acts taken at Government level and the President of Ukraine, but also in acts of Parliament. In particular, we can recall the Resolution of the Supreme Council of Ukraine "On the

parliamentary hearings on the progress of reform and measures to improve the situation in rural areas" [9].

In the absence of appropriate legal and regulatory mechanisms to ensure the development of peripheral areas is a crisis and institutional structures, functionality applies even problems of sustainable development not only tanks, but those spaces which are controlled by them. In Ukraine, the legal and organizational support for the economic development of peripheral areas submitted several advisory councils with powers rather blurred. Thus, May 23, 2009 was established, and already 25 November 2009 the Council eliminated rural and village heads under the Cabinet of Ministers of Ukraine [10] - an advisory body whose decisions and conclusions were recommendatory in nature. The aim was to promote the formation of the effective mechanism of interaction of executive authorities and local self-government on the basis of partnership and openness and develop coordinated positions; the development and submission of executive power proposals on the need to revise the regulations on improving local government to create favorable conditions for its development and improvement of the protection of the rights of rural local communities; part of assessing the effectiveness of the regulations on regional policy and local government and preparation of appropriate recommendations; preparation of proposals on a number of issues of rural development and so on.

Similar authority is currently operating Inter-agency Coordination Council on Rural Development, established by the Cabinet of Ministers of Ukraine on Dec. 27, 2008 [11] to ensure coordination of the implementation of the above state target program of development of Ukrainian village for the period until 2015 at her on the following task analyzes the tasks and activities of the program and its results make appropriate proposals to the Cabinet of Ministers of Ukraine to achieve the objectives of the Programme; take measures within its powers to the organization of ministries and other central and local executive authorities and scientific institutions of tasks and activities of the program; Agriculture Ministry helps in controlling the execution of tasks and activities of the Programme; is within its powers involved in drafting the national target and branch programs on rural development; consider draft laws and

other regulations on rural development and prepares its findings; consider proposals of central and local executive bodies, local authorities and research institutions, analyzes the results of their activities related to the implementation of tasks and activities of the program, and submit to the Cabinet of Ministers of Ukraine relevant information.

It appears that the main problem organizational support for the development of peripheral areas in Ukraine is their "governed." It looks convincing opinions of scientists who argue that the development of rural areas should be the prerogative of local government, and the state has only implement strategic coordination, combined with a gradual urbanization legal registration [12, p. 279].

In the context of legal issues institutionalization periphery noteworthy idea O.I Pavlova, according to which the Ukrainian realities, it makes sense to allocate a separate kind of bridge, which he proposes to call agrarian towns. "Agricultural destination" in the interpretation of the author legislator referred to the category of towns - settlements with a population of 50 thousand. People. Among the 350 small towns the largest share (over 45%) are those that have a population of 10 thousand. To 20 thousand. People, almost 19% have from 5 to 10 thousand. People [14]. Of course, not all of these cities in its typology belonging to the agro-industrial or agricultural, but most of them are strongholds of rural settlement system and administrative centers and service centers in rural areas. Now the task is to, firstly, to restore functionality "agrarian towns", and secondly, to turn them into poles of recovery and sustainable development of rural areas [15, p. 114].

According to O.I. Pavlova, restore economic and social potential of "agricultural towns" may be due to the establishment of market prices for land, creating a land bank and provision of district councils foreclosure of land with the transfer of the last lease for profit and its use for the development of production primarily in " agricultural towns " [15, p. 115].

The legal institutionalization of the periphery, as we can see, is in the plane of the more common problems center-peripheral relations, decentralization of power, legal sustainable regional development more. It seems that the theoretical legal and

legislative approaches to legal registration in the periphery of the Ukrainian state should focus on potential areas of urban development perspective. Peripherals can be successful and developed only in conditions of development centers.

Conclusions. As can be seen, legal and organizational problems of the periphery registration status in Ukraine are even more acute than the institutionalization of urban areas. However inextricable link that always exists between the center and periphery should contribute to the development of cities affected solving socio-economic problems of the periphery not only by aggressive urbanization, demographic associated with the depletion of the village, and by stimulating the formation of the inner peripheral infrastructure.

Adequate legal reflection of center-periphery model where a key role for cities, not entire regions are, in our opinion, the key to successful decentralization of state power in Ukraine. This is, first, confirmed by international experience decentralized processes, and secondly, can solve the problem of distribution management through self-help ideology. Cities act as urbanization centers within the public space, concentrating ideas and legal rules. Every city - a kind of center (political, legal, cultural, economic) of a region. Successful regional development is impossible without the successful development of city-centers, confirming as international practice and Ukrainian experience. Because the ideology of decentralization of state power in Ukraine should be based not only on the idea of regions, but also on the idea of urbanity.

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METHODOLOGY RESEARCH OF JUDICIAL PRACTICE

Summary

This article is devoted to unification of ideological position, methodological principles, classical and modern methods of research of judicial practice. They are the main methods of perception of their essence, content and form of being as a link to unify lawmaking and law enforcement. Only the unification of classical and modern methods of research allows to investigate considerable and content features of judicial practice unbiased and deeply.

Key words: methods of research, methodology, judicial practice

Problem formulation. Every scientific research is impossible without systemic methodological basis by which knowledge of the subject studied. Is no exception and judicial practice, which is a link, in fact, a binder and scope of lawmaking law-realization. Most of the previous studies conducted based on the provisions of the Marxist-Leninist dialectics. Research jurisprudence considering classical and new methodological approaches provides a more accurate understanding of the judicial practice; It contributes to a more detailed analysis of the substantive elements of the judicial practice; It allows for a more reasonably define the forms of judicial practice.

Analysis of recent research and publications. Comprehensive analysis of judicial practice, undertaken in 1975 under the leadership of S.N. Bratus [1], it has provided much food for thought about the nature, content and form of legal practice in the Soviet legal system, but from a methodological point of view, given the commitment of the authors of the materialist dialectic, and considering the influence of "party" [2, s.66-72] Soviet science, this comprehensive analysis has not brought

tangible breakthrough.

Later, the issue of the methodology of legal practice as a whole, under the same dialectical materialism, turned V.M. Surux [3, s.37-56], which is developing the methodological arsenal of researchers at the beginning of the XXI century, has tried to pay more attention to the study of the logical foundations of the practice [4 s.115-128].

Originality in a number of these studies characterized the work of Reinhold Tsippeliusa "Legal methodology", where the author, based on the latest achievements of philosophy and jurisprudence, analyzes the methods of application of the law, in particular, the judiciary [5, 125-153].

In recent years, the problems of methodology of the study of legal practice, as a basis paradigm of formation of the legal system model law addressing I.L. Beluy [6 s.162-209] and methodology of practice as a whole, has been the object of study A.M. Novikov and D.A. Novikov [7, 231-359].

The most extensive analysis of the methodology of the study of judicial practice, with an emphasis on rule-making component of this category, in modern conditions had P.A. Hook [8].

The purpose of the article. The focus of our scientific research substantiates the necessity of a comprehensive analysis of the methodological foundations of the research entity, substantial elements and forms of jurisprudence, as a link law-making and law-enforcement spheres of legal reality.

Statement of the basic material. Survey Methodology jurisprudence is, in fact, the organization of such a study [9, p.77]. The methodology is always directed to the study of the subject. In our case, this subject appears jurisprudence is based on the law enforcement activities judicial experience, the result of which is the development of legal provisions [10, p.21]. Classical and contemporary jurisprudence research methodology combines a certain world, conceptual principles of knowledge, a variety of methods.

One of the classic trends in scientific research belongs to dialectical materialism, which comes from a materialistic view of the world and the universal

recognition of the dialectical relationship of objects and phenomena. From these philosophical foundations and we repelled, considering that the object of our study should be considered a primary ontological position, as well as on the basis of constant jurisprudence existing relationship with its environment.

The basis of the study of judicial practice consists of classical methodological principles of integrated and comprehensive knowledge of pluralism. They are oriented research entity jurisprudence of its contents and forms: in the complex achievements of various sciences (mainly human); based on an analysis of its interaction with the accompanying objects (the state power, law, society), and taking into account the different scientific views on the elements studied jurisprudence.

In addition, a full study of judicial practice is impossible without its holding on the basis of methodological principles of modern science, namely the principle of determinism, the correspondence principle and the principle of subsidiarity. They are oriented research entity jurisprudence of its contents and forms: on the basis of their causes on the basis of the previous aggregate them over time circumstances (experience of the rule of law arises on the basis of the totality of rational, useful and progressive conclusions on the regulation of public relations); relying on the concept and importance of maintaining the scientific findings, the validity of which is proved empirically (the formulation of species concepts of jurisprudence based on a comparison with the generic concept of legal practice and the standard notion of social practices); means bringing in the studied elements of certain changes (defined by jurisprudence, not all judicial activity, but only that which is associated with a specialization applied by the court of law to the circumstances of a particular case, or involve a need to overcome the "gap in the law").

Among the methods of study of judicial practice, starting from the position of world vision, immediately isolate the dialectical method by which explores the beginning of formation of judicial practice, continuing evolution and development as based on the experience of judicial activity with the specific result. In accordance with the laws of dialectics, the formation of judicial practice gradually and caused public controversy and gained experience in the application of legal norms in the end gives

the result as formulated by the court law-position. Litigation is not formed by itself. The emergence and development of judicial practice depends on: the availability of a judge necessary experience, as well as the characteristics of the judicial authority, the status of which allows us to give the necessary orientation of judicial activity and to fix the result of this particular activity.

The path of the evolutionary development of jurisprudence is directly related to each stage of a state structure, economy, legal culture, legal, communication, sense of justice in society. Regulation of social relations is achieved through the customs treaties, case law, regulations. However, conflict resolution entrusted to the courts, which according to the results of the dispute decide. Repeated use of the courts rules governing the controversial public relations, creating uniformity in the process of reviewing the dispute and produces a single rule applying these rules in a particular dispute.

In close connection with the dialectic is historical research and historical method enables us to better understand how the formation of the court practice took place at a particular stage of its development.

The formation of judicial practice took place against the background of the existence of an extremely aggressive form of proceedings (lynching, ordeal, trial by battle). Only with the formation of a developed country, the development of the legal culture of the society, the beginning of the trial is carried out within the established rules and principles.

D.A. Karimov noted that "the unity of the historical and logical approach - the fundamental principle of the philosophy of law" [11, p.110]. Accordingly, the use of historical method leads to the use of its satellite - logical method.

Knowledge of and compliance with the laws of logic avoids incorrect, erroneous conclusions, eliminate false and unsubstantiated inferences definitively prove the truth of the object of scientific knowledge by means of logical laws.

The logical method of research accumulates such basic research methods and operations as analysis and the synthesis, deduction, induction, definition, classification, comparison.

So, study the theoretical essence of jurisprudence analysis and synthesis method allows to identify the main types of it, to show the mechanism of formation and functions. On the basis of the synthesis of the combination occurs and summarize the main features of the concept of judicial practice.

Deductive reasoning allows us to trace the presence in court practice activity component characteristic of the general concept of social practice. Inductive reasoning allows us to formulate a general concept of judicial practice on the basis of particular notions of the judiciary, judicial activities, experiences of law.

Using the definition of a logical operation set point core categories: jurisprudence, its subjects and objects, and so on law classification as a logical operation, allows you to split the amount of certain core categories (for example, judicial practice and its functions).

A special place among the cognitive operations involved in the study of jurisprudence, takes comparison. The development of legal knowledge are often interrelated with the problems of dialectical categories, finding the coordination and subordinate relationships of the studied elements, the need to analyze the internal contents of these elements. Need to study relationships and internal contents arises with respect to methodological categories, one of which is a comparison. Because of the importance of judgments about the similarity or difference of many essential skills and content of judicial practice in the research process last used full comparative method.

In its epistemological nature of the comparison and the comparative method are similar, but a comparison as such - is not the prerogative of the comparative method and comparative law. The comparison can be used in all areas of scientific knowledge, and regardless of the comparative method, they can not be opposed to each other, because the logical methods are always included in the content of the method as a system of cognitive tools and techniques used in a particular order for the study.

The comparative method is one of the important means of studying the legal phenomena. With it, we study the problem of judicial practice in the legal systems of

the world, which allows to identify common patterns of occurrence, development and formation of judicial practice.

Method of System Analysis provides ample opportunities for identifying general theoretical problems of judicial practice allows you to find its place in the structure of the legal system, to identify the main ways of interaction of judicial practice with a variety of legal institutions and events in the legal system, to analyze the processes of stabilization, renovation and preservation of judicial practice as a link law-making and law enforcement areas of the legal system.

These positions suggest that the study of judicial practice requires the involvement of scientific methods and the empirical level, and theoretical and metatheoretical level, which underlines the complexity and diversity of the object.

Classical scientific research methodology provides the energy for a long time, but the rapid pace of development of society and the state, "the globalization of the legal sphere, the prospects of liberalism and humanism" [12, 95] in the construction of civilization confront researcher increasingly difficult obstacles. Legal standards of the modern world were formed and approved for several centuries, the domestic scientific research has long been constrained by the framework of Marxist-Leninist philosophy. In this regard, the filling methods of scientific research with new content and design update will give a positive result only in terms of social and scientific traditions of our country and the legal mentality of our people.

Among the modern methods of investigation jurisprudence we highlight the synergistic method that is expressed in the study of jurisprudence connection with other social practices (lawyer, notary), as well as in the influence of the jurisprudence of other social groups - lay judges and jurors etc. Synergistic method allows to fully disclose the subject composition of judicial practice and reveal the influence of her so-called members of the judicial practice, in particular, research and educational institutions of the legal structure.

In addition, the deepening of understanding of the judicial practice as an integral category three interrelated elements - experience, performance and results - allows for an integrative approach. This method of theoretical knowledge and practical

development of the social and legal reality, allows the researcher to "gather" together, to unite on the common basis of all internal and external components of the judicial practice, thereby displaying its social and public nature, its special regulatory and binding. The integrative approach allows more precise approach to the assessment of the objective and subjective in the judicial practice, to understand the role of actual activity in the process of legal provisions, and hence the nature of the so-called "judicial norms", not rejecting and relating them to factors not legal.

Conclusions. In our view, world outlook dialectical materialism, the principles of pluralism, comprehensive and integrated knowledge and the principles of determinism, conformity and additionality, classical and modern methods of scientific research, allow an objective and harmonious approach to the study of jurisprudence, reveal general patterns of occurrence and development this phenomenon, identify its content, form, function, interaction with other legal phenomena influence on lawmaking and law-realization, procedure of formation, the practical application of its results and to reach a common understanding of the nature of judicial practice.

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ABOUT THE CORRELATION OF THE 'LEGAL STATUS' NOTION AND RELATED CATEGORIES

Summary

The article deals with the correlation of the «legal status», «legal position», «legal condition», «procedural status», «procedural position» and «procedural condition» notions. The reasonability of the equation of the «position» and «condition» notions as well as the distinction between the notions of «status» and «position» is grounded. The author suggests unifying the use of the terminology in question in the material and procedural law in order to determine the objects and topics of legal studies in future.

Key words: legal status, legal position, legal condition, procedural status, procedural position.

Formulation of the problem. Recently, not only lawyers, legal scholars, but researchers are paying insufficient attention to the theoretical understanding of the basic concepts of law. Yes, there is uneven interpretation of the term "legal status" and adjacent concepts used in a large range of legal research without proper justification, and sometimes - contradictory, determining the relevance and timeliness of the study.

Analysis of recent research and publications. The theoretical basis of the study were N.V.Vitruka, L.D. Voevodina, A.A. Stryemouhova and other scientists. However, some of these and other authors have been devoted to value only certain related concepts.

The article is to study the relationship between the concepts "legal status", "legal status", "legal status" and "procedural status", "procedural provisions", "procedural situation" for the unification of the studied use of terminology.

Presenting main material. In legal literature there is debate regarding the use of the terms "legal status", "legal status", "legal position".

Most scholars tend to equate these concepts. M.I. Matuzov, O.V. Malko define the essence of the legal person status as a legally enforceable position in society [1, 183]. O.V. Skakun insists that it is synonymous, and they are etymologically identical [2, 378]. L.D. Voyevodin indicates that the legal status of a person - a man's place in society and state [3, 50] and notes that the analysis of the constitutions of individual countries concluded that the application of the concepts of "status", "position "," position "and other similar categories that define where the subject of legal communication, except for exceptional cases between these terms is not any distinction [3, 12].

Some researchers defend the position of the feasibility of the distinction between "legal status" and "legal status". Specifically, N.V. Vitruk, separating the legal status of legal status, characterizes the situation as a broader concept and it cites the following elements: legal status, citizenship, legal personality, legal safeguards [4, 40]. He insists that the legal position - an umbrella category that reveals all the elements embodied in the right state of persons who are to each other in certain relations and socially conditioned by the place in which a person takes a system of social relations [4, 10-11]. For O.I. Harytonovoyi opinion, on the contrary, the legal status is associated with a stable legal state subject, and the legal status varies depending on the relationship in which he is involved [5, 71].

Following analysis of the use of these terms in scientific research you can not reach a definite conclusion on the limits of the use of these concepts.

In particular, the term "legal status" used in the names of dissertation research I.V. Lukach "Legal status of holding companies under the law of Ukraine" O.V. Scherbyny "The legal status of shareholders under the laws of Ukraine" and some others. This content analysis for these abstracts is clear that their authors are proponents of the thought of identifying the concepts of "status" and "position".

The term "legal status" is often used in various areas of law. In particular, the dates used in the names of dissertation research Baltsiya Yu. "Legal status of the mayor in Ukraine", Ye.V. Bulatova "The legal status of the institution as a participant of economic relations", L.V. Vynara "The legal status of legal persons founded by the

state", I.Ya. Zayatsya "The legal status of region in Ukraine", M.H. Isakova «The legal status of the company as a business entity», L.L. Labenskoyi "The legal status of deputies of local councils», I.V. Nazarova "The legal status of the High Council of Justice", O.M. Yaroshenka "The legal status of the parties to the employment relationship" and some others.

It should be noted that among these works in research and L.L. Labenskoy, I.V. Nazarova terms "legal status" and "legal status" is used as identical. In particular, in I.V. Nazarov thesis concludes that regulatory determining the position of the High Council of Justice in the system of government is part of the legal status of the High Council of Justice [6, 14], that he is a supporter of differentiation of these concepts, summarizing the concept and considers status.

"Legal status" is used synonymously with the term "legal status" in the I.Ya. Zayatsya. M.H. Isakov, O.M. Yaroshenko used synonymously three terms "legal status", "legal status", "legal position". O.M. Yaroshenko providing the legal status, indicates that "the rule of law is a recognized legal entity status that reflects its position in relations with other entities" [7, 8].

A dissertations L.V. Vynara, Ye.V. Bulatova and is not used other terms except for the term "legal status", which indicates that they are supporters of the distinction between these concepts. Delineates the concept of "status" and "status" and Yu.Yu. Baltsiy using the first term in determining the mayor system of local government [8, 12].

In studies of procedural direction as there is no clear terminological certainty: the study participants different types of proceedings authors use the term "procedural situation" (V.V. Vapnyarchuk "procedural position of the person conducting the inquiry"), "procedural status" (O.I. Lytvynchuk "Procedural status of an investigator in the criminal process Ukraine").

At the same time, some researchers consider it possible to use the term "legal status" for certain characteristics by process (O.V. Belkova "The legal status of a witness in the criminal process Ukraine"). This O.V. Belkova in his study clearly indicate that the terms "legal status" and "legal status" is used as identical because

these concepts in its etymology synonymous [9, 10]. Said researcher is widely understood legal status of a person as socially acceptable system, the regulatory authority enshrined and guaranteed by the state possibilities person as legal entity [9, 9]. We think specified definition too broad interpretation of what constitutes "legal status".

O.H. Yushkevych uses the term "procedural and legal status" [10, 10-103], referring to the rights and obligations of certain participants in the process. However, in our view, the use of the term is possible only if a comprehensive disclosure and legal and procedural status. For example, consider reasonable use of the term for the study of individual, on the one hand, individuals can enter into any relationship that does not contradict the current legislation, on the other hand, the process of the individual can join as a plaintiff, defendant , a third party, the other party cases and in each case the said person acquires a certain procedural status. And if research will be mutual participation of an individual in the relationship and determine its place in the participants, in this study likely be used the term "procedural and legal status."

Among the scientists also observed the direction of deviation from the theoretical determination of the formulation of legal (procedural) status (position) by formulating the problem in more general terms (eg O.V. Anpilohova dissertation research on "Legal regulation of the prosecutor in administrative proceedings to protect rights and liberties", M.A. Maletycha on" An individual is interested in the case, as a participant in the economic process "that did not analyze the issue of legal or procedural status).

Regarding the latter work, in our view, the subject of the research "Individuals interested in the case, as a participant in the economic process" formulated incorrectly, because no such stakeholders as a "natural person" - in the individual can act as a plaintiff, defendant, third person interpreter, court expert, an official of the company, organization or other body.

Along with the recognition of the identity of the terms "legal status" and "legal status" believe that the term "legal status" has independent meaning. The latter notion is narrower and includes only the rights, duties and responsibilities. The legal position

(situation) is more extensive and voluminous concept includes legal, place in the system, principles, and guarantees of protection of rights.

In the procedural field can be transformed only the term "legal status" - a "procedural status", which includes the rights, duties and responsibilities of a person in the process. That is, the legal status regarding procedural status acts as a general and special.

As for the term "procedural provisions", then consider it possible to use this concept only apply for determining the location of a person in the system subjects (participants) process (procedural provisions of attorney as a representative of the parties in the case, the procedural provisions in the forensic expert), ie in cases when necessary to determine the range and content of a particular participant in relations with other participants.

On this occasion, interesting is the position and justification O.I. Lytvynchuka of "equivalence in meaning" concepts "procedural status" and "procedural situation", based on context, stylistic advantages you can use a particular phrase [11, 17].

Said the author examines the concept of "procedural status investigation" as a system enshrined in the Criminal Procedure Act the functions, rights and obligations of procedural guarantees and responsibility for investigating violations of the law that reflects the actual situation in its relations with other participants in criminal proceedings During the pre-trial investigation [11, 17] (emphasis added - TS).

Analyzing specified definition, it should be noted that the author brings the system functions, rights, obligations, warranties and liability to the location's process among others. Although, in our opinion, the procedural status of participant in the process - is stable, the vested participant in the process and does not depend on relations with other participants in the case. Undoubtedly, all participants are in a business relationship between a joint effort to achieve the purpose of the case - its decision and make the final act. However, we can say that the presence of a user process rights to participate in the case, to give explanations and evidence, participate in examination of evidence, inspect the case only "reflect his actual position in relations with other participants." Thus, any participant in the court is obliged to follow

instructions, it is important to treat other stakeholders al., But it does not determine its actual position in relations with other participants. Therefore we can not agree with this definition and identification of the procedural status of the terms "procedural status" and "procedural provisions."

Given the above and determining the ratio of "procedural provisions", "legal status" and "procedural status", it should be noted that, in our opinion, the procedural provisions subject is not part of either legal or procedural participant status process.

Thus, a priori individual has certain rights and opportunities not related to the judicial process, has legal capacity and that it takes to join the lawsuit and independently of him. The Commercial Court in attracting individual in the process only checks on legal entities, indicating the improper nature of the individual properties.

Enrolling in the process, for example, in the person of the plaintiff, a person acquires the procedural status of the plaintiff (all the rights, duties and responsibilities of any claimant in the economic process) and certain procedural position relative to other participants in the trial.

Therefore, we should recognize that capacity and capability of person (arising pursuant since birth and certain age) as the legal entity (which occurs at the time of its registration) belonging to the legal provisions. Entering the specific legal choosing specific economic activities (eg signing the supply agreement), people are given a certain legal status (rights, obligations and responsibilities for non-fulfillment of duties under the supply agreement), and the introduction to the process depending on which is party to the process specified person - the relevant procedural status.

That is, the legal status of a person available at any time, and procedural provisions, legal or procedural status - when entering a relationship (physical or procedural).

It should be noted that since joining the relationship as possible in the active form (eg, contract, filing a lawsuit plaintiff) and passive form (eg, in the case if the defendant does not appear in the process and did not provide any explanation of the case), the legal and procedural status simply means giving certain rights of the subject,

but not the obligation to use them. On the other hand, the economic court can establish the obligation to perform certain actions (attendance in court, giving an expert opinion, etc.), the failure of which could lead to negative consequences.

It should be noted that on the procedural status of the structure is also no consensus. Thus, the structure O.O. Bondarenko procedural status includes procedural rights, guarantees of procedural rights and procedural obligations retrospective responsibility for their failure [12, 6]. O.I. Lytvynchuk includes the structure of the procedural status functions, rights and obligations of procedural guarantees and liability for violations of the law [11, 6].

A.Ye. Holubov believes that its components are: subjective rights (freedom), legal obligations and legitimate interests of individuals [13, 8]. The above position is interesting because of the fact that a legitimate interest is the "engine" person in the case, and the system of rights and opportunities specific user process must be built based on the legitimate interests of the person. However, not always in the procedural law of Ukraine established the possibility to protect their rights to persons with circumstances beyond their control have not been involved in the process in the first instance. Only in the course of judicial reform in 2001 they received the right to lodge appeals, and only during the judicial reform of 2010 - the opportunity to initiate a process of appeal. However, a legitimate interest in getting these people said law was available, so the time is right has been established in law.

On the other hand, the procedural status - is legally established range of opportunities by a certain process. And legitimate interests do not belong to this circle, and only focus is improving legislation and aim to meet the person which enters the process.

Conclusions. Based on the above should summarize that the legal situation (situation) is the most broad concept and available in person at any time, and procedural provisions, legal or procedural status - when entering a relationship (physical or procedural).

Procedural provision places the user in the system stakeholders. Legal and procedural status include the rights, duties and responsibility for dereliction of duty that occur during participation in accordance with the material or procedural legal relationships.

Appropriate use of study seems to unify the terminology in substantive and procedural law to clearly outline the object and subject of research.

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POLITICAL AND LEGAL FRAMEWORK MECHANISM TO IMPROVE THE CONSTITUTION OF UKRAINE

Summary

The article is devoted to the modern stage of the constitutional process in Ukraine. Based on the trends of thinking, new achievements of constitutional law native science, latest analysis of its sources, the article attempts to discover the essence of political reform in the practical implementation of the Constitution of Ukraine.

Key words: Constitution of Ukraine, political and legal reform, constitutional process, the legal procedure, the system power.

Formulation of the problem. Prospects for further development of Ukraine is impossible without rethinking the provisions of the current Constitution to form a radically new approach to the development of constitutional democracy, the rule of law and social harmony developed civil society.

After the adoption of the Law of Ukraine "On Amendments to the Constitution of Ukraine" dated 8 December 2004 constitutional reform is particularly relevant in view of the political, economic, financial, legal uncertainty, which is not the first day is among the most pressing issues on the agenda of political life.

A particular objective of the reform is to change the ideology of the state, which should take priority person. But nothing will change society for the better until the government begins to live by the law, respect the law, to put human rights above all

not in declarations and in daily life. And this power should first learn to respect the Constitution.

From the moment when the Constitution was adopted until now Ukraine has appeared in a lot of projects of constitutional reform. Projects varied, but the process of amending the Constitution delayed in time, because none of the political actors did not want to give up powers.

The modern approach to the development of the Constitution requires that it was developed with the participation of the people of the country. And the basis of modern constitutional doctrine should be on three initial ideas: first, the modernization of the system of checks and balances between branches of government; secondly, to ensure the unity of the executive power, while maintaining its formation by Parliament on the results of national elections; thirdly, the development of democracy in Ukraine. The authorities are challenged to transform post-Soviet Ukraine civilized European state and modern Constitution must conform.

Analysis of recent research and publications. The issue of reforming the mechanism of improving the Constitution of Ukraine became the subject of research in the works of many local scholars and practitioners such as: Evgrafov P.B., Tasiy V.Ya, Rudic P.A., Telipko V., Shemshuchenko Yu., R. Knyazevich, A. Strizhak, and many other jurists.

The article is an analysis of the major trends and prospects for constitutional reform to create modern social and political conditions of national systems of constitutionalism.

This suggests the need to study the mechanism of improving the main stages of the Constitution of Ukraine, analysis of key decisions and documents that determined the content of these phases, highlight the main contradictions of the process of reformation and recommendation of theoretical and practical plan for overcoming them.

Presenting main material. Political and legal reform for several years is one of the central problems of the political life of the country and has attracted considerable public attention. The current state of the state of life some scientists linked with

imperfect constitutional reform of 2004. Assuming thus that this reform has led to an imbalance in the division of powers of the legislative and executive branches of government. Others believe that most of today's politicians and political parties suffer from legal nihilism. The lack of legal culture as a whole Ukrainian nation and its individual representatives played a key role in stirring up political unrest in the country. But in terms of law-the Constitution of the country must be constructed in such a way as to minimize the possibility of manipulating its principles in any political conflict.

The process of reforming the system of power in Ukraine began just after it gained independence and continues today. Prior to the adoption of the Constitution of Ukraine in 1996 this process was rather finding a model of governance that would most naturally replace the previous one. Despite the fact that the Constitution has been praised Venice Commission "Democracy through Law", in the practical implementation of the Basic Law created many problems arising from the incompleteness of the formation of the legal basis of the political system of Ukraine. After all, it was actually founded not balance, and conflict the executive and the legislature. The government controlled virtually no parliament, and the parliament did not feel responsibility for the actions of the government. Therefore, this model of power could not hold Ukrainian society. And in 1997 the first attempt was made constitutional reform.

The 1996 Constitution was recognized as one of the most democratic in Europe. The provisions of Sections I "General Principles" and the second "The rights, freedoms and duties of man and citizen" undoubtedly meet international standards in the field of constitutional law. However, most other sections of the Basic Law provisions which governed the formation, powers and organization of work of public authorities still retain vestiges of Soviet-komandno¬ administrative system. Especially it concerns such an important component of civil society, as local government, which, although it is recognized and guaranteed under Article 7 of the Constitution of Ukraine, in practice remains entirely dependent on the "mercy" of the central government [1, 22].

Discussions on political reform was first taken to the level of draft laws on amendments and additions to the Constitution of Ukraine in 1998, when the parliament brought two bills, the first of which is proposed to abolish sections regulating the activities of the President and the Constitutional Court of Ukraine [2] and the second - in fact return to the Soviet model of government by empowering parliament, the introduction of the Presidium of the Supreme Rada of Ukraine and the abolition of the post of President. [3] These bills were not supported by Parliament.

In 2000 a popular initiative held a national referendum on amending the Constitution in the organization of the political system [4, p. 68]. Although the people of Ukraine gave an affirmative answer to all four questions asked, no law on amendments to the Constitution of Ukraine on the results of the referendum is not accepted [5]. Parliament approved only one item: the President of Ukraine received the right to prematurely dissolve the parliament.

After the parliamentary elections in Ukraine in 2002 existing model of presidential-parliamentary form of government exhausted, faced the need for modern form of government. Ukraine needed a more perfect management tool for national development. Ukrainian society and tried to find it.

The main task of amending the Constitution of Ukraine was the creation of an effective, politically responsible government, branches of which would not conflict or compete with each other and competing for the best deal to the public.

Only in August 2002, after a public utterance of the President of Ukraine the idea of reform, the reform began gaining powerful momentum. December 26, 2002 established the Interim Commission of the Verkhovna Rada elaboration of draft laws amending the Constitution of Ukraine.

During 2003-2004 the initiative of President of Ukraine held a "national discussion" of the draft amendments to the Constitution. This laid the foundation for the formation of the current structure of power in Ukraine, which was fixed in December 2004, when the confrontation in the society has reached a critical point. Political consensus led to the emergence of 8 December 2004 Parliament adopted amendments to the Constitution of Ukraine [6, p. 44] that the Bill provided that the

breach of Article 159 of the Constitution was not considered by the Constitutional Court of Ukraine for compliance with the requirements of Articles 157 and 158.

Ukrainian practice of constitutional norms repeatedly became a basis for initiating amendments to the Constitution of Ukraine. The Verkhovna Rada of Ukraine, from 28 June 1996 until now there were more than a dozen draft laws of Ukraine on amendments to the Constitution of Ukraine. Some laws provide for only spot improvement of certain provisions of the Basic Law, while some of them were intended to radically reform the state.

As a result, the Constitution of Ukraine was amended laws of Ukraine on December 8, 2004 № 2222-IV, dated 1 February 2011 № 2952-VI, on September 19, 2013 № 586-VII, on February 21, 2014 № 742-VII . We consider it necessary to pay attention to the meaning of these laws.

Law of Ukraine "On Amendments to the Constitution of Ukraine" dated December 8, 2004 № 2222-IV introduced changes to the organization of state authorities in Ukraine and been introduced to the form of government elements parliamentary-presidential republic. Specifically, changes to the Constitution of Ukraine provided a significant strengthening of the powers and role of the Verkhovna Rada of Ukraine in a system of "checks and balances". Along with the introduction of parliamentary method of forming the Cabinet of Ministers of Ukraine was offered some other instruments functioning of the state as a parliamentary-presidential republic. However, these changes did not have a complex character, which was the subject of criticism by domestic and international experts. In particular, the Venice Commission from 10 - 11 June 2005 was made a number of comments to the substantial nature of the new Constitution of Ukraine.

It became apparent that the constitutional reform of 2004 created an inefficient power structure in the country. A disadvantage of this system is the reform of the procedure for appointment and subordination members of the Cabinet of Ministers of Ukraine. Because of the new order and foreign policy Ukraine are in the hands of the various branches of government.

However, these changes were wrongfully declared unconstitutional decision of the Constitutional Court of Ukraine of September 30, 2010 № 20-rp / 2010. Constitutional Court of Ukraine decided to restore the previous edition of the Constitution of Ukraine is in the wording of its decision June 28, 1996 [7].

In the previous result we can say that from the time of partial entry into force of amendments to the Constitution of Ukraine - in January 2006 - the mechanism of state power was significantly unbalanced - there was a lot of unnecessary complications in the relations of higher authorities, permanently emerging political conflicts, there have been misunderstandings inside of government, numerous violations of the Constitution by the higher echelons of power.

This situation forced the President of Ukraine as guarantor of the Constitution, Decree of December 27, 2007 № 1294/2007 «On the National Constitutional Council" and the Decree of the President of Ukraine from February 18, 2008 № 139/2008 «On the composition of the National Constitutional Council" to establish in Ukraine National Constitutional Council, whose main task was to prepare proposals on the concept of systemic renovation of constitutional regulations and general provisions of the new Constitution of Ukraine and ensuring public discussion.

The President of Ukraine has repeatedly stressed that the National Constitutional Council shall prepare a draft constitution, which will be focused not on meeting short-term interests of a person or political force, and promote more effective cooperation of the authorities to fulfill obligations to the citizens.

But on Oct. 22, 2009 Parliament rejected the conclusion referral to the Constitutional Court of Ukraine of a new Constitution of Ukraine, the accumulated National Constitutional Council [8] and the council stopped its activities.

Authorities in Ukraine have repeatedly demonstrated that their political interests prepared to ignore the provisions of the Constitution. 30 September 2010 restored the Constitution of Ukraine the effect of 1996 on the basis of the Constitutional Court in the case of the compliance procedure of amending the Constitution of Ukraine of 08 December 2004.

The decision to restore the wording of the Constitution of Ukraine on 28 June 1996, adopted by the Constitutional Court of Ukraine, was the subject of a rather rigid and professional critics, both domestic and international experts. Thus, the inadmissibility of this method of amending the Constitution of Ukraine was drawn to the attention of the European Commission "For Democracy through Law" (Venice Commission) in its Opinion from 17 - 18 December 2010 (CDL-AD (2010) 044). Moreover, the Venice Commission referred to the violation of the legitimacy of the government in terms of restoring the wording of the Constitution of Ukraine on 28 June 1996.

The Basic Law states need serious and needs further improvement. That is why it is worth mentioning Law of Ukraine "On Amendments to the Constitution of Ukraine on holding the next elections of people's deputies of Ukraine, President of Ukraine, Verkhovna Rada of the Autonomous Republic of Crimea, local councils and village, town and city mayors" on February 1, 2011 № 2952-VI . The law was intended to resolve inconsistencies in connection with the adoption of the decision of the Constitutional Court of Ukraine of September 30, 2010 № 20-rp / 2010.

February 21, 2011 by the Decree of President of Ukraine the Scientific Expert Group, chaired by the first President of Ukraine Leonid Kravchuk, who had "work out proposals for a mechanism and creation of the Constitutional Assembly, and to analyze the concept of reforming the Constitution of Ukraine" [9]. Concept of formation and organization of the Constitutional Assembly was approved by 25 January 2012 [10]. With a view to working out proposals for changes to the Constitution of Ukraine, guided by Article 102 and under paragraph 28 of Article 106 of the Constitution of Ukraine, President of Ukraine Decree of 17.05.2012 № 328/2012 creates a Constitutional Assembly as a special subsidiary body under the President of Ukraine [11].

Based on international experience of special bodies of constituent power and modern political and legal processes in Ukraine, and we have proposed to conduct constitutional reform through a special body of constituent power - Ukraine Constitutional Assembly.

However, at the beginning of the implementation of this plan seemed quite problematic. Therefore, this domestic constitutional process has a long evolutionary nature. By the way, it drew attention to the Parliamentary Assembly of the Council of Europe recommended that Ukraine carry out intensive preparations for constitutional reform and complete it without waiting for the results of parliamentary elections in October 2012 [12]. The activity of the Constitutional Assembly was suspended the decree of the President of Ukraine "On liquidation of the Constitutional Assembly" from 01.12.2014, the № 901/2014.

The next step in the mechanism of improving the Constitution of Ukraine was adopted by the Verkhovna Rada the Law of Ukraine "On Amendments to Article 98 of the Constitution of Ukraine" dated September 19, 2013 № 586-VII, and was directed solely at reforming the constitutional and legal status of the Accounting Chamber.

The key points of constitutional transformation include the adoption by the Ukrainian Parliament of the Law of Ukraine "On the recovery of certain provisions of the Constitution of Ukraine" dated 21 February 2014, de facto turning Ukraine into effect of the Constitution amended on 8 December 2004 № 742-VII [13].

This socio-political processes in Ukraine in November 2013 - February 2014 led to the adoption of the Law of Ukraine "On the recovery of certain provisions of the Constitution of Ukraine." The Law restored the effect of certain provisions of the Constitution of Ukraine amended the laws of Ukraine on December 8, 2004 № 2222-IV, dated 1 February 2011 № 2952-VI, on September 19, 2013 № 586-VII. Thus, the Constitution of Ukraine today operates with regard to amendments of 08 December 2004, which provides for functioning in Ukraine a parliamentary-presidential form of government.

Back to the constitution of 2004 the process of improving the constitutional norms not followed. For the further transformation of the Basic Law of the Supreme Council, in accordance with of Article 89 of the Constitution of Ukraine, adopts a decree "On establishment of the Interim Commission of the Verkhovna Rada of Ukraine on the preparation of the draft law on amendments to the Constitution of Ukraine" dated

03.04.2014, № 849-VII (hereinafter FAC). It also provides for the establishment of paragraph 1 of section II of the coalition agreement.

FAC "prepare a coordinated bill on amendments to the Constitution of Ukraine with the conclusions of the Venice Commission." This corresponds to the objectives of Article 85 of the Regulations of the Verkhovna Rada of Ukraine. But after switching to the Coalition Agreement Program of the Cabinet of Ministers in 2015, these provisions were also part of the government program.

April 29, 2014 in the Parliament held open parliamentary session in the form of public hearings devoted to amending the Constitution of Ukraine, which should provide the foundation for democratic change in our country. Amendments to the Constitution should cover three blocks: finding the balance of power at the central level to improve parlamentsko¬-presidential form of government; detsent¬ralizatsiyi and giving real powers of local governments; reform of the judicial system. Because, and it has become apparent without empowering local governments can not build strong regions and a strong country. Accordingly, the main purpose of amending the Constitution should not be a struggle for power and distribution of power to overcome and destruction of political and economic corruption that arises monopoly on power and resources znay¬ty balance of power between the President, Government and Parliament.

By Decree number 119/2015 of 3 March 2015 the President of Ukraine, according to paragraph 28 of Article 106 of the Basic Law, the Constitutional Commission created as a special subsidiary body under the President. The main objective of the Commission was "Amendments to the Constitution already in 2015, the main content of which should be a decentralization of power" [14].

Thus, the Commission established for the purpose of working out agreed proposals for amendments to the Constitution of Ukraine with the involvement of representatives of various political parties, the public, the best professionals and most respected politicians of national and international organizations, and promote social and political consensus for improving the constitutional regulation of social relations in Ukraine.

In general, if to assess the status and direction of the parliamentary and presidential commissions, it should be noted that the status and subject of these committees is the same: training agreed amendments to the Constitution of Ukraine. Meanwhile, the process is slow, contradictory, inconsistently. One manifestation of this is the initiation of parallel constitutional parliamentary and presidential commissions that almost lead to one thing - braking constitutional reform in terms of territorial organization, local government, local authorities [15].

In Venice Commission are concerned that the constitutional reform in Ukraine is too slow while amendments to the Constitution of decentralization should enter into force by the end of this year.

According to the Constitution, to be held next autumn local elections. Until then changes regarding territorial organization and local authorities would not, the elections will be held under the modern territorial organization of local government reform and vidterminovuyetsya at least five years. Also in the constitutional reform of decentralization is part of Minsk agreements to be implemented this year.

Conclusions. The problem of effective functioning of the public administration in Ukraine can not be solved without fundamental reform of the constitutional-legal status and principles of local self-government and executive authorities in regions and districts. The need for empowerment of local governments baseline (village, city) and giving them the appropriate financial and material resources is extremely important and economically feasible. On the importance of this issue repeatedly drawn the attention of representatives of civil society, local governments and their associations, local scholars and practitioners constitutionalists.

Local authorities should receive a number of additional powers to the organization to properly address local issues that can be addressed most effectively is at an appropriate level.

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INTERNATIONAL LEGAL STANDARDS OF THE RIGHTS OF FOREIGNERS IN LOCAL GOVERNMENT

Summary

This article analyzes the nowadays existing international legal instruments in the field of municipal and legal status of foreigners. The main trends in the development of international standards in the field of the rights of foreigners are defines; the most important international treaties that provide an opportunity to maximize the use of these rights by foreigners and guarantee it to them are considered.

Key words: international standards, foreigners, national treatment, the rights and freedoms of foreigners.

Formulation of the problem. Since the mid-twentieth century. the doctrine of human rights has become a universal system of human values, which is crucial not only for each individual developed country, but also for the entire international community. The level of security, protection and guarantee of fundamental human rights advocates the criterion that the basis for assessing the degree of civilization state, and thus her relationship to other members of the international community. The state that considers itself civilized should strive to create an environment in which all persons on its territory will feel secure and equally, regardless of nationality, race and even citizenship. Only on condition that such a policy will be the default (standard) for all countries, there may be a regulatory climate that promotes human rights, the solution of humanitarian problems, the creation of the Commonwealth of law.

Analysis of recent research and publications. In the science of constitutional law the legal status of foreigners and stateless persons was devoted to the works of many prominent scientists-lawyers. Among them, first of all, should be called like M.

Baymuratov, O. Bobokal, I. Boyko, L. Halenska, A. Zarzhytskyy, T. Kirilova, I. Kovalyshyn, T. Mink, G. Moskal, O. Tiynov, S. Czechowicz, R. Chernolutskaya, W. Jaworski. Quite recently actively studied the rights of foreigners is in local government as members of the local community. However it should be emphasized that international legal standards as an important regulatory component, which should be based on the status of foreigners in any democratic state, was still ignored experts. **The purpose of the article**. The main objective and purpose of the article is to analyze the provisions of international intergovernmental regional treaties concerning the legal status of foreigners as members of communities. With the widespread migration processes that accompany the international community over the last few decades as a result of globalization, the maximum cooperation of States in this field and uniform solutions to common problems is possible only on the basis of international agreements, which establishes a common mechanism of realization of the rights of foreigners and that States Parties to the same As undertake to perform. That is why scientific research is important and has practical value.

Presenting main material. International standards for legal status of man today are a number of international instruments of paramount role among them: the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), International Covenant on Economic, Social and Cultural Rights (1966), the European Convention on Human Rights and Fundamental Freedoms (1950) and many others. A special feature of these acts is that most of the rules are universal or regional in nature and reinforce the rights and freedoms of every person who is legally staying or residing in the State, including the foreigners.

The main problem in determining the legal status of foreigners is the problem of competing jurisdiction. That foreigner is both subordinated to two law enforcement: state residence (located under its territorial jurisdiction) and state citizenship (matrimonial state. - Ed.) (Personal jurisdiction).

The legal status of foreigners determined by national legislation of the host country of the principles and norms of international law. But now there is no single international treaty document which would regulate the legal status of foreigners

internationally. International cooperation in this area is mainly bilateral interstate level. However, we can mention several multilateral documents that examine specific aspects of the legal status of foreigners.

For example, Article 13 of the Universal Declaration of Human Rights states: "I. Everyone has the right to freedom of movement and residence within each state. 2. Everyone has the right to leave any country, including his own, and to return to his country " [1].

Notable among international instruments in the field of human rights is the European Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome in 1950. Directly provisions on foreigners contained in Protocol number 7 to the Convention, signed in Strasbourg on 22 November 1984 poku. According to Article 1 of this document, an alien lawfully resident in the territory of a State may be expelled abroad otherwise than pursuant to a decision taken in accordance with the law, and should be able to:

a) submit reasons against his expulsion;

b) to have his case;

c) be represented for these purposes before the competent authority or before a person or persons designated by that authority [2].

In n. 2 of the same article states that an alien may be expelled before the exercise of said rights, if such expulsion is necessary in the interests of public order or driven by considerations of national security.

A special place in the international documents defining the status of foreign nationals, took the Declaration on Human Rights regarding persons who are not citizens of the country in which they live, which the UN General Assembly adopted 13 December 1985 [3].

The Declaration first determined that the term "alien" it refers to any person who is not a citizen of a particular state, that is a foreign citizen, stateless persons, refugees and others. Also in the article. 2 stipulates that the Declaration does not used to foreigners who illegally crossed the border or on the territory of the state, and also provides that every State independently establishes the legal regime of foreigners,

taking into account its international obligations, including in the field human rights. According to Art. 5 Declaration, foreigners are: the right to life and security of person; no alien shall be arbitrarily arrested or detained or be deprived of liberty except by a decision of the competent authority; the right to protection from unlawful interference in private and family life; the right to equality before the courts and all other bodies and institutions administering justice; to marry, to found a family; the right to freedom of thought, opinion, conscience and religion; the right to manifest his religion or belief subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others; right to preserve their native language, culture and traditions; the right to transfer income, savings or other personal money abroad considering internal currency regulations; the right to own property alone as well as in community with others considering domestic law. In addition, foreigners who legally reside in the state have the right to liberty of movement and freedom to choose his residence within a State. They have the right to the protection of state citizenship, for which they should be granted free access to the diplomatic or consular representation of the State of nationality. On the other hand, foreigners are required to comply with the laws of the host country and be responsible for their violation as citizens.

Another important document human rights of foreigners is the European Convention for the settlement number 19, adopted by the Council of Europe in 1955. States parties to the Convention undertook to facilitate the entry into its territory of foreign citizens, allowing them to freely move her, encourage their residence, except that contradict public order, national security, health or morals.

The Convention provided for citizens of the States Parties of national treatment in respect of many aspects of life, including personal and property rights of their judicial and administrative safeguards implementation profitable activities, the issue of wages and working conditions in general, and more.

The Convention on the settlement developed to facilitate the entry of European agreement on the rules governing the movement of persons between member states of

the Council of Europe (hereinafter - CE) number 25 (Agreement on movement), which was opened for signature in 1957 in Paris. It included the simplified movement of persons between Member States of the Council of Europe, to enter the state was required only one document from each contracting State referred to in the Annex to the Agreement. The owner of such a document permitted re-entry into the territory of the State without compliance with any formality even if his nationality is under dispute.

The further development of international standards of human foreigners became European Convention on the Participation of Foreigners in Public Life at Local Level adopted in Strasbourg on 5 February 1992 (hereinafter - Convention 1992). The peculiarity of this international document is that unlike mentioned by us above, whose position regarding the legal status of foreigners mainly concerned the fixing minimum main personal, economic and social rights and freedoms - the right to life, freedom of conscience, religion, freedom of movement, equality before the law and the court, the right to work, to own property and others. The Convention on the Participation of Foreigners in Public Life at Local Level establishes the possibility of a number of political rights to foreigners, however - with certain limitations and only locally. However, the role of this document is not getting smaller, it is appropriate regulations predictor of the future legal status of foreigners in the territory of a united Europe.

1992 Convention on the involvement of foreigners in public life at local level. For those of them who live in the local community, numerous questions of everyday life - such as accommodation, education, utility services, public transport, cultural institutions and sports - depend on decisions taken by local authorities. In addition, foreign citizens are actively involved in the life of the local community and increase its prosperity. So, for countries that share democratic principles of the Council of Europe will just examine the issue of the significant contribution that the sometimes very significant group of citizens, who for a long time living in the territory, can make in decision-making on matters of interest to the This group [4, p.105].

1992 Convention consists of three relatively autonomous parts: 1) Head And enshrines freedom of opinion, assembly and association; 2) Head to establish the right

of foreigners residing permanently in the State, create their representative bodies at the local level, and 3) Chapter C gives the right to vote in local elections (active electoral right. - Ed.) Aliens residing in the territory state within a specified period of time. Another important provision of the Convention is that part 1 Article 1 establishes the right of States Parties joining the Convention apply as all its chapters and partly those chapters, the implementation of which will not conflict with the domestic laws of individual states.

So consider in more detail the content of the Convention on the Participation of Foreigners in Public Life at Local Level. Yes, art. 3 of the Convention provides States Parties foreigners, permanent residents of the territory under the same conditions as its own citizens, the right to freedom of their views, which refers to the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of borders, and in the same article provides for the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

It should be noted that these rights for foreigners State Party may restrict in some cases listed in Art. 9 of the Convention, under martial law or state of emergency, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. However, the main essence of this article of the Convention is that in all the foreign citizens should not be subjected to discrimination against the use of certain rights here. At the same time one can not deny the fact that legislation on the rights of foreign citizens in effect in some Member States, has a certain freedom of choice to impose certain restrictions on their political activities. The wording of Article 9, which, in particular, referred to in Article 3, provides an opportunity to apply to the states under Article 3 rights restrictions stipulated by the European Convention of Human Rights [4, p.107].

Article 5 of the Convention 1992 provides for the right of foreigners to a large number of permanent residents of the State Party to create their advisory bodies or take other arrangements to create mechanisms of cooperation with local authorities and provide a forum for discussion and formulation of the opinions, wishes and concerns foreign residents on matters which particularly affect them in relation to social life at the local level, including the respective responsibilities and activities of the local government. Said article establishes not only an appropriate right of foreigners to kind of association - to create consultative bodies, but also the duty of local authorities not to interfere with and encourage the creation of such bodies. In the Convention does not set a specific number of foreigners-residents which is sufficient to build their bodies. As we see it, the issue to address given each state separately, as the nature and size of local communities in different countries is very different, and therefore the term "significant number" for each of them can be different.

Another issue, which is also under the Convention, each State must be determined independently, this way the formation and nature of such consultative bodies, or it has elected directly by foreigners or have formed associations or otherwise. That is, the Convention not only provided specific management and organizational sequence of actions to Member States on this right as a general orientation and maximum autonomy to each community to decide these issues, taking into account its own traditions and characteristics.

Perhaps one of the most interesting Rights, which has identified Convention 1992 for foreigners residing in the territory of the State Party, the right to vote in local elections, and under Article 6 to be provided as the right to vote for candidates in local authorities along with its own citizens and to stand if it meets the general requirements set for its citizens, ie active and passive suffrage. It is also important that the above article of the Convention provides for a minimum period of residence of a foreigner in the local community, the election authority which he can take part: at least five years. However, in the same century. 6 of the Convention provides that first, by the decision of each state the right to vote in local elections be limited to the right to vote (active

suffrage. - Ed.), And secondly, the term Residence may change as a bigger way and a lower side.

Actually giving foreigners voting rights is an interesting issue that causes much debate in the states of the modern world, so we will focus on it in detail.

At present the national electoral legislation of many countries in the world direct impact exercise rules of international and European law, but a common formula electoral status of foreign citizens are still not developed. Addressing these issues is quite different ways - from complete exclusion of foreigners from electoral life of the state permission to take part in national elections. An example can make the first experience of Brazil, which the Basic Law Art. 14 stipulates that foreigners can not be registered as voters. From such a complete disregard for the impact of foreigners on domestic policy very different experience of the British Commonwealth, which in some cases allows Commonwealth citizens to the formation of the supreme bodies of state power.

The participation of foreign citizens in elections governed by different legal acts of force foreign legal systems. Some countries at the highest constitutional level are prerequisites for the inclusion of foreigners in the number of voters [5]. Yes, Art. 51 of the Basic Law of the Italian Republic in 1947 provides that the Italians, who are not citizens of the Republic, can be equated in law to citizens regarding employment of elected positions. Article 13 of the Spanish Constitution allows foreigners giving voting rights on the basis of reciprocity by virtue of the contract or the law. However, a common regulation of representation of foreigners in the current electoral law, which details and specifies the constitution. And such regulation often has the expansion character. Thus, in order detailing the Spanish Constitution Art. 6 of the Law "On the rights and freedoms of foreigners living in Spain" in 2000 not only confirms the electoral rights of resident foreigners in municipal elections, but also guarantee the rights of those foreign nationals who can not participate in local elections. It is about giving them the right to democratically choose their own representatives to participate in the debates and decisions of municipalities to which they belong. In addition, the

Act establishes the obligation of local administrations draw up lists of foreigners living in their municipalities and have the right to participate in elections [6].

Conclusions. Realized our scientific research indicates that a number of fundamental international instruments of human rights enshrined so-called minimum rights and liberties of foreigners, as well as the duty of every State to ensure these rights to all persons lawfully staying or residing in its territory . Each developed democratic state established in law that national legal regime of foreigners which implies that the foreigner (foreign citizen or stateless person) enjoy the same rights, freedoms and obligations as citizens of their own, with some exceptions established in the law .

Despite the advisory nature of many provisions of these international instruments as well as the preservation of States wide discretionary powers to restrict the scope of their application, these documents were an important step in improving the legal status of foreigners and the strengthening of international relations, laid the foundations for further development of international law in this area especially within the EU [7, s.95-99].

Further development of Ukraine towards a democratic state and its full integration into the European community perception impossible without major recognized international standards of human rights in general and in particular certain categories, such as foreigners, stateless persons and others. Thus implementation of these standards into national legislation is one of the priorities of our state today.

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REGARDING THE DEFINITION OF «NATIONAL MINORITY» IN FOREIGN COUNTRIES

Summary

The article is devoted to the definition of «national minority». The problematic aspects of the essence of this term and the ratio of the theoretical definitions of reality are considered. It also describes the main approaches and principles in foreign countries.

Key words: national and ethnic minority, ethno-confessional character, polyethnicity, multicultural.

Formulation of the problem. Recently, the international community is increasingly faced with instances of violation of human rights that occur on the ground of religious, linguistic, racial and other differences. Such phenomena as the disastrous consequences of policies of multinational states and the right of force in resolving ethno-political problems; growing global trend intensify the struggle of indigenous peoples and ethnic minorities for their rights and attempts to gain the status of subjects of national and international law; Blast in many multiethnic countries etnichnopolitychnyh conflicts and their potential ability to escalate, threatening the security of individual countries and entire regions of the world, necessitating greater attention to the legal regulation of ethnic relations and the relevance of research in the status of national minorities in foreign countries and in Ukraine.

Analysis of recent research and publications. The study of the topic involved Dubrovin Y.A., Y.A. Modova, Shatava L., Ovchinnikov V.O., Prudnykov M.M. Skatulina O.V., S.V. Sokolovsky and other. But among scientists who study the constituent elements of the status of national minorities, there is no consensus about

the nature of the entity constitutional relationships, aggravating circumstances, which can allocate national minority, the ratio of the concepts of "ethnicity" and "nation".

The purpose of the article. One of the unresolved issues in the field of minority issues remain terminological nature. So far there is no single definition of "national minority". Often one category of people in different countries are different concepts that difficult to understand this phenomenon. In addition, some discussion is the relationship between the concepts "ethnic minority group" and "minority". This in turn implies the need to study these phenomena from the standpoint of not only rights but also ethnology, sociology and other sciences.

Presenting main material. Under pressure from many national problems disintegrated empires. Among the latest examples - the collapse of the Soviet Union and Yugoslavia. The national question remains difficult internal problem in the UK (Ulster problem is related to the desire of the population to leave part of the United Kingdom of Great Britain and Northern Ireland and its accession to the Republic of Ireland), Belgium (Flemish-Walloon conflict), Canada (English- Canadian and French-Canadian conflicts), the US (Negro, Mexican, Cuban issues, etc.).

It is the existence of the world's more than 2,000 ethnic communities indicates the existence of a special type of social relations - international.

After analyzing the work of scientists, anthropologists following conclusions. Ethnicity and Nation have different social formations and can exist simultaneously, with the primary ethnic group historically. "Ethnicity emerged from the dissolution of tribal relations ..." [1; 25]. The nation is not the highest stage of ethnicity, it "arises as a product of activity of state institutions and developed around the" frame "State institutions" [2, 15].

According to Y. Semenov, "the essence of ethnicity is most evident in ethnic processes, ethnic assimilation, ethnic fusion, ethnic inclusion and ethnic cleavage. They occur spontaneously and largely independently of consciousness and the will of the people. The essence of the nation is most clearly expressed in the national movements that represent the activity of the masses of people, aimed at achieving

certain goals, and often political. Nation in these movements acts as a kind of social, primarily political, a force to be reckoned with "[3, 248]. In terms of S.E. Rybakov, "the distinction between ethnic group and nation on a personal level due to the different nature of these phenomena - natural and ethnic groups in a certain sense in the artificial nation" [4, 36]. So the nation - is a symbolic social structure, which is expressed in a sense of belonging to an individual or a community of citizens. That is not all nations have an ethnic group (Azerbaijanis) and not all nations are ethnic groups (Roma, people Munda etc.). Often one nation includes several ethnic groups (American, French, Chinese, Vietnamese, Russian, etc ..) that are linked politically.

Therefore, Sokolovsky S. emphasizes that "the concept of" national minority "- is primarily a legal concept" [5, 6]. An interesting thought Shahavy Leos Czech scientist: "In different countries, this term is interpreted differently: they say about" ethnic group "somewhere -" linguistic groups ", and where -" ethnic minorities ". I prefer the term "ethnic group", because using this term, I can talk about the Czechs, and the Indians - of all. That is, I use this term in relation to all nationalities. Anyway, every people - a minority in relation to any other people. But when we talk about minorities, we mean people living in any part of the state, whose numbers are small compared to the state-nations. For example in the UK or Welsh Sami in Norway and so on "[6].

Based on the above, consider the term "minority" must always be in the context of a state and as a legal category.

In legal science, there are many different definitions of "national minority". We distinguish similarities of these definitions minority:

1. it is certain ethnic groups;

2. resident in the territory of a State;

3. nationals of that State;

4. samoidentyfikuyut themselves as representatives of another nation.

Some definitions indicate that minorities are ethnic groups that do not recognize themselves as indigenous population of a state. Since I can not agree. For example, although the Indians are an indigenous people of North America, but there is a

minority, the same situation with the Australian Aborigines. So consider appropriate to use the term "dergavotvorcha nation" instead of "indigenous people". Sometimes authors indicate compact residence of minorities in a particular area to obtain autonomy. Indeed, some ethnic minorities who live in a particular area of the state to seek autonomy, sometimes for independence. Examples include wake Catalans, Basques, Scots, Irish, Georgian Armenians, Karabakh Armenians, Tibetans and others. But this is due primarily to the fact that these nations are natives in this area and there are speaking about the international principle of the right of nations to self-determination.

The problematic issue is the fact the definition of minorities. How exactly to determine whether one or another ethnic minority group in a particular country. Concerning this, there are three criteria: quantitative, qualitative and "individual treatment". On quantitative criterion is the national minority group, which is less than half the rest of the population. Sometimes, however, the population can wake quite diverse and no one group will not constitute a majority. In addition, there are cases where minority in the country in general, there is a majority in a particular area (Chechens, Tatars, Welsh, Basques, Catalans, etc.).

O. Klaynberh criticizes the approach, according to which "... minority have to be smaller in size than the dominant group." The author considers unsatisfactory, if it is subject to review status, provision minority. In this context, "minority may actually be the majority population, as in the case of black Africans in South Africa." Therefore, according to O. Klaynberha, do not limit the term "minority" only its quantitative content [7, 15]. Besides this factor is determined by the dominance of the majority to the minority. However, there are many examples of the domination of the minority over the majority. For example, white-skinned population in North Africa, Alawites in Syria, Sunni-Arab minority in Iraq, Tutsi in Burundi and more.

Determination qualitative criteria minority is the possession of stable ethnic, religious and linguistic characteristics that distinguish it from the majority.

F. Kapotorti provides third approach to the definition of minorities - "individual treatment" - "a manifestation, albeit indirect, solidarity to preserve their culture, their

traditions, religion and language." Members of minority groups can express their identity in two ways. The first - when the group tries to keep its own characteristics; solidarity is usually manifested in those cases where a group for a long time unable to maintain their distinctive features. The second form of identity associated with the decision to belonging or not belonging to the minority. Some members of the minority may prefer assimilation - it is their right, and no one - neither a minority nor the majority - should not prevent them. It should be noted that if a minority encounters obstacles to assimilation, then we are dealing with discrimination and not protected identity [8].

Therefore, we analyzed the theoretical aspects of the definition of "national minority". It is therefore advisable to consider legislative approaches in different countries.

Because of the ambiguity of the term "minority" even in special international treaties not given terminological definition. In the Explanatory Report to the Framework Convention for the Protection of National Minorities adopted in Strasbourg on 1 February 1995, states that it was not specifically given to the definition of national minorities to prevent differences among member states of the Council of Europe [9, p. 12].

After analyzing the norms of the Convention can be concluded that the national minorities include not only ethnicity, but also on religious, cultural and linguistic. This position is shared by Canada, Lithuania, Latvia, Moldova, Armenia and others. In these countries, there is no single concept of "religious minorities" or "linguistic minority".

In contrast is the low of the division where the minority is made primarily on religious (confessional) lines.

These countries include Lebanon and much of the Middle East. First of all faiths are divided into Muslim and Christian communities. The Christian community is divided on the Maronites, Greek Orthodox, Greek Catholics (melkity), Armenians Armenian Apostolic Church, Syro-yakovity, Syro-Catholics, Armenian Catholics, Nestorians. Muslim communities are divided into Sunni, Shia druzyv. The only ethnic

minority Armenians in Lebanon is, as other faiths are Arabs. All denominations are represented in the Parliament of Lebanon, traditionally elected state president of the Maronites, and the prime minister Sunni Muslims. For confession minorities divided in Syria, Egypt, on ethnic and religious grounds share in Israel.

An interesting definition of minorities in India. This country is the most diverse not only in ethnic and religious terms - still operates de facto caste division. On the territory of India is inhabited by several hundred ethnic groups, 1652 representatives of the language groups, 21 are state language, there are more than 10 religious denominations. However, apart from the problems of national and religious nature, there are problems of division into castes. Even if a person does not belong to a national minority, but a representative of lower castes, it is not vested (de facto) all rights. For example, Bengali and Bengali-Hindu-Muslim hindustanets tamilets and have the same legal status, but Indian-Indian Brahmin and Sudra-fact will have a different legal status. So, in India minorities are, firstly, lower castes (although the number they are the majority), and secondly, religious denomination (not Hindus), the third ethnic group.

There are countries that do not recognize national minorities (France, Turkey, Russia, North Korea). France's position is based on the assumption of the equality of all French people, regardless of nationality and religion. So lawmaker equates France to all French citizens, regardless of ethnic origin. However, this leads to conflicts with ethnic minorities (including Arabic community). Turkey does not recognize national minorities on its territory, not to give equal rights of the Turkish Kurds (who aspire to independence or wide autonomy) and amshentsyam (Armenians of Turkey). To that end, the Turks recognized all who speak the Turkish language (the language criterion), which leads to leveling the concept of national minority.

Yet in Europe the trend can be seen democratic attitude to minorities. In addition, many European countries are multiethnic, precluding the possibility of ignoring the minority (exception - France), which recognized citizens of the countries that

samoidentyfikuyut himself with another ethnic group, have cultural, linguistic and religious identity.

Conclusions. So we discussed the basic problems and approaches to the definition of "minority" and the value of the concept of "ethnic minorities". Brought basic criteria of minorities: quantitative, qualitative and personal attitude.

Legislation of different countries on different approaches to determining who is a national minority, ethnic group (Italy), linguistic groups (India), racial group (US) or religious (confessional) group (Israel, Lebanon, Syria). In addition, sometimes there are additional features that distinguish a minority, such as caste in India. In addition, there are states that completely deny the existence of national minorities through Law (France, Russia) and political (Turkey, North Korea, Russia) aspects.

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NOVELS OF JUDICIAL REFORM OF UKRAINE

Summary

The article analyzes the amendments of the Law of Ukraine on February 12, 2015 "On ensuring the right to a fair trial", in particular, a number of innovations aimed at increasing the independence of the judiciary and its economic and political independence. The positive and negative aspects of certain provisions of the Act and the need for further improvement of the judicial system of Ukraine are singled out.

Key words: the court, the judicial system, judicial reform, judicial proceedings.

Formulation of the problem. Ukraine as a modern democratic state from the beginning of its independence has vector construct modern European rule of law, public policy which is based on the rule of law, an efficient mechanism of separation of powers under Art. 6 of the Constitution of Ukraine at the legislative, executive and judicial power indissolubility of the independence of each. This process actively began in 1992, but before public authorities still face many unresolved problems associated with the efficient organization of state power, elimination of abuse of power, preventing the appropriation of power by one person or body, the construction of a sustainable system of interaction between the branches of government to enhance the power and authority providing real safeguards to protect the rights of citizens, businesses and society as a whole.

The purpose of this article is to study the stories of judicial reform in 2015 and identify opportunities negative impact of the legislative and executive branches of government on the objectivity and independence of the judiciary in Ukraine.

Analysis of recent research and publications. Research on improving justice, independence and procedure of formation of the judicial branch performed such scholars as K.Kolisnyk, R.Kubiyda, Mykola Melnyk, N.Syza, O.Terletskyy.

Presenting main material. K.S. Kolisnyk notes that the system of checks and balances is valid in the case when the competence of the state authorities includes both exclusive powers and shared, through which built the mechanism of interaction and interdependence of all branches of government [1].

Each element of the mechanism of the state should work as a reliable clock: legislature - make regulations that are able to adjust the existing relations in the country and ensure harmonious interaction of executive bodies, executive bodies - to adjust the existing productive relations, and for violations of the rules -prypynyaty Offences and apply branch of the judiciary.

You must also pay attention to the need for transparency of all organs, simplify procedures for complaints against officers and officials, enforcement of the terms of the proceedings, the reasonableness of litigation and real enforcement of state executive service acts with the winners of the subject of the claim. This is due to the lack of reliable, transparent regulatory relations have questions about guaranteeing protection of the rights of individuals and business entities by state. Any person requires final solution each issue are important for life or entities. That is why all sectoral reforms must be taken after discussions with professionals of the area who will find the best way to address the shortcomings of the existing order. It is necessary to hold conferences, open discussion with scientific societies on judiciary reforms in the judiciary, the executive service in the executive policies and so on.

As for judicial reform is, it should be noted that in recent years the attention of the legislator to existing problems of justice greatly increased. Active reforming the judiciary began in 2001 (the so-called "small judicial reform"), which was another and, obviously, not the final step in reforming the judiciary and justice. Much has been and judicial reform of 2010. The next stage of reform held by the Law of Ukraine "On

ensuring the right to a fair trial" of 12 February 2015, which amended a number of laws.

Experts from the analysis of judicial reform critical of its estimate, assuming that if the formation of the judicial corps will be on criteria of political loyalty, as it was during the reign of V. Yanukovych, the judicial reform will give absolutely nothing - we will see a change in people, but not the system [2].

In this connection is seen appropriate to examine certain provisions of the said Act, which came into force only March 28, 2015 and while objectively manifested itself in action, and determine their impact on the improvement of the courts in Ukraine.

1. The importance of conservation of branches of commercial courts is a very positive aspect of the new law.

Despite the fact that the President of Ukraine and Prime Minister have repeatedly stated their elimination of the transmission of cases to courts of general jurisdiction.

Around this issue unfolds tough debate since independence of Ukraine. With all the charges applicable to their economic courts no complaints of a global nature, also in the context of globalization of economic relations, the analysis of European legislation and the development of specialized commercial courts is clear the need, support and strengthen local economic courts as the courts of the future.

Despite the difficult conditions of existence, commercial courts have proven professional, efficient and viable. Dispute resolution proceedings are held in full compliance with applicable law. Therefore, leaving the system of commercial courts in the judicial system of Ukraine is worthy of approval.

2. Expanding the powers of the President of Ukraine. In p.p.1 3 of Article 19 of the studied Law provides that the President shall have the authority establishment, reorganization and liquidation of courts on the basis of the proposals of the State Judicial Administration of Ukraine.

The reasons for the creation or elimination of a particular court is to change this law court system, the need to improve access to justice, the need to optimize the state budget or change the administrative-territorial system.

Attention is drawn to the fact that the situation on the Elimination courts without amending the Constitution of Ukraine can not be sold, and if the changes will lead to significant manipulation of the heads of courts and their complete subordination to the President of Ukraine, which is unacceptable.

Everyone remembers the old days, when high-ranking officials at a certain impact on the interest of justice and received the necessary decisions.

You must accept the N.P. Syzoyu and O.M. Terletskym, which notes that the judiciary must be separated from the legislative and executive who should not have the means interference in the process of justice [3, 197; 4, 354].

This phenomenon needs vykorinyaty as confidence in the judiciary is not only not corrupt judges, but in the absence of influence from the government.

It is simplistic formulation and comments on the "liquidation of the courts on a proposal of the State Judicial Administration of Ukraine." Thus, the legislator does not have a clear form of such treatment, terms, conditions, etc., can not be considered justified.

3. With regard to disciplinary responsibility of judges Article 92 of the Law clarifies and expands the grounds for judicial disciplinary liability. List expanded to 14 specific grounds, including refusing citizens access to justice, unjustified delay or failure to take action by a judge to hear an application, complaint, any other violation of the law. In accordance with Clause 1 of Article 97 also expanded the list of disciplinary sanctions that may be applied to judges. These include:

1) warning;

2) reprimand - with deprivation of the right to receive additional payments to official salary of a judge for one month;

3) severe reprimand - with deprivation of the right to receive additional payments to official salary of a judge within three months;

4) temporary (one to six months) the removal of the administration of justice - with deprivation of the right to receive additional payments to official salary of a judge and mandatory assignment of judges to the National School of Judges of Ukraine for a course of training as defined body that disciplinary proceedings against judges and

further qualification evaluation to confirm the ability of judges to administer justice in the appropriate court;

5) transfer of judges to the lower court;

6) conclusion to send recommendations to the High Council of Justice for a decision on forwarding submissions on dismissal of judges based on violation of the oath.

Expanding the list seems reasonable, since the reform legislation in 2015 involved only two types of sanctions for judges, reprimand or dismissal.

4. Real open trials. An interesting novelty issued new provisions laid down in Article 11 of the Law on openness trial. It provides the opportunity to participate in the hearing not only the parties to the dispute, but to unauthorized persons, representatives of the media. In addition, any person may use vydeo- and separate audio recording without the permission of the court that should recognize appropriate.

5. "simplification" of self-government is realized in Article 125 of the Act, which reserves the meetings of judges Council of Judges of Ukraine, the Congress of Judges of Ukraine the status of the respective bodies.

Thus, judicial authorities are not simplified, but remained virtually unchanged (repealed only conference of high specialized courts) than, first performed by the recommendations of the Venice Commission with the reform of the justice system in Ukraine and, secondly, significantly simplifies the system self-government abolished the principle of appointment of delegates "from above".

Therefore, it seems proper cancellation conference courts, which dealt with issues of internal operation of the court, not related to the administration of justice.

6. Improving the Supreme Court of Ukraine. Particular attention should be paid to the expansion of the Supreme Court of Ukraine. After the judicial reform in 2010 the Supreme Court was denied the main part of their powers, resulting in lost value as the ultimate instance that can objectively influence the jurisprudence. Even the fate of the proceedings is placed completely in the hands of a high specialized court which made the decision to transfer the case to the Supreme Court of Ukraine.

A positive aspect of judicial reform in 2015 is the return of the Supreme Court the right to decide any case, and expansion of the grounds for review of judicial acts of lower courts.

It is recognized as a positive implementation of mechanisms that making impossible inherently different judicial acts on the same issues by different chambers of the Supreme Court, which was recently quite often.

Conclusions. It is appropriate to conclude that the Law of Ukraine "On ensuring the right to a fair trial" without a doubt, is a positive change. But he can not fully "work" without amending the Constitution and other laws. The said legal act requires thorough assessment and careful monitoring of the practical difficulties of its application and further deep reform of the judicial system for its smooth operation to protect the rights and interests of individuals and entities.

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ADMINISTRATIVE AND LEGAL STATUS OF THE DEPARTMENT OF IMMIGRATION AND CITIZENSHIP OF UKRAINE

Summary

The article investigates administrative and legal frameworks of the Department of Immigration and Citizenship of Ukraine activity. The features of formation and reformation of the migratory service are exposed on the modern stage. Basic tasks and forms of activity of service in the field of realization of public migratory policy are defined.

Key words: administrative and legal status, Department of Immigration and Citizenship of Ukraine, authority, function, form and methods of activity.

Formulation of the problem. The legal basis of LCA is under formation and therefore requires certain changes, additions to existing regulations and adopting new ones. Thus, in accordance with the provisions of the State Migration Service of Ukraine is the central body of executive power with activity directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs of Ukraine. DMS Ukraine is part of the executive power and formed to implement the state policy in the areas of migration (immigration and emigration), including countering illegal (illegal) migration, citizenship, registration of natural persons, refugees and other categories of migrants by the legislation. Today there is a change of essence passport and registration system, the transition from control to its supervisory

nature, the main purpose of which is to ensure individuals by the Constitution of Ukraine and other regulations the rights, freedoms and legitimate interests.

The purpose of the article. The article studies the administrative and legal status of the State Migration Service of Ukraine (hereinafter - LCA Ukraine), consider its main activities, finding new methods of management in the implementation of migration policy, determine ways to improve organizational and legal support of LCA Ukraine.

Analysis of recent research and publications. The organizational and legal issues for migration policy dedicated to domestic labor as (O.M. Dzhuzha, Ivan Berezovsky, V. Ivaschenko, V. Kovalenko, V.I. Kryvenko, O.V. Kuzmenko, V.M. Kuts, A. Malinowska, A.P. Mozol, A.V. Nadon, V.O. Novik, K.M. Rudoi, A. Cherniak, S.B. Czechowicz, V.I. Shakun, M.O. Shulga et al.) and foreign scientists (M. Viyyers, R. Wohlwend, V.V. Lunyeyev, M. Puhli, John. Salt, R. Havsman, P. Holmes, A. Shloenhard).

Presenting main material. It should be noted that the creation of VMI started in Ukraine in 2002, when the Action Plan "Ukraine - EU" in the field of justice and home affairs in the "Migration and Asylum" was recorded task Ukraine a migration service, which would be taken over the development of the entire complex problems facing the Ukrainian migration policy. In 2009, an attempt was made creation of the State Migration Service under the Cabinet of Ministers Resolution № 643 "On establishment of the State Migration

Service of Ukraine "dated 24 June 2009 [1], which repealed 16 July 2010 in accordance with Resolution Cabinet of Ministers № 559" Some issues of governance in migration "from July 7, 2010 [2], according to which a newly formed Service was eliminated. Already 6 April 2011 the President of Ukraine issued a decree № 405 "Issues of the State Migration Service of Ukraine" [3], which approved the Regulations on the State Migration Service of Ukraine (hereinafter - Regulation). In turn, June 15, 2011 the Cabinet of Ministers of Ukraine adopted Resolution № 658 "On establishment of the territorial bodies of the State Migration Service" [4].

DMS Ukraine is guided by the Constitution and laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine, Ministry of Internal Affairs of Ukraine, other legislative acts of Ukraine, orders of the President of Ukraine and the Minister of others. The legal base of Ukraine LCA can be divided into groups: international instruments and national regulations.

The international documents include: the European Convention on Nationality, ratified by Ukraine 20 September 2006 [5]; Convention on the Status of Refugees of 28 July 1951, ratified by Ukraine 10 January 2002 [6]; Agreement between Ukraine and other states on a simplified procedure for changing citizenship [7; 8; 9] and others.

National legal basis of LCA Ukraine can be divided into two groups: external (not taken by LCA Ukraine) and internal (taken by LCA Ukraine) regulations. In turn, external regulations governing its activities DMS Ukraine can be divided into certain subgroups depending on the scope of the LCA Ukraine, in particular: 1) those that govern the terms of LCA Ukraine (the Law of Ukraine "On Central executive power ", Decrees of the President of Ukraine" On optimization of central executive power "," Issues of the State Migration Service of Ukraine "," On State Migration Policy ", Cabinet of Ministers of Ukraine" On establishment of the territorial bodies of the State Migration Service, "Order of the Cabinet Ministers of Ukraine "On Approval of plan of measures on realization of the Concept of the state migration policy" et al.); 2) those rules which governed the registration of residence and stay (Law of Ukraine "On freedom of movement and choice of residence in Ukraine", Cabinet of Ministers of Ukraine "On Approval of samples of documents required for registration of residence in Ukraine" and others.) 3) those rules which regulated migration (Laws of Ukraine "On refugees and persons in need of additional or temporary protection", "On Legal Status of Foreigners and Stateless Persons", "On Immigration", the Cabinet of Ministers of Ukraine "On Regulation in 'ride Foreigners and Stateless Persons in Ukraine, their exit from Ukraine and transit through its territory, "" On approval of regulations on temporary residence for foreigners and stateless persons who illegally stay in Ukraine "and others.); 4) those rules which settled the question of nationality (Constitution of Ukraine, Laws of Ukraine "On Citizenship of Ukraine", "On the

United State population register and documents certifying the citizenship of Ukraine, of identity or her special status", Resolution of the Verkhovna Rada of Ukraine "On Approval provisions on Ukraine passport, birth certificate and passport of citizen of Ukraine for travel abroad "); 5) those norms which regulates the liability for violation of passport and registration system on illegal immigration (Code of Ukraine on Administrative Offences, the Criminal Code of Ukraine, etc.); 6) those rules which regulated other issues of LCA Ukraine (Cabinet of Ministers of Ukraine of 26 October 2011 r. № 1098 "Some Issues of departments of the Ministry of Interior and the State Migration Service toll service", "On approval of rules of crossing the border by citizens Ukraine "etc.).

The internal regulations include: Order LCA of 5 November 2012 № 263 "On Approval of recommendations on appearance (dress code) of employees of the State Migration Service of Ukraine" Order of the LCA of 6 April 2011 № 28 "On Approval of the Regulations on the main control (management) of the State Migration Service ", etc.).

Of particular note is the Law of Ukraine "On the Unified State Register of demographic and documents that prove citizenship of Ukraine, of identity or her special status" (hereinafter - the Law), which came into force on 6 December 2012 [12]. According to this law in Ukraine began the process of gradual introduction of documents that contain contactless electronic media with biometric data document holder. It should be noted that since April 1, 2011 in 188 countries began the transition to biometric passports.

Preceded the adoption of the abovementioned law veto by the President of Ukraine, and even after the remarks of the President of Ukraine were considered by legislators, the law has been criticized by citizens, public officials and government representatives. Mostly discontent caused by the recent next. First, there is the Law terminological confusion: instead of internal passport paper introduced a plastic card, but it retains the old name - "Passport of Ukraine." Based on international practice, called passport document, issued as a book designed to travel abroad, and the inner plastic ID called "identity card» (ID-card). In many countries there is a single

document - ID-card chip, which included certain biometric data. Ukrainian same as before, will receive two documents: for domestic travel abroad. Secondly, the lack of new passport of citizen of Ukraine data on residence. Since many administrative and social services tied to residence, citizens will have to regularly turn to officials for help residence as a passport, this information is not provided, and administrative services (including obtaining certificates) must pay. Although part of the 9th century. And 21 of the Law provides for the introduction of the passport of citizen of Ukraine an additional variable information stipulated by law, does not reveal the content of such additional information which may lead to bureaucratic hurdles. In our view, it is necessary legislatively to determine what information may be of additional variable information. Thirdly, it is unclear what types of temporary and permanent residence are valid for only one year. This would be justified for a temporary residence permit while a residence permit could have a longer duration. Another highly controversial innovation is laying on the duty of every citizen of Ukraine, regardless of age, get a passport Ukraine. Ukraine passport oformlyuvatymetsya all persons from birth, regardless of age and every 10 years. Firstly, this innovation complicates the registration parents of a newborn child. Secondly, legislators did not understand the argument for the establishment of a 10-year validity passport of citizen of Ukraine. According Zagorodny AF, this innovation would lead to excessive burden on public authorities and unnecessary costs to the citizens of Ukraine, because Ukraine free passport issued only for the first time [13].

It should be noted that the whole world practice proved the expediency of biometric passports, which simplify the system of supervision over observance of rules of passport and registration system contribute to combating illegal migration, but their introduction mechanism should be worked out and to ensure full security of data that it contains.

In accordance with the provisions of the basic tasks LCA Ukraine: 1) making proposals on public policy in the areas of migration (immigration and emigration), including countering illegal (illegal) migration, citizenship, registration of natural persons, refugees and other certain laws categories of migrants; 2) implementation of

state policy in the areas of migration (immigration and emigration), including countering illegal (illegal) migration, citizenship, registration of natural persons, refugees and other categories of migrants by the legislation.

In our opinion, Ukraine to LCA tasks should also include the supervision of compliance with legislation in the areas of migration (immigration and emigration), including countering illegal (illegal) migration, citizenship, registration of natural persons, refugees and other categories of migrants by the legislation. Indeed, among the powers LCA Ukraine has a number of supervisory it. Thus, LCA exercise state control over observance of legislation on migration (immigration and emigration), including countering illegal (illegal) migration, citizenship, registration of natural persons, refugees and other certain laws categories of migrants, in cases stipulated by law, is attracting offenders administrative proceedings [10].

Or you can take into account the experience of most European countries in which the supervisory and control functions do not rely on migration services that focus on humanitarian issues and to law enforcement. Thus, in Europe 14 Migration Services is part of the ministries of interior, 6 - to the Ministry of Justice, some - of the ministries responsible for social policy [13]. It should be noted that the DCC Ukraine exercises its authority directly and through migration control police units MIA of Ukraine, which at present do not work properly, because they do not have proper legal regulation. Thus, according to the Decree of the President of Ukraine of 6 April 2011 r. № 405 "Issues of the State Migration Service of Ukraine" in the Ministry of Internal Affairs of Ukraine was established migration control police unit, which is functionally subordinated to the State Migration Service of Ukraine.

It should be noted that the activities of workers LCA Ukraine who perform tasks of state policy in the field of combating illegal (illegal) migration, as well as bringing to administrative responsibility for violation of legislation on registration of persons, issuing identity and Confirming Citizenship requires detailed legal regulation to prevent violations of human rights and freedoms. [16]

In addition, passport and registration system - a collection of unsettled towards the rule of law relations concerning registration and issuance of passports, issues of

citizenship of Ukraine, registration of individuals at their place of residence (stay), organization of migration work, providing conditions for realization individuals sub 'of objective rights, freedoms and interests and supervising the execution of their duties.

The essence of the passport and registration system as an object of supervisory activities is that: first, the duty of supervising the observance of citizens and officials the legislation rules passport and registration system, entry, exit, stay in Ukraine transit through its territory of foreigners and stateless persons assigned to the specified range of subjects of the government; Secondly, in the operation of the system is ensured preservation of passports that can be used to commit offenses be objects or instruments of unlawful acts; thirdly, through passport and registration system is: a) oversee the registration and accounting of individuals in a residence (stay); b) the fight against illegal migration; c) oversee the acquisition (suspension) citizenship of Ukraine; d) supervising compliance foreigners and persons without citizenship of rules of stay in Ukraine, transit through its territory; d) wanted persons who do not pay child support, the defendants and public debtors; Fourth, through passport and registration system provided by the Constitution of Ukraine and other laws and regulations the right of citizens to free movement, the right to be a party to civil and other relations, to engage in the electoral process, etc; Fifthly, the supervision exercised compliance with the rules of passport and registration system is important in the prevention of other, related rules passport and registration system, offenses [15].

Conclusions. State Migration Service has a special place among the subjects of supervisory activities in the passport and registration system in Ukraine. Given the fact that Ukraine LCA was established relatively recently, it effectively prevent a number of organizational and legal issues. It is therefore necessary to develop and adopt a law of Ukraine "On the State Migration Service of Ukraine", which define the administrative and legal status LCA Ukraine, its objectives, functions and powers, legal framework, a system of LCA Ukraine, especially their interaction with other bodies authorities, especially the service in the bodies of LCA Ukraine, ensuring the activities, especially the control and supervision of the past and so on.

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ISSUES OF THE DAY OF COUNTERACTION OF ORGANS OF INTERNAL AFFAIRS OF UKRAINE ILLEGAL MIGRATION

Summary

The article is devoted to the topical issues of the organizational and legal provision of prevention and counteraction against corruption, as well as opening of separate directions of anticorruption activity improvement. The basic tasks of public policy are considered in the field of fight against corruption as one of the directions of providing international safety. In the article the examples of foreign experience are presented in the field of fight against corruption; the tasks of the legal providing of anticorruption legislation and practice are distinguished.

Key words: prevention of corruption, anticorruption strategy, forms of anticorruption activity, improvement of anticorruption legislation.

Formulation of the problem. According to the "Strategy - 2020" [9] The main purpose of the anti-corruption reform is a substantial reduction of corruption in Ukraine, reducing the losses of the state budget and businesses through corrupt activities, and improve Ukraine's position in international rankings that assess the level of corruption. This will be achieved through proper implementation of the new Anti-Corruption Strategy and successful introduction of new anti-corruption mechanisms.

To date, corruption has reached a level that threatens the national security of Ukraine, it is one of the main factors undermining confidence in the government internally and externally harm the international image of the Ukrainian state and the program of European integration. Given the systemic nature and prevalence of this phenomenon, measures taken for its prevention and suppression, not been effective, as evidenced by the dynamics of changes in the annual corruption perception index specified non-governmental organization Transparency International, according to which Ukraine for 2013-2014 pp. moved from 152 th 142 th place. [10] This trend

makes it possible to conclude that Ukraine is the formation of a new concept of fighting corruption, which makes it possible to use large-scale anti-corruption legislation updating and developing the theoretical foundation for the implementation of anti-corruption reforms.

Analysis of recent research and publications. The urgency of the problem is confirmed by the large number of foreign and domestic scientists who were involved in the development of anti-corruption. Among domestic researchers should be noted the work of local and foreign scientists such as L.V. Bagriy-Shaxmatov, A.I. Berlach, V.M. Garashchuk, M.Y. Bezdolnyy, L.R. Bila-Tiunova, B.V. Volzhenkin, D.G. Zabroda, D.I. Yosifovich, M.I. Milnik, A.I. Minuscule, O. Prokhorenko, A.I. Redka, A.V. Tereshchuk, M.I. Havronyuk and others.

The purpose of the article. The article is devoted to actual problems of organizational and legal provision preventing and combating corruption and improving the disclosure of certain areas of law enforcement in this area.

Presenting main material. As a result of the new Corruption Perceptions Index 2014 by Transparency International Ukraine has not overcome the limit of "corruption disgrace". Having only one additional point, compared to the year 2013, Ukraine remains the club totally corrupt states. 26 points out of 100 and 142 to 174 positions - such indicators Ukraine in this year's Corruption Perception Index (Corruption Perceptions Index) of Transparency International. Ukraine finds itself once again on the same stage with Uganda and Comoros as one of the most corrupt countries in the world [10].

These disappointing results, according to international anti-corruption community, caused hardly noticeable progress in the destruction of corrupt schemes received a legacy from all the ruling regimes since independence of Ukraine. Nowadays corruption is one of the main threats to national security and democracy in Ukraine, particularly corruption, hinders social progress, above all, the establishment of a democratic civil society; prevents the full realization of human rights and freedoms; denies the rule of law, and its rapid spread further due to imperfection as law, and moral qualities of domestic society; suppresses freedom of speech and the

press as corrupt business and corrupt government, from which most depend and national media interested in inadequate, incorrect media coverage of corruption processes in the country; applies because of the failings of public administration from the lowest to the highest level that still allows officials in its sole discretion to dispose of national resources; and perceived power among the population as a common phenomenon, and the possibility of overcoming doubt.

Threat to national security, corruption and the actions of the state in the performance of its international functions. This leads to a drop in international ratings of Ukraine and the reluctance of foreign investors to invest their capital in its development [9].

According to experts, Ukraine in all post-Soviet states has the best chance of a successful anti-corruption. However, this requires a comprehensive and concerted action both government and civil society, as corruption has the ability to quickly and easily adapt to changes in society and the state [11, p. 75]. The consequences of further exposure of corruption in Ukraine may well be: the growth of social and political tension (in the butt to a real revolutionary situation); further criminalization and shadow economy; undermining the economic and financial system of the country; devaluation of national moral values of society; international political and economic isolation of others.

That is why the vital necessity of further development of the state is preventing and combating corruption. This issue is important for social progress, normal life and prevent other threats and challenges. The powerful potential of Ukraine in economic, political, legal and social fields enables expect to improve anti-corruption situation in the country.

Accordingly, the main causes of corruption in Ukraine are: stratification of society into rich and poor, uneven development of the market economy; low salaries of civil servants salaries compared to the private sector; the contradiction between the rapidly changing conditions of the market economy and the current legislation; contradictions between legislative and moral and ethical standards of business; Laws of the existence of a wide spectrum and by public employees greater opportunities to

use them at their discretion; frequent changes bureaucracy and above all its management staff; continuous legal nihilism; ineffective control system [11, p. 76]. Above list can be concluded that one of the main factors of corruption are: economic, organizational, legal relations that occur in the state. But you should pay for one more of the main factors of corruption as "the mentality of society."

Mentality - a system of images, which are at the basis of individual perceptions of the world and their own place in it, defining the actions and behavior. The mentality is formed for centuries, as the traditions of culture, social structures and environments of all human life, and she, in turn, their forms, speaking as an important cultural and historical dynamics. In other words, the mentality, on the one hand, the result of culture and tradition, and, on the other - is itself a source of deep culture.

Corruption in Ukraine is a complex social phenomenon that affects all aspects of political and socio-economic development of society and the state threatens democracy and human rights, the rule of law, undermines social justice, the legitimacy of public institutions, welfare, harm to society, social progress and national security. Corruption has become a universal problem that affects all aspects of life, and most impressive scope of public relations with state and local authorities, which often face citizens in the implementation of their constitutional rights [1].

Corruption in Ukraine has features that distinguish it from corruption in developed countries. Here it is necessary to turn to international experience, including the technology combating corruption crisis type, Roosevelt used within the so-called "New Deal", which was used to display the US out of the Great Depression of 1929-1933. (According to the program to combat Organized Crime was established by the Federal Government Association - "strike force" that operated under the supervision of the Ministry of Justice and in close contact with the police states. Their main task was to identify organized crime groups, as well as search for evidence of criminal activities by illegal business and corrupt officials. In order to perform the tasks each shock group comprises public prosecutors and operational FBI, the Administration on the application of drug laws (APZN), Bureau of Internal Revenue, State immigration and naturalization, members of the Coast Guard and US Customs. Thus, each division had

opportunities of those services, whose employees are part of it. The effectiveness of these federal units based on bringing together the most experienced employees of law enforcement bodies. The legal regime of shock groups was determined by criminal procedural law and special instructions of the Ministry of Justice). A similar approach in Ukraine.

The current anti-corruption activities of the Ukrainian state is reduced to the manipulation of changes in the law (which looks to improve it) and chaotic action of "improvement" institutions of criminal justice (law enforcement) [2; 8]. For quite a long experience in countering such as Ukraine indicates its low performance. Analysis of Combating Corruption in Ukraine shows that it is not based on an adequate idea of the basic problems and causes of corruption.

Separately, we would like to focus on the fact that in terms of ease of doing business in the country Ukraine is losing ground rapidly, and it is an alarming signal. Thus, in general aggregate ranking of corruption CPI Ukraine "slipped" by 10 points for setting political and financial corruption (CPI index constituent data is taken from research Political Risk Services International Country Risk Guide). In this study, are taken into account over-sampling performance protection and suspiciously close ties between politics and business. Government agencies and officials often require businesses to pay bribes, as evidenced by the corresponding drop rating of Ukraine on 5 points (CPI index constituent data is taken from research World Economic Forum Executive Opinion Survey).

Thus, analyzing the state of corruption in Ukraine consider appropriate to pay attention on the improvement levers to combat this "social disease." In order to Ukraine took place in a real anticorruption change, Transparency International urges the Government, Parliament and President of Ukraine make five immediate steps:

1. Properly run the new work of anti-corruption (National Anti-Corruption Bureau of Ukraine) adopting amendments to the anti-corruption laws and providing the resources necessary to create institutions and recruitment of qualified personnel;

2. Urgently adopt legislation developed by experts of Finance complete transparency of political parties and election campaigns;

3. Based on the Anti-Corruption Strategy adopted by Ukraine to develop a detailed plan of action of the Government in combating corruption, the implementation of which involve the general public and the media [4; 9];

4. Ensure real disclosure state registers, primarily property registry and land cadastre;

5. Start regular checks on the integrity of public officials, including through the comparison of their lifestyle with the declared property and income.

Conclusions. The main directions of the state policy of preventing and combating corruption as the direction of international security are improving the mechanism of administrative and legal regulation in the sphere of combating corruption; continue work on the implementation of the recommendations of the Group of States against Corruption (GRECO) in the fight against corruption. Using the experience of foreign countries in combating corruption, such as Sweden and Singapore, will allow to Ukraine to create a public society with the function of public control over public authorities to provide public servants appropriate safeguards, such as social package state officials in Georgia, which includes medical insurance, pensions, and other benefits.

In addition, at the legislative level is necessary to define the term "conflict of interest" to provide a clear list of relationships that it contains. To ensure the implementation mechanism of anti-corruption legislation, the only interpretation of the law by law enforcement agencies and ensure prosecution for corruption in the anti-corruption legislation is necessary to determine the range of subjects that relate to the officers of public law.

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PROCEDURAL TERMS WHEN VIEWING ACTS OF COMMERCIAL COURTS

Summary

The article discusses procedural terms when considering the acts of economic courts. The question of duration of complaints or requests for review at each stage of the economic process and timing of future viewing is substantiated. It is proposed to review the terms of unification in view of the principle of rationality and the necessity of legal deadlines for filing complaints and applications for review of acts of economic courts is emphasized.

Key words: business process, review acts of commercial courts, economical procedural deadlines.

Formulation of the problem. Relevance of the subject article is due primarily to the fact that the terms in addressing economic affairs in order of review are becoming a more important factor in considering the case. This is due to the fact that in a relatively short time, were adopted amendments to the Commercial Code of Ukraine, namely the Law of Ukraine "On the Judicial System and Status of Judges" from July 7, 2010 and the Law of Ukraine "On ensuring the right to a fair trial" on February 12, 2015 . Ideas reducing and optimizing procedural deadlines in the commercial judiciary is an objective lever judicial reform implemented in the state. But it should be noted that the Law of Ukraine "On ensuring the right to a fair trial" somewhat lost so increased priority and some procedural terms, particularly in cases in the Supreme Court of Ukraine.

Analysis of recent research and publications. Research articles on topics barely held on, although the stage of the economic process as such in their scientific

works regarded scholars such as I.Yemelyanova, V.M. Koval, L.M. Nikolenko, T.V. Stepanova, P.M. Timchenko, but the range of their scientific interest is not included in the terms of the stage of the economic process, they touched them indirectly, as a factor that leads to the proceedings in the courts of higher instances.

The purpose of this article is the systematic study of timing in solving economic affairs in order of review because this economic institute procedural law is quite important lever to implement the principle of economic efficiency of the process, which distinguishes it from other commercial litigation fields procedural law.

Presenting main material. Procedural time as the time factor as a factor to implement the principle of efficiency and speed of judicial process as a quantitative measure of process in any case should not affect such quality indicators as pravosudnist decision. It is of this "middle ground" describes the court and trial participants in professional hand and makes it possible to say that the judicial reform, which is now declared, can be successfully implemented in our country.

Judicial protection of rights and freedoms and civil rights must be seen as a kind of public protection. The state assumes a duty pursuant to Article 55 of the Constitution of Ukraine. The right to judicial protection and provides for specific guarantees of effective remedy through justice. The lack of such opportunities restricts this right. And the meaning of Article 64 of the Constitution of Ukraine "right to judicial protection can not be restricted even under martial law or a state of emergency." Such a high position legislator determines, among other things, the right to judicial review of acts to establish the objective truth of the case. Therefore, test solutions, orders, rulings on appeal, cassation, the Supreme Court of Ukraine is the guarantee of the right to judicial protection.

Exploring the said problem, there are two aspects of procedural terms to review economic affairs: the deadline for filing appeal, appeal or application to the Supreme Court of Ukraine and the period of review of judicial acts of economic courts.

Regarding the first aspect, it should be noted that the tendency to reduce terms of justice should not be the goal, because of which lost objectivity and impartiality of the

judiciary. In particular, currently under Art. 93 Economic Procedural Code of Ukraine (hereinafter - Ukraine COD) is set ten days to appeal. However, the jurisprudence indicates lack of such a term for proper training of reasonable complaints. In practice, most such complaints are complemented by a review process, as the participants of the case, trying not to miss the filing deadline, is not fully substantiate the complaint. Often when filing an appeal are also filing with her motion to renew the term of appeal due to its space. And commercial courts almost always restore the missed deadline because it really is too small for s judgment and training at the appropriate level appeal.

An interesting on this subject submitted version of Art. 294 of the Civil Code of Ukraine, which operated until July 7, 2010 and provided that, within ten days after the proclamation of the decision could be filed a statement of appeal against the decision of the trial court and the appeal court's decision was served within twenty days after submission of the appeal. Accordingly, decisions regarding the deadline for submission of the application made five days after the approval decision, and the very appeal against the decision can be filed within ten days after filing such a declaration. Unfortunately, this position does not embodied after the unification of procedural terms in the reform of 07 July 2010. Exploring these provisions should mark their rationality and soundness, as is the majority of cases in order to view incoming ships with the application for renewal deadlines for filing complaints through their space with good reason.

In order to prevent such occurrences and to streamline the review of decisions of commercial courts consider it necessary to hold unification timing by determining the time limit for submitting the first application for appeal against the decision of the trial court within ten days after the approval decision, and the most appeal in 10 days . That is, the period for the preparation and submission of the appeal will make the whole 20 days. This period can be considered sufficient to justify their position on the appeal decision of Economic Court. According to the appeal rulings - a five-day period for filing an application for appeal and five days after the application for the filing of the complaint. In this case, if the specified application is not filed within the prescribed

period, the judgment shall enter into force 10 days after the judicial act, as is happening at present.

With regard to the term for cassation, the period of twenty days may not be sufficient for the position that the party that has to appeal the decision, must carefully prepare minimize the need for additions and refinements after filing appeal, which can only delay the economic case. Note also that the cassation appeal filing takes place after the entry into force of the decision of Economic Court and filing appeal, as we know, does not prevent the implementation of court decisions. Given this, we consider it appropriate with a proposal similar to filing an appeal reinforce the right to apply for review in cassation within ten days from the delivery of a judicial act of Appeal economic court. Thus, the process participants to provide ten days to file an application for appeal in cassation and twenty days - for filing of the appeal, which we think is quite reasonable time to prepare fully reasoned appeal.

Regarding the revision of judicial decisions by the Supreme Court of Ukraine, taking into account the amendments made by the Law of Ukraine "On ensuring the right to a fair trial" of 12 February 2015, an application for revision of a decision of Economic Court on the grounds provided for in paragraphs 1 and 2 of Article 11116 COD Ukraine shall be submitted within three months from the day the judgment for which application is made for review of, or the day the court decision, which made reference in support of the grounds provided for in paragraphs 1 and 2 of Article 11116 GPK Ukraine (Art. 11117 COD Ukraine). However, the indicated position of the legislator was not motivated. In the previous version of the EPC of Ukraine according to the changes that were made to the Law of Ukraine "On the Judicial System and Status of Judges" of 07 July 2010, this period amounted to one month, which was fully justified in view of the limits grounds for the submission of applications for review of judgments of commercial courts referred to in Art. 11116 GPK Ukraine.

Another factor is the possibility of legal uncertainty renew the term of appeal (appeal) for valid reasons. This hypothetical assumptions about delays in review of decisions contributes to economic uncertainty party proceedings. Therefore, it seems necessary to set a time when an application for review or appeal judgments, rulings,

decisions will not be accepted even for valid reasons. This will facilitate the implementation of the principle of legality judicial act because after the decision Economic Court and the expiry of the time required review of the judicial act is generally impossible. So for filing appeal, appeal or application for review of a decision of economic courts of the Supreme Court of Ukraine consider it appropriate to set a deadline of one year for any person, as this term is sufficient to eliminate all valid reasons that could hinder a complaint (application).

Thus, establishing the term for initiating judicial review of acts of economic courts not only encourages a person protected rights or interests have been infringed to apply to the courts, but also serves the interests of the other party, setting a time limit of this appeal, the rule of law promotes stability in general.

As to the second aspect, the theory of procedural law provides for two types of judgments Views: complete and incomplete [1, p. 14]. Full characterized by a new appeal proceedings. This type of appeal is fixed, for example, French, Italian processes. The Court of Appeal not only validates the decisions of the first instance, but also solves the same deal on the same terms as the court of first instance. The objectives of the full appeals court is to eliminate errors. The parties have the right to submit new evidence may change the deal compared to how it seemed to the judges of first instance. As a result of this approach, the Court of Appeal shall finally decide the case and has no right to return it to the trial court for new proceedings and decision. For a full appeal characteristic relative slowness of proceedings as the opportunity to study an unlimited amount of new evidence requires a certain amount of time.

Incomplete appeal fastened, for example, in the Austrian and German Court of Appeal given a modest role: the process of proving concentrated in the trial court and the appellate court must review the decision based on the factual material provided by the parties in the first instance, and correct mistakes omissions lower court. The appeal proceedings are generally written using the framework. Even the parties in meeting attendance is optional, as the case may be reviewed on the basis of written regulations and, above all, the court records of the court of first instance, appeal and an

explanation for it. That is, with respect to the timing incomplete consideration of the appeal shorter.

Considered characterization of complete and incomplete to set the appeal that, based on the analysis century. 101 of the Commercial Code of Ukraine, the boundaries of view of economic affairs on appeal with a wide range, namely the right to re-considered by the evidence, including the new, but not accepted and are not considered claims that were not the subject of a commercial trial instance. According to Art. 102 EPC of Ukraine to the appeal proceedings is given two months after the adoption of resolution on approval to appeal proceedings. That is the appeal proceedings in Ukraine can be called as full because of the quality characteristics, so in view of the quantity, ie time performance relative terms that reflect the consideration of the Economic Court of First Instance.

Regarding the court of cassation should be noted that according to Art. 1117 GIC Ukraine, looking in cassation court decisions, courts of appeal on the basis of established facts of the case only checks the application by trial or appellate court of substantive and procedural law. The question of the reliability of evidence in court this instance is not considered, as well as courts of appeal does not have the right to establish or consider circumstances the courts previous instances can not verify or collect evidence. That is, the process of review in this case is incomplete. Therefore, in terms of consideration of the court of appeal must be smaller: p. 1118 Economic Procedural Code of Ukraine establishes the term of consideration of the cassation appeal within one month, and the local business court decision referred to in the first part of the century. 106 EPC statutes Ukraine Economic Court of Appeal approved the results of appeal - even in a period of 15 days. That is, in this case we can see a vivid example of incomplete type of judicial review and in accordance with the procedural task of the deadline for dealing with complaints.

Note the century. 114 EPC of Ukraine, which states that the application for revision of a judgment, decree to new circumstances considered by the economic court in court within one month from the date of receipt. And in the HPC Ukraine no article that would provide the limits of the case law. However, based on logical assumptions,

we can reach the following conclusion: in case there were new circumstances, we can determine that in the process of administration of justice must again gather, evaluate evidence that is second to hear the case, taking into account new circumstances that could significantly affect the establishing objective truth in the case. That is, such a review is appropriate to be considered complete. Moreover, it should be noted that the EPC of Ukraine does not establish a time frame in which it would be possible to apply to the Commercial Court, which heard the case on review of her new circumstances. Not defining this term, the legislator allows in fact view the case on this ground in infinite period, which may adversely affect the decision of the court or the parties in the case, which, not having confidence in the completion of the review, will operate in a voltage not having reason to believe the final decision of Economic Court. On the other hand, one can argue that setting any prybichnyy period of application for review by the new circumstances, the right side is violated to a fair trial. This can be noted that the deadline for appeal and cassation legislator provided because setting a deadline for submission of the application for review of a decision by the new circumstances is quite reasonable.

Based on the above it can be noted that if the time for taking an appeal does not cause any significant observations as balances corresponding period the merits in the first instance, the term of consideration of the cassation appeal is a little lengthy due to the fact that stage any appeal is inherently incomplete review, so impractical as to delay the process. In preparation for the trial in the court of cassation panel of judges headed by the speaker can fully assess the case file to a single court to decide the case, the more, as mentioned above, if you enable stakeholders, who contested decision in cassation prepare more thoroughly for the future - that whole period extending to prepare a cassation appeal to thirty days (10 days in the statement of appeal and 20 days in the same complaint). Perehruzhenist court cases can not serve vypravdalnym factor. The Court, in exercising their responsibilities for the administration of justice, shall as soon as possible following the law allow the parties to continue to implement its economic activity, not zvolikayuchys to litigation.

Art. 114 of the Commercial Code of Ukraine determined the month to consider economic case for new circumstances. It should be noted that, based on the principles of reasonableness in terms of business processes, such period can not be considered sufficient for the collection, research and evaluation of evidence and full review of economic affairs again. Before proceedings on new circumstances accessed the same judge who considered their first time. In this case, the re-examination of all the evidence was not necessary. But after the reforms of 2010 cases under the new circumstances consider another judge, which needed time to study the case, the definition of necessary stakeholders call for explanations, a judicial expertise, etc.

Therefore, more motivated to be considered a period of two months to consider the economic case for new circumstances which may be based on analogy with maturities consideration in economic courts of first and appeal instances due to full order retrial within economic justice, unlike the appeal.

Conclusions. Analyzing the current law in view of the timing of the economic process, it can be noted that the reduction or increase of terms should not be unreasonable, we must always bear in mind that to reach the objective truth of the case can only reasonable steps to be oposeredkovuvatysya formula that can be as follows: the full implementation of the procedures for review / revision - longer term, the implementation of incomplete / simplified procedure review / preview - shorter term provided by the legislator. A clear legislative norm set all procedural terms to their use caused no other interpretation. Also, in the legislative aspect prybichni should define the terms after the expiry of which would not be considered any good reasons that prevented file a complaint or application for review of decisions of commercial courts. All this will contribute to a full, fast, the most effective solution in economic courts.

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ABOUT REFORM OF «UKRAINIAN RAILWAYS»

Summary

This article critically examines the reform of rail transport, and objectively analyzes the reform program. We considered the stages of the reform and the reasons for and consequences of deviations from the "Ukrainian railways" reform program.

Key words: reform of «Ukrainian railways», State Program of the railway reform, privatization.

Formulation of the problem. For already more than 15 years raises the question of reform "UZ" which is both its supporters and opponents. Despite the fact that he 23.02.2012. The Law of Ukraine "On peculiarities of creation of the state railway company public transportation" and a series of regulations to implement them can not but create the specified term of the Company were disrupted.

Analysis of recent research and publications. Scope of the reform "UZ" studied writers like S.Androschuk, O.Bystrytska, S.Hrechishyn, N.Sheluhin. Unfortunately, the authors of the article mentioned only superficially touched some problems in this field, and therefore remain many unresolved issues both theoretical and practical levels.

The purpose of this study is to solve the problem of inhibition reform "UZ" identify the main reasons for blocking the reform process and ways to overcome legal crisis in the field of rail transportation.

Presenting main material. Fundamentals of railway reform laid in the Concept of state program for railway reform, approved by the Cabinet of Ministers of Ukraine of 27 December 2006 № 651-p. However, reform of rail transport at the time did not

provide for the formation of "Ukrzaliznytsia" societies and private companies that have fleet of passenger and freight cars. On the contrary, the main prerequisite for an effective railway reform was to preserve state-owned railways.

Later railway reform was on the basis of the European Parliament and of the Council (which were approved by the Cabinet of Ministers of Ukraine of 11.06.2008 p. № 821-p and p from 15.04.2009. № 408-p) and the recommendations of the World Bank, European Bank for Reconstruction and Development and other donors and private investors and was under constant monitoring of these organizations. On approval of the recommendations in the Program of Economic Reforms for 2010-2014. "Prosperous Society, Competitive Economy, Effective State" from 02.06.2010 g., It was stated that "the purpose of the reform is to improve the quality of existing and construction of new exercise about of objects of transport infrastructure to meet the needs of economic development and improve quality of life. " In particular, it was found that the necessary steps to improve management in the railway sector are:

- Functional separation of Ukrzaliznytsia state assets, creation on their base of joint stock companies;

- Improving corporate governance;

- Sale of non-core assets and subsequent partial or complete privatization of segments that are not natural monopolies;

- Ensuring non-discriminatory access to the private operators of infrastructure networks.

Resolution of the Cabinet of Ministers of Ukraine of 16.12.2009 №1390 approved by the State Program of reforming the railway transport in the years 2010-2019, designed for 10 years, which is planned to carry out in three stages:

- Phase I (2010-2012): Improvement of the regulatory framework necessary for reforming the sector; the formation of a public company rail transport (hereinafter - the Company); introduction of a mechanism of financial flows by type of economic activity;

- Phase II (2013-2015): Forming a vertically integrated industrial-technological system of railways, structured by activity, with the introduction of automated system of accounting and management; creating organizational and legal conditions for the private operator of passenger transportation companies; formation in suburban and regional passenger transport business partnerships, corporate rights to which belong to local executive authorities, associations and other entities; optimization of the organizational structure of railway transport;

- Stage III (2016-2019): The elimination of cross-subsidization of passenger transportation by truck through the introduction of a mechanism of financial support for passenger transport; the formation of a business partnership in the field of passenger transport in the distant and local traffic, on corporate rights which belong to the Company; increasing the number of private companies that have fleet of passenger cars; the formation of local railways that have infrastructure and rolling stock, based on sub-rail transport, malodiyalnyh and narrow-gauge stations; developing a network of logistics centers, warehouses and distribution terminals.

In the course of implementation of the program amended the laws on transport and privatization. So, in preparation for the restructuring of Ukrzaliznytsia, the legislator Law of Ukraine 13.01.2012 № 4336-VI amending the Law of Ukraine "On State Property Privatization" and excludes subparagraph d) ch. 2, Art. 5 of "property complexes of enterprises engaged in primary production of railway equipment (locomotives, diesel locomotives, diesel trains, wagons)."

The Law of Ukraine "On peculiarities of creation of the state railway company public transportation" of 23.02.2012 № 4442-VI (hereinafter - the Law of corporatization 'Ukrzaliznytsya ") makes" Ukrzaliznytsia "in the market-oriented economic enterprise by combining its assets and business to make a profit. During the year, planned on the basis of the State Railway Administration of Ukraine, as well as enterprises, institutions and organizations of railway transport, including railways, healthcare facilities, educational institutions belonging to the central executive body to form and realize State policy in the transport sector, and higher education of I accreditation level, which train specialists for railway transport, railway PAT form of

public transport. These enterprises, institutions and organizations of railway transport should be reorganized by merger and to become members of the Society to form a single legal entity with 100% shares in state-owned fixed and founder is the state represented by the Cabinet of Ministers of Ukraine.

At the same time changes the legislator paragraph 8 paragraph d) ch. 2, Art. 5 of the Law of Ukraine "On State Property Privatization", and states that can not be privatized "RAILWAY LINES public and posted on their technological structures, transmission equipment directly used for the process of transport, namely railway stations and tracks public , traction substations, contact network and other devices technological power, alarm systems, centralization, blocking and train control, objects and property, designed specifically for implementation of remediation activities. " This property is owned by the state and assigned to the Company the right of business. But mainly assets related to the functions of the state to ensure the safety and regulation of traffic, do not give quick profits using and require large investments.

It is legally privatized education objects whose property included in the authorized capital of a public company rail public transport (paragraph 10 of point b) ch. 2, Art. 5 of the Law of Ukraine "On State Property Privatization").

Simultaneously, the said law was excluded from the list of state property that can not be privatized, "property complexes of enterprises of railway transport infrastructure on the territory of Ukraine," a total of 29 objects, including all six railways of Ukraine, state design and survey Institute of Railway transport carriage repair plants and others.

June 25, 2014 was accepted by the Cabinet of Ministers of Ukraine №200 «On Establishment of Joint Stock Company Ukrainian Railways», which regulates the procedure for the establishment of the Company. According to p. 5 of said resolution of the Ministry of Infrastructure for six months was obliged to take measures to stop UZ and companies referred to in the Annex.

It should be noted that the corporatization of state enterprises - the initial stage of their preparation for full or partial privatization. Almost all private companies that do business on the basis of state assets to the Soviet economy, have passed this way. It

is likely that the railway companies and investors, the German railway company Deutsche Bahn, Polish PKP, SNCF French and American investment company Railroad Development Corporation (former Estonian railway operator) - would be interested to invest in Ukrainian railways [1].

Leaders 'UZ' and trade unions rightly claim today impossibility privatization JSC "Ukrzaliznytsia". However, after the reform, the company will be completely different structure, which will have only the infrastructure, signaling systems, telecommunications, railway stations, and other engineering structures, fundamentally unprofitable but necessary targets, the maintenance of which requires significant capital investment.

Of course, becoming a model railway on the best international practices is now vital. However, this should be done not through privatization unified transport system, resulting in loss of normal functioning of all branches of social production, the complete collapse of social and economic development and the final destruction of the state defense, international cooperation Ukraine.

World experience knows various examples of reforms rail transport. For example, in Colombia, in the neo-liberal reforms the national rail network was just destroyed. In the UK, the privatization of "British Rail" has led to the complete collapse of infrastructure and the consequent destruction of trains. Now the British government is forced to invest huge public funds to support the industry and keeping unemployment. In Estonia, an American investor in the pursuit of profit has not fulfilled investment obligations and actually pulled the railway network [2]. So a few years had to nationalize the railway, and the government paid the amount almost three times and was broken back infrastructure. In the meantime, German, French, Czech, Spanish railways, which are state-owned, is a model of efficiency.

Conclusions. Deep analysis shows that reform "UZ" currently do not designed to meet the transportation needs of the state and society or improve the living standards of railway workers, and aims at the gradual collapse of the structure of the railway.

Pursue reform "UZ" should, but after treatment multilateral concept of discussion in labor collectives industry, scientific and technological circles, given the

positive and negative experiences railway reform in all post-Soviet and post-socialist countries.

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ON THE CONCEPT OF THE CONCERT CONTRACT

Summary

The article is devoted to the concept of the concert contract. The different opinions about the name and the concept of the concert contract are investigated. The sides of the concert contract are identified. It is proved that the concert director may represent the performer (an artist or a group) at the conclusion of the concert contract. The rider is considered as an integral part of the concert contract. The necessity of fixing the proposed concepts at the legislative level is justified.

Key words: the concert contract, the customer, concert director, artist, rider.

Formulation of the problem. The rapid growth of the service sector is currently one of the main patterns of economic development and covers a wide range of activities designed to meet the personal needs of the population and needs, and the needs of society, from trade, transport and finance to insurance, mediation, consulting and meet the cultural needs of consumers. Ongoing economic reforms in the country could not touch cultural life, which is undergoing in the last decade opposing trends influence.

With the formation of the state of democratic principles in Ukraine began to increase citizens' creativity, the emergence of theaters, museums, art groups and associations, new performers and attract artists from foreign countries. Liberty received leaders and cultural institutions, provided optimal conditions for its development. There are new types of consumers and professional customers arts that build the relationships with creative figures on market principles. These factors have launched the establishment of relations in the field of show business on the territory of Ukraine.

Public relations composed on the provision of culture is very diverse and cover various aspects of cultural activity. However, the priority, in my view, is the creation of legal regulation of drugs is concert services as the most dynamic trend in culture.

Given the specificity of this business, we can speak of insufficient vrehulyuvanist by regulations.

Analysis of recent research and publications. In modern science, issues of legal regulation of show business is dedicated to the works of such scholars as A.Bertrand, Ye.I. Zhdanova, S.V. Ivanov, P.A. Kalenychenko, N.V. Krotova, I.A. Sylonov, A.V. Hachatur'yan and others. However, all these scientists considered showbiz at its general legal aspects or focusing their study on specific institute show business.

The aim of this study is the definition of the concert contract.

Presenting main material. In the Commercial or Civil Code of Ukraine there is no definition of "concert contract" or section that could be devoted to the issue of settlement between the parties to live performances. Generally it is difficult to find any regulations that would be devoted to entertainment services. In this area, adopted only the Law of Ukraine "On tour events in Ukraine", according to Art. 1 is touring events - is entertainment events (festivals, concerts, performances, lectures and concerts, entertainment, speeches mobile circus groups, mobile mechanized rides like "Luna Park", etc.) schools, businesses, cultural organizations, creative teams, including including temporary, individual performers outside their residential scenic grounds. Tour events, except touring charitable activities conducted for profit [1].

The Law of Ukraine "On tour events in Ukraine" clearly establishes that the concert is a kind of tour events. In Art. 2 of the Act stipulates that all tour arrangements are carried out under contracts to be concluded in accordance with the law. However, consider that this is not enough. Lawgiver not approved or template of such contract or its essential terms, not even a single name such agreement. In practice, it is called a service contract for the organization of the concert, to carry out the contract Concert event organization agreement concert, concert contract to provide

services, the contract for services. There are other names treaties governing the said activity.

We propose to use the same name for this type of contracts - concert contract, as indicated by its name semantic value includes all services, as well as conditions related to the concert event. The above name is common, under which it is possible to understand each type of contract of the above are the most meaningful for this agreement because it does not specify an executable action in its name, the other names of agreements described above, each of which in its name puts emphasis on basic service provided under the contract ("organization", "holding", "provide", etc.). Therefore, we believe that the most appropriate and unique name for the contract, which is used as a regulator of relations between the customer and concert artist (performer) must be the name "concert contract."

Admittedly, every kind of entertainment has its own characteristics, which should cover the treaty, with the establishment of subject and object relations, rights and obligations of the parties, penalties for violations, etc. Therefore it is appropriate to adopt elaborate on the legal level of a typical concert contract.

Analyzing the nature of live performances, you can determine that the organization of the concert event - a service as both customer and performer providing a range of services to achieve the implementation of the agreement. This allows for the organization of concert activities the provisions of Chapter 63 of the Civil Code of Ukraine. Part 2 of Art. 901 Civil Code of Ukraine establishes the scope of head of service, indicating that the position of head of service applicable to all contracts for services if it does not contradict the essence of the obligation. However, it appears that an agreement on providing concert services is very specific and not disclosed provisions of Chapter 63 Civil Code of Ukraine.

In show business has developed a division of labor, rather than the one which is inherent in material production. Of course, an important role in this production paid to the author or artist, giving the industry a high degree of personalization. In particular, V.V. Lazor believes that direct subjects of the concert agreement is a performer (actor) and customer concert [2, c.83]. Agreeing with his opinion, it should be added that in

addition to performer (actor) and the customer's concert, the subject of the contract may also act as a representative artist (Artist), it can be, for example, the director of concert performer (actor).

As rightly point O. Dotsenko and I.I. Prigogin, a customer of the concert - the so-called consumer products and services that provide performers. Customer concert can be as any natural person or legal. Customers can be more natural or legal persons.

But rarely concert contracts are concluded directly between the customer and the performer. Usually, another subject of the relations serves executive producer or director of tour operations. Executive producer decides all questions of management, financial and creative nature. In addition to basic functions, its tasks include checking the serviceability of equipment, organization of work of all project participants. Director of the group, taking part in all its affairs, travels with her on tour, resolves all issues related to cooperation with partner organizations on the ground. He settles all relationships with tour partner departments, for example, on the drafting of the rider. The word "rider" came from Western show business in our domestic. Formed from the word ride - ride, ride. On the content of rider - a list of requirements for artist (or group) to the organizers of touring performances. In fact, it transfers all the conditions under which artists feel comfortable before, during and after the show. Typically, the rider is divided into two thematic parts: technical and economic. According to the technical part of the name makes demands on the technical aspects of the event, for example, to be used technical equipment, pyrotechnics and more. By economic actors of the rider in a much more interesting, because this part describes the everyday needs of the artist. The first requirement is a place where the artist stay before and after the speech - Hotel, dressing room, restaurant or dining room, etc. Prescribed as any survey and the desire of the artist. In most cases, the zoryanishyy artist, the greater its rider both in volume and the stringency of requirements for its implementation. Ryder is an integral part of the concert contract. However, the rider may be a separate part of the (additional) agreement and provided in the contract.

Concert director organizes concerts of all sizes: club concerts, tours, etc. He is responsible for booking, the hotel places to live performers, sound engineers and other

members of the creative team, creates a schedule of concert activity according to the proposals and pricing.

You must load and unload tons of equipment, people and place to plan the next steps. This touring director usually helps tour manager or tour manager [3, 294].

According to the above analysis appropriate to note that researchers still have not decided on the general concept of representative artist (actor). The most correct definition is specified person as a director of the concert, because that person directly engaged in concert activity artist.

In literature there are different names for trades people working with the artist (group) and are representative of the artist (group) to perform various actions related to the professional activity of the artist (group). These persons are: Executive Producer, tour manager, tour director, tour manager, manager, director, concert director, administrator. All these concepts are similar in their semantic value, but focused on different activities, as there are as broader concepts and more narrow in scope of their functions.

Concert director is a narrower concept. Actions of a person who is a director of a concert associated with the regulation of relations between the customer and concert artist concert at the conclusion of the contract and during its operation until the end of the obligations under the contract. Concert director may act as the representative artist concert and sign a contract on his person speaking thus guarantee the fulfillment of all obligations under the contract by the artist.

There are positions that its functions are similar to the concert director, namely tour manager, tour director, tour manager. However, these persons are involved in the organization of concert activity as if the artist decides to organize a concert or series of concerts, and the name of this type of event will be a tour or a tour (tour).

O.O. Korbut contract determines the provision concert as transaction services, in virtue of which one party - a professional performer, organizer or intermediary - undertakes in a timely manner to provide the other side - the customer (citizens or legal entities) - organization and services concerts for personal use or for the benefit of third

parties on its own or through involvement in the performance of third parties, and the other party agrees to pay for these services and to fulfill the obligations under the contract.

With the given definition can not be accepted, since the agreement concluded between the artist and the person or entity, and sometimes - not by the artist, and with his representative. This representative can act concert director as a person who is directly involved in touring, concert activities or artist (or group). This agreement includes a rider, which indicated the main requirements for services for organization performance artist (musician) who must fulfill customer. The subject of this contract is a performance artist (or group) for cash consideration received from the customer (organizer) performance. In this case the customer can be a legal entity and physical, and actions aimed at implementing measure concert artist (performer). If the entity is, in most cases it uses this agreement to further profit from third parties - viewers by implementing tickets for the performances, which was contracted. As for the concert event, first of all the end product that receives and organizer (customer) and the artist himself after all the conditions for the organization of the concert. You can give definitions concert event - a performance artist, which is the result of proper implementation of all actions aimed at organizing the concert.

Based on the above, we believe that the concert agreement defines the economic and legal relationship, by virtue of which one party - the performer (artist, group), or its representative (concert director) undertakes in a timely implement his speech and his representative ensures performance these obligations, the other party - the customer (legal or natural person) agrees to create all the necessary conditions specified in the contract and rider, for a concert event performer for personal use or that of a third party and pay for these services.

We agree with O.O. Korbut that study contract for its legal nature should be considered consensual, bilateral and compensation.

This contract is consensual, because the time of the contract does not coincide with his performance, although sometimes they can split insignificant period of time.

Availability interdependent subjective rights and duties of both parties in concert contract allows to characterize it as a bilateral agreement, as opposed to unilateral, in which one party is just right, the other - only responsibilities. This concert contract substantially different from the service contract, which according to p. 1, Art. 903 CC Ukraine legally responsible to the customer, only one duty - to pay for services [4, 169-170]. However, the customer under the contract not only provides professional artist award for his service, but he provides a range of services and create all necessary conditions for the concert.

This agreement creates an obligation for service providers to implement appropriate action to meet the needs of the audience and the duty of the customer to take them and make the agreed contract fee, so it is compensated.

I.I. Prigogin provides the following feature of the treaty: it may be a public contract, and not to be. This fact depends on the subject composition agreement. If an agreement is signed between the direct executor (artist, group) and subject that person is going to consume the service, that is, in fact, a mediator between artist and audience and receives commercial or other interest, such a contract is not public. Each contract is purely individual and requires careful consideration of many points. Otherwise, if the counterparty to the contract spectator stands, ie direct consumer entertainment services, the contract will be public [5, 82]. However, the position I.I. Prigogin, a concert that contract can not be made public, can not be accepted because the customer under the contract is always a physical or legal entity that under this agreement are always pursuing their own interests, ie profit from the concert event. However, we can talk about what the customer can mediate between artists (performer), and the audience, but it applies only to services provided by the artist, that of speech.

The essential terms of the contract of the concert, in addition to the subject, should also include provisions on price, timing, location and rider as an integral part of the contract, as in all the cases in this document clearly states that all of its requirements is required ' compulsory for execution. Otherwise Artist reserves the right to refuse to talk.

Conclusions. Concert contract is the main and only for its legal entity regulator of economic relations in the concert area.

Based on the above, it is proposed to consolidate the legislative level that the concert agreement defines the economic and legal relationship, by virtue of which one party - the performer (artist, group), or its representative (concert director) undertakes in a timely realize its performance and his representative guarantees the fulfillment of these obligations, the other party - the customer (legal or natural person) agrees to create all the necessary conditions specified in the contract and rider, for a concert event performer for personal use or for the benefit of third parties and pay for these services.

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ON THE LEGAL NATURE OF THE SHARE AT THE STATUTE CAPITAL OF THE COMMERCIAL COMPANY

Summary

The actual concepts of the share in the statute capital are critically investigated in the article. The author proposes the understanding of the share as a sui generis object of rights that may be regarded as a transferable substratum of the shareholder's rights designed to provide corporate format of the company through the possibility of the multiplicity of the shareholders as well as their changeability.

Key words: share, statute capital, commercial company.

Formulation of the problem. In many norms of legislation of Ukraine mentioned this category as a share in the authorized (share) capital of business entity (hereinafter - share). Its importance is seen from the fact that the business entity is defined in Part 1 st.113 Civil Code of Ukraine as a legal entity authorized (share) capital is divided into shares between the parties, alienation, inheritance shares is commonplace facts of everyday routine legal. However, the share category is problematic because the legislation does not determine its legal nature, and between scientists on the subject sustained discussion.

Analysis of recent research and publications. Among modern jurists dominated the following approaches to the legal nature of particles: some scientists understand how to share a set of corporate rights (N. Butryn, S.S. Kravchenko, S.Ya.Rabovska) or "generalized" right, which is, in turn, set of corporate rights (V.Vasylyeva, R.S. Fathuddynov) others understand as a share of property rights, which, however, is not

limited to a set of corporate rights are different from them (S.A.Bobkov, V.M. Kravchuk) , others - as a complex set of rights and obligations of participant (D.V. Lomakin, S.D.Mohilevskyy, L.A.Novoselova, V.V.Rozenberh, S.Shevchenko). However, in our opinion following the above approach can not formulate internally consistent concept of particles, and the rejection of the share category as such led to harmful effects.

The purpose of the article is to determine the nature, legal nature and functionality of the authorized share capital.

Presenting main material. First of all, you must make a critical analysis of approaches poimenovanyh above groups of scientists on the legal nature of the particle.

1. Most prevalent among Ukrainian scholars is the view the share as a set of corporate rights.

In particular, S.Ya. Rabovska completely eliminated the category of "share" of use and notes that the object's ownership share is not, and most corporate rights [1, p.4]. N.Butryn uses the terms "corporate rights" and "share in the authorized capital of" interchangeably [2, 38], explaining that considers the totality of corporate rights as the only oborotozdatnyy object [2, 37] and notes that in the treaties, which is mediated by the transition of corporate rights is precisely the subject of corporate law, and not share [2, 39].

This idea was formulated and developed in detail in my dissertation S.S. Kravchenko who thinks that's a fraction of the authorized (share) capital of the economic society is an expression of its corporate rights as the property of the participants of economic societies are corporate law [3 , p. 81], as a valid object with which transactions should be committed corporate law, and not share in the authorized capital [3, p.5].

1a. Adjacent to the previous group and researchers who understand share a little differently - as a kind of "generalized" right, which is, in turn, together with corporate rights.

V.Vasylyeva completely abandoned the use of the term "share" and considers "Corporate" oborotozdatnyy as a single object, complex aggregate object of civil rights (including property rights), consisting of a series of subjective self Rights [4, 110]. Russian author defines R.S. Fathuddynov share in the legal sense as a subjective right to participate in the activities of society, that is, in turn, by a number of powers, the main of which is to participate in managing the affairs of society [5, p. 10].

Consequently, all of the above authors share as a legal category has no functional purpose and separate substantial load, and perceived as synonymous with the terms "set of corporate rights", "Corporate" or "the right to participate in society," which, in its turn, also seen as a set of corporate rights. It should also be noted that a set of corporate rights of these researchers regarded as indivisible.

By this point of view can make the following observations.

A. If the share - just a synonym for corporate rights that has its own essence, can we replace without any damage in the rule of law, the term "share" in the phrase "corporate rights"? In particular, Part 2 of Article 127 of the Civil Code of Ukraine will provide that in the case of the transfer of corporate rights (or partial) new participant to pass it in whole or the relevant part of the rights belonging to the participant, who gave corporate law (part thereof), and h .1 st.167 Civil Code of Ukraine will establish that corporate rights - a right of the individual, corporate rights which are defined in the share capital (assets) of economic organizations, including the eligibility of persons to participate in the management and further - below. In the original wording of the above law instead of italics phrase "corporate law" term "share". You can see that for such replacement, these rules completely meaningless, while in determining corporate rights arising classic circulus in definiendo.

This proves the existence of particles as a separate category, distinct from corporate rights, which has its own essence.

B. One of the above authors (N. Butryn) notes that corporate law, in its opinion, there are the founder (participant) with respect to any legal person, regardless of whether the formed authorized capital [6, 64] .

We believe we should agree with the thesis that the rights of members of any enterprise, but not any legal persons such inherent legal nature. However, if the corporate rights of the state as the state's LLC and as the founder of state enterprises have the same nature - why alienated corporate rights reserved by Open? The recognition of these rights requires recognition of the nature of a single unity of their legal regime. But human alienation founder of state enterprise contradicts the concept of public enterprise, change of ownership of state enterprises prior to its reorganization JSC (the privatization), or in a utility company (by transfer to municipal property) - with the state enterprise ceases.

Consequently, the recognition of a single natural human user Ltd. and human founder of the public enterprise, together with a statement of visual differences between the business entity and state enterprise (and wider - all unitary enterprises), which is the presence of particles in the ground and their absence in the second, is the argument in favor of the right not alienated as such, and the proportion that is purely functional tool - oborotozdatnym substrate corporate rights, designed to provide corporate nature of the enterprise because of the possible multiplicity of participants and their replacement.

C. Analysis of judicial practice shows that the requirement "to accept ownership of the share in the authorized capital" is an order of magnitude more popular than those of the plaintiffs' recognize corporate law. " This indicates that the proportion as something other than corporate rights has its own existence as a phenomenon of legal reality.

2. It should be noted also a group of lawyers who understand proportion as property law, which, however, is not limited to a set of corporate rights are different from them.

Thus, the Russian author S.A. Bobkov determines the amount of authorized capital as a property right, which is a quantitative expression in the form of par value and the partial value (as a percentage or fraction) with respect to share capital ownership status it confers subject by companies, and - as a consequence of a set of rights (both property and non-property) and obligations to society and other

stakeholders [7, p.66]. Similarly V.M. Kravchuk considers property right proportion, shape fixation property participation in business partnerships, which proves property involved in the company and is subject to civil relations by which oborotozdatnist provided corporate property rights [8, p.7, 10 -11].

Thus the object appears share rights (in particular - the object of ownership) is a form of fixation of other rights (corporate) and most recognized property rights.

In this regard it should be noted that S.S. Alyeksyeyev expressing universally position determines the subjective right as secured legal responsibilities of others as permissible conduct, owned by the eligible person in order to meet its interests [9, c.114] and stresses that elements of subjective rights are the powers of the eligible persons - own positive actions, the actions of others on prytyazannya to others [9, 118].

It is quite clear is the composition and powers of interests upravlenoyi person in respect of the ownership of the share as well as certain corporate rights. However, the contents of a property right that is allegedly part, remains unclear, and in our opinion, can not be understood.

Interest party affiliation to determine the proportion of it is realized through the ownership of share relevant powers and ownership interests by the company itself carried on through separate corporate law and relevant powers, while property rights, which seems to have particle content is blank.

Therefore, understanding how to share property rights other than aggregate corporate rights also can not accept.

It should also be noted that V.M. Kravchuk, unlike S.A. Bobkova argues that the subject of relationships, including transactions might not only share but also some (basic) corporate property rights (the right to dividend, the right to vote, the right to obtain the actual value of the share, etc.), and even more - the organizational rights, in particular - the right to vote, because we should recognize them as separate objects oborotozdatnist rights [8, p.11].

It should be emphasized that combines V.M. Kravchuk oborotozdatnosti recognition of certain corporate rights to the concept of individual particles as

oborotozdatnoho object - property rights, other than corporate rights. However, if some corporate property rights oborotozdatnymy recognized as such, then their set (complete or incomplete) are also oborotozdatnoyu therefore - Category particles retains meaning only for accounting purposes, while the share of the concept of rights as oborotozdatnoho object appears superfluous.

3. Finally, in Russia there is a group of researchers who believe share a complex set of rights and obligations of the participant.

These scientists are repelled from the thesis that even in 1912 expressed V.V. Rozenberh, noting that the share in the company of a set of rights and obligations of each friend about the company, known as the legal complex [10, 155]. D.V. Lomakin [11, 55], L.A. Novoselova [12, 207] and S.D. Mohilevskyy [13, 43] as well understood as a set share of property rights and obligations by the company relative to other participants and the company itself, the amount of which is determined depending on the size of the contribution of the participant.

These authors polemic with supporters understanding of how particles of law or set of rights, noting that the party has on society not only rights but also obligations, including making deposits, not to disclose trade secrets and confidential information, therefore - the proportion is not right or a set of rights [12, 206].

However, the thing is, in our opinion, not a fact that the share is not only the right but also the duty, and the fact that the share is not right or the right (which was based in detail above), and therefore - no rights plus duties.

4. In determining the legal nature of the particles should note the following. Supporters of the share as a special understanding of property rights states that "the share in the authorized capital no signs of things because they are not subject to the material world, because it is not a thing. Nor is it and money. Among mentioned in the Civil Code of Ukraine st.177 objects share can only be considered as property, property rights or other tangible benefit. According to the 190 CC Ukraine property as a special object, considered the thing, the totality of things and property rights and obligations ... share in the share capital can be classified as property rights " [14, 33] .

Similarly builds reasoning on which the share is not a private property right, and a set of rights, or the rights and obligations.

This approach is obviously an attempt to consider specific legal phenomenon (share) as a special case of a straight poimenovanyh in the Civil Rights kinds of objects, however, have been proven above, the share can not be reduced to the proprietary rights of the entirety of the rights or the rights and duties. Features formulation st.177 and 190 CC Ukraine are to that referred to in st.177 CC along with things and property rights "other assets", in turn disclosed in the 190 CC as "a thing set of things, property rights and obligations. " However, if in st.177 CC expressly mentioned in addition to things and property rights as money, securities, results of operations, services, results of intellectual and creative activities regulated by other legal norms, possibly, the researchers just trying to reduce to property rights as and all of these categories.

We believe we should recognize the special legal nature of particles as separate property, property rights sui generis, which should be directly poimenovanyy among objects of civil rights in the above norms Civil Code of Ukraine, and - in st.139 Chapter 14 " Property entities "and Chapter 18" Corporate Law. Corporate Relations "(st.st.167-172) of the Civil Code of Ukraine.

We agree with D.V. Stepanovym who rightly points out that the share in the authorized capital "is neither a monetary amount or a separate law or set of rights or securities or substitute security ... is a legal instrument, the nature and the purpose of which is disclosed in the role that he played during the entire period of the LLC "[15, 62].

The share has a distinct investment specifics, she, unlike many other objects of rights does not exist outside investment activities. Share as an object of rights arising from the fact that a certain person transfers property oborotozdatne as a contribution to the ownership of the company (in terms of investment law - investment) and consequently loses ownership of such property. Instead, such a person acquires the ownership of certain oborotozdatnyy equivalent - a share that is a substitute, substitute contribution (in terms of investment law - the object of investment). Share is not a

separate property right, a set of corporate rights and corporate rights and responsibilities, it is only oborotozdatnym substrate corporate rights sui generis. Corporate law is followed by part: he and only he who owns the shares - he has corporate law, and therefore - the participation in society.

In businesses other than corporate (state, municipal, private) founder loses ownership of the contribution that the company transferred the right of business or operational management, respectively - does not get a share in the property as oborotozdatnyy equivalent contribution. But the rights of the founder on the company, other than ownership of the share or ownership of the property company, that is - the right to receive profit and their property after the liquidation, the right to manage the affairs of the company and others., Occur in any enterprise and is not oborotozdatnymy can not be the subject of contracts. Oborotozdatnoyu is the proportion (if any).

Given the importance particles for economic turnover, necessary, in our opinion, is their identification numbers and registration of rights to them in the Unified State Register of Legal Entities and individuals - entrepreneurs (in all kinds of economic partnerships in addition to equity) and recognition that action identification not only corporate rights of a shareholder on the company, but also ownership of a stake in BP.

It should also be noted that the vast majority of modern Ukrainian lawyers that explore issues of legal nature of the particles are repelled from a certain doctrinal basis that was formulated I.V. Spasybo-Fateeva follows: authorized capital "does not exist as a separate object of civil law, it is only accounting and legal means ... not subject to expropriation as such. You can not designate: ownership of the share capital. It is impossible to foreclose on it. At the same time, the authorized capital divided into shares, and therefore its share should have the same legal regime as a whole, ie the entire share capital. If so, then the laws of logic and proportion can not be the object of ownership can not be alienated, that is, to be in circulation " [16, 9-10].

Indeed, if we just follow applicable law terminology, "share in the authorized capital", "share in the contributed capital" is only a part, the percentage of such capital, it should have all the signs and is not more than accounting abstraction.

However, do not be absolute terminology legislation - is something that can be improved or changed.

In particular, V.M. Kravchuk, realizing the contradictory and imprecise nature of the term "share in the authorized (share) capital" offers to replace it with the term "participation share" or "share" [8, p. 11], a Russian researcher D. Lomakin also uses the term "share of" not tied to the category of "capital" [17, 153].

Conclusions and suggestions. We agree with the idea of terminological weaken the link between the concepts of "share" and "capital", which propose to use the term "corporate share" or "corporate pie."

Such share (share) is not an arithmetic index, the percentage derived from capital entity that has all the properties of the whole and is meant only as a part of (ie not purely accounting and accounting value), by contrast, the primary phenomenon with its own existence is the share (share) - as a substitute member of the contribution made by specific, as an independent and self-sufficient object rights sui generis, return capital - is no more than is necessary for the specific purposes of accounting the total value of contributions participants, respectively, formed by these deposits (shares) .

So we understand corporate share (corporate share) as a substitute transferred to the ownership of a business partnership and corporate deposit facility oborotozdatnyy rights, ownership of which is registered in the Unified State Register of Legal Entities and individuals - entrepreneurs or certified event and gives its owner the participation in a business partnership, and as a result - the relevant law on such economic society and other stakeholders (corporate law).

In our view, this definition completely reveals the essence of corporate shares (corporate share) as a special type of property and property rights sui generis - oborotozdatnoho substrate corporate rights, designed to provide corporate nature of the enterprise because of the possible multiplicity of participants and their replacement.

Also, the share of corporate (corporate units) as a special kind of property, should be directly poimenovani among objects of civil rights in Chapter 13, "Things.

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TERRITORIAL PRINCIPLE OF PATENT RIGHTS: A PRAGMATIC REASSESSMENT

Summary

The article is devoted to reveal the contradiction of actions in territorial principle of patent law in different countries on the international level. The problem of consumer and international patent protection procedure is raised in differences of protection of intellectual property rights in different countries. It has been suggested to reform the system of patent law and develop a unified model of the patent law.

Key words: patent law, the principle of territoriality of patents, world patent, protection of inventions, international agreements.

Formulation of the problem. Legislation around the territorial aspect of patent law is regulated differently and different territorial model of fixed protection. However, such differentiation does not meet the realities of modern conditions of economic and political integration, world trade and economic processes, which leads to the need for establishing a single unified approach to the use of the patent internationally. In this regard, great relevance is the problem of settlement and territorial unification aspect of the principle of patent law in the international legal acts.

It should be noted that at present the territorial dimension at the international level virtually not regulated, as the main international legal acts regulating relations in the field of intellectual property does not contain rules aimed at its unification.

Due to technological progress, the need to protect the dignity of patented inventions internationally, raises questions about the possible transformation of the content of the principle of territoriality and to change its action under the new conditions. Consideration of this principle in its modern interpretation involves the study of issues such as relationship conflict and territorial regulation of intellectual property, determination of jurisdiction and other issues of a procedural nature.

Analysis of recent research and publications. In the article the works of foreign scientists: Karl Heinz [2], P. Mehhs (USA) [3] A. Metzger [4] G. Dinvudi [5], G. Nykelshpura (Belarus) [8], L. Lessih (USA) [11], Russian scientist Mikhail Boguslavsky [1] and the Ukrainian PhD in Economics V. Valle [10].

The purpose of the article. Bring the need to review the patent territoriality principle in modern society.

Presenting main material. Currently legislators of many countries are actively discussing the problem of developing common approaches to the issue of harmonization of relations patentee and society. The lack of consensus is due not only traditional confrontation between developed and peripheral countries, but a difference of views on this issue among the developed countries. Expressed opinions as to support the international patent (expansion of international trade, increased competition) and for national and regional models (protecting the interests of copyright holders, strengthening the fight against counterfeiting, etc.).

Swiss lawyer A. Troller explains the importance of the territorial principle that "content is right for the intangible benefit shall be determined by the laws of the State in which the Commissioner may prevent the removal of the industrial benefit of this good all the others. The territorial principle allows use according to its content law of the country where protection is claimed " [1, 15].

The territorial nature of intellectual property has developed priorities for national economic development. Increasing competition of national economies to focus on the intellectual component of production and trade does not abandon the principle of national law. And the most keenly interested in it the state with a low level of economic development and innovation resources. States with higher rates (eg, US) more loyal to the removal of the territorial nature of intellectual property, as the international intellectual property law primarily provides the conquest of foreign markets.

The result of the concept of territoriality is the recognition that a violation can only happen in a country where intellectual property rights are recognized. In fact, each state establishes exclusive jurisdiction over disputes relating to intellectual property rights, recognized in its territory and rejected any foreign jurisdiction over intellectual property rights. By Remark Karl Heinz for jurisdictions rigid concept of territoriality result was that intellectual property, most flexible and immaterial considered as well as land, most material form of property [2]. And this view we consider more reliable and modern.

We should pay particular attention to the protection of intellectual property, limited territorial principle.

International agreements minimize the negative effects of the territorial nature of intellectual property, but have not removed it. National legislation lex fori (the right of the court) defines as providing protection and procedures for protecting intellectual property rights.

However, the territorial nature of exclusive rights in the XIX century came into conflict with the interests of the owners who were interested in entering into civil turnover abroad their inventions. As the professor of the University of Illinois (USA) P. Mehhs, "with a level of protection limited incentives for profit, which could extract only within one country. The authors of the works and inventors from small countries have seen their work reproduced worldwide but a reward for them, they received only in the national market " [3, 25].

According to A. Metzger, the decisive question is under what conditions holders may sue for damages on one single law (or at least to a certain number of laws) - for damage caused in the world, and even require judicial worldwide ban without reference to two or even more jurisdictions [4, 18].

With the latest opinion we fully agree, but the question arises during the process of the patent. It should be noted that, in accordance with international standards, there is a requirement for invention - a mandatory novelty, which is verified internationally. However, there is still no such thing as a worldwide patent, which would greatly simplify the system, as in our opinion. Today there is no single patent that would cover all countries or at least a large number of countries. The patent system is still limited territorial system; for protection in a country still need to obtain a patent in each country separately and in accordance with its national law.

Given the variety of national legal regimes and protection of intellectual property rights internationally, G. Dinvudi allows for viewing of the principle of territoriality [5, 715]. As will see attempts to create international patent, but they are not sufficient for the development of modern society.

Thus, since the signing of the Paris Convention for the Protection of Industrial Property 1883 (hereinafter - the Paris Convention) [6] a period of internationalization. For the first time in the world was a system of supranational economic and legal relations, open to a wide range of countries. However, the Paris Convention does not eliminate the territorial limitations of the patent and has not solved many issues that arise in the patenting abroad. The most important questions of patent law, such as the list of objects which can be given protection, patentability criteria, benefits for novelty patent term and t. E., Were the responsibility of national patent laws of countries party to the Paris Convention. In addition, the Paris Convention were not addressed issues related technical field processing applications, such as standardization of requirements for registration, and no resolution of the issue of organization of patent search and examination, which is the most time-consuming procedures in any patent Office.

At present, in the era of globalization of the world economy, humanity is moving to a system that has more international character: we Patent Cooperation

Treaty - (RST - "Patent Cooperation Treaty"), which was concluded at 1970 [7]. The mentioned Agreement provides for the filing of an international application, which can be a set of national applications - no existing patents and applications. And then they pass an examination in each of these countries. Agree, this procedure is long and expensive, among other things, there should be mentioned the cost of examination of the same invention to be carried out in various countries under existing agreements; cost of translation of the patent on the necessary materials for the domestic law of language and maintenance cost of the patent in force in each country separately, as for the maintenance usually paid an annual fee, the amount of which is very significant. That is, first, the PCT does not grant patents; actually engaged in this national offices, each in so far as it is concerned, issue a patent application under the PCT. And secondly, there is no such thing as a worldwide patent. PCT does not provide for such a patent, and as a result issued by regional and / or national patents. Perhaps such patents will be only one procedure if the applicant has only one department, but they can be 10, 25, 50 or as much as, after all, wants applicant. Since such a thing as global security, is missing, the inventor must pay the filing fee and the fee for maintaining the patent in force in each country in which he or she wants to get protection [8].

We emphasize that here, after the issuance of the patent, great importance is the implementation of rights in each country. The fact that the initiative in implementing patent rights against potential patent infringement belongs exclusively. Identification of potential or actual breaches and notification of the offender violated his right to a patent is exclusively for the patentee. That patentee has its own monitor the lawful use of his invention. This is despite the fact that over a patent they were plachena certain amount. Here, in our opinion, the question arises: why then should the state pay, if the patentee protect their invention in fact does not receive - no special services that carry the same protection of inventions. Detection of violations at the national level is possible only if the potential patent infringer wants "his" invention. Interestingly, the settlement of this issue often entail the conclusion of a license agreement between the original and so patent that applied. If you have already started production earlier

patents invention - "violator" compulsory license is granted (TRIPS Agreement provided in 1994 [9, p. 31]).

Briefly International agreements examined above provide access of foreigners to the national legal systems of protection, are the basis for recognition of the right of priority, but they do not provide that the presence of security in one State Party mean its automatic provision in another State Party. On the contrary, establishes a different rule. Thus, Article 4bis Paris Convention for the Protection of Industrial Property 1883. proclaims the independence of patents of the States Parties [6].

Again, back to the history of intellectual property, which indicates that at various times the partition revised to balance the rights of creators and inventors and the public interest. But every time there were new technologies, this equilibrium is disrupted. Again, it was necessary revision of the regime of intellectual property to achieve the specified period.

The current regime of protection, in our view, has long ceased to be an equilibrium, and therefore requires a revision of the fastest to achieve a balance between the interests of owners and society. The modern system of intellectual property protection have not kept pace with new technologies and requires constant updating. We believe that the legislation should establish a balance between the benefits of the exclusive rights of the owner and an additional burden on society. This balance must always be reviewed together with the introduction of new technologies. Indeed, because of the technological boom we are dealing with constant change in environment and conditions of the system of intellectual property protection. The objective of this system, in our view, should be to ensure owners of income, and society - the right to technological progress.

The problem of reforming legislation on patents related to the fact that the laws in this area actively lobbied influential corporations that attract significant resources for the implementation of enabling them protection regime that is not always consistent with the public interest.

The reform of legislation on patents is under the influence of pharmaceutical industry representatives and companies in the field of computer technology. Starting in

the 1970. After expanding the list of health facilities (creation PCT), there were two camps with diametrically opposing views. One of them is represented by pharmaceutical corporations, defending the need to improve the protection of patents, as they invest millions of dollars in market research and introduction of new drugs.

On the other hand, companies grouped in electronics and computer software, which act by reducing the level of protection or even its complete abolition in connection with the fact that innovation these industries characterized by a high degree kumulyatyvnosti and patents create obstacles to development new technologies. Protests second camp is also related to the fact that this area is extremely large amount of issued patents. This exacerbates the risk that new product development in the field of computer technology can cause accidental infringement of certain patent. These arguments speak in favor of the protection of inventions by patents in these two areas can not be the same.

Often say that good health is a prerequisite for the invention patent for economic development. However, defending this position, the researchers did not take into account that innovation can only progress in a successful society. They do not associate high commodity prices with the cost of litigation and royalties for use of patents. Do not overlook that in patent war is complicated by the influx of new technologies.

As correctly noted by our compatriot V. Valle, the main internal conflict of an international system of intellectual property protection is to establish a monopoly of developed countries and transnational corporations on intellectual property rights that its purpose should be public and serve the interests of humanity [10, 132-134] .

Another scientist - Professor of Law at Stanford University (USA) L. Lessih expressed more radical and underlines that in a world where competitiveness innovators have to resist not only the market, and government, the new carriers would not succeed. This is a world of stagnation and stagnation, increasing. It is the Soviet Union under Brezhnev era [11, 165].

In this regard it should be noted that the role of intellectual property rights should be limited not to support a particular business, and to stimulate technological progress by providing owners of rights and society - access to the results of intellectual activity.

We believe that reform of the legislation on patents should resolve these contradictions of the modern patent system and to overcome the territorial principle of the patents.

Conclusions.

1. Existing today territorial principle of the patent almost takes us back in the days of feudalism. Numerous accumulation of patent protection at the territorial level of each individual state, in our view, lead to irrational and unjustified costs. As a solution we see the need for a single unified set of documents - a single patent in force at international level, with no geographical limitation (as an example - the nature of the European Court, whose decision is of international importance, the system of patent law in the US - the results of the examination USPTO grants patents operating throughout the United States, not just in some states).

2. We believe that in order to guard and protect "crossed" one state, it is necessary to rely on specific legal arrangements. At the level of universal international legal instruments establishing of a unified model of patent law, in our opinion, possible or by the unilateral introduction of this principle (which is true, for example, for the EU), or by concluding bilateral or multilateral agreements. However, the unilateral establishment of a model will have a negative impact on foreign trade and complicate relations with major trading partners. A sign bilateral agreements can come into conflict with the provisions of Art. 4 of TRIPS, under which any benefits, facilities, privileges relating to the protection of intellectual property rights, issued by one Member State to another participant agreement immediately and unconditionally apply to all States which have signed this Agreement.

Thus, at this stage the most realistic and mutually beneficial way to solve this problem, in our opinion, could be signing multilateral agreements between the countries with the extension of patents beyond the boundaries of one state, which

eventually creates a unified set of documents. Now there are two examples: First, attempts to create a single European patent with effect in the territory of EU Member States - based on the Convention for the European patent for the Common Market (Convention on patent Community), signed in 1975 in Luxembourg and subsequently (1985) called the Agreement on the Community patent. Signed in 1989 12 countries - members of the European Community of the agreement on the Community patent has not been ratified.

Second - European Agency for the study of medical products (EAEMR). It provides centralized assessment and subsequent permit the introduction into circulation of new medical products, valid throughout the European Union. European Agency study in London, it accelerates commercial sales of medicines for humans and for veterinary purposes.

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PECULIARITIES OF INHERITANCE ESCHEAT UNDER THE CURRENT RUSSIAN LAW

Summary

The article highlights the content of the escheat (inheritance) in the context of legal documents of Ukraine and the Russian Federation. The author focuses on the comparison of the Ukrainian and Russian legislation. First and foremost the line between the Ukrainian Civil Code of and the Russian Civil Code is drawn, the features of both legal documents for this category are specified, as well as the views of the Ukrainian and Russian scientists are analyzed.

Key words: escheat, inheritance, object of civil rights.

Formulation of the problem. One of the controversial issues tsivilisticheskoy science is still an object of civil law as abandoned property, namely heritage, which has for its feature of its parts distribution between the state or territorial authorities in the absence of an heir or a reluctance or refusal to accept the inheritance.

Recently the problem of using abandoned property sharpened. Some subjects, and not uncommon when public bodies illegally using land or other real estate, which does not claim his successor or not at all. To address this and other problems should be investigated components abandoned property to determine further characteristics of his civil regime. Separation of categories of heritage abandoned property itself evident in the study of legal regulation of content via the first comparative legal method, in particular, the relevant rules of Ukraine and the Russian Federation.

Analysis of recent research and publications. Currently the number of scientists who deal with development issues of abandoned property in Ukraine, not so great. Among these are the L.A. Musica, E.O. Riabokon, N.S. Korov'yakovska, S.Y.

Fursa and E.I. Fursa [1, p. 41]. As for Russia, it is still in pre-revolutionary times started activities to disclosure of the concept of this category, but it was not very active, but the first rudiments have been added. Particularly noteworthy monograph V.I. Kurdynovskoho [2, p. 149] and V.A. Ryazanovskiy [3, p. 52], which made a significant contribution to the development of Russian civil law. Thus the problems of legal regulation of relations with abandoned property not caused great interest of other prerevolutionary experts in the field of civil law. Thus, in textbooks and monographs revolutionary period can be found only a brief mention of abandoned property.

In the Soviet period jurist also paid little attention to abandoned property, although the CC RSFSR in 1922 the concept of "abandoned property" existed. Some information about the legal regime of abandoned property can be obtained from the works of N. Orlova [4, p. 118] M. Gordon [5, p. 74], P.C. Nykytyuk [6, p. 98].

Article 1151 of the Civil Code put an end to this situation. The state, of course, remains a member of the inheritance relationship, but its role is no longer exaggerated. It can not be regarded as a purchaser heritage: the law provides that in certain circumstances it goes some heritage [7, p. 1].

Now, "the state" in the field of inheritance plays the same role as in other civilized countries, it is no longer purchaser heritage, it just gets abandoned property [7, p. 1].

The above article is the only article in the whole section V of the Civil Code "Inheritance Law", which gives the state the right to directly obtain the property of deceased persons. It should be borne in mind that the Central Committee sharply expanded the circle of heirs at law. This change significantly limited the number of cases where the property may be abandoned [7, p. 1].

After the entry into force of the third part of the Civil Code dissertation research affecting the legal regime abandoned property held A.M. Baydihitovoyu [8, p. 10], V.V. Kiryukhin [9, p. 24], A. Kulakov [10, p. 18], L.I. Popova [11, p. 34] N.V. Shcherbina [12, p. 22].

The purpose of the article is a theoretical and applied considering the nature and content of civil legal regulation of relations of abandoned property in the civil law of Ukraine and the Russian Federation.

Presenting main material. According to Art. 1277 Civil Code of Ukraine abandoned property (heritage) is a property that is left after a deceased person and for which no claims or claims not declare nor the will, nor the right of inheritance by law [13, p. 1]. The same property is abandoned as a result of the removal of the heirs to inheritance rights, the rejection of their heritage, and the refusal of its adoption.

In Art. 1151 of the Civil Code states that "hereditary Property of pryznaetsya vымorochnым, If no naslednykov us on zaveschanyyu, us the law, Liboje None IZ naslednykov no blog right nasledovat, Liboje all naslednyky otstranenы from nasledovanyya, Liboje all naslednyky otkazalys from legacy and at this None IZ they have not indicated, something otkazыvaetsya in favor of the second naslednyka "[14, p. 1].

Established a list of cases where the deceased considered abandoned property is exhaustive and not subject to broad interpretation.

The first case, "if there are no heirs both in law and under the will." The question of what kind of persons recognized heirs at law, decided in art. 1142-1150 Civil Code. In turn testamentary heirs dedicated st.1119-1121 Civil Code.

Citizens 'no' in the sense of Art. 1151 Civil Code, at the time of opening the inheritance alive no persons belonging to a circle intended testament heirs, and persons belonging to any queues heirs by law, and if there is a child conceived during the lifetime of the testator or born after his death (or if a child was conceived though during his lifetime, but born or not born alive). A legal entity is defined "missing" if it does not exist on the opening day of the inheritance. "The lack of" subjects of the Russian Federation is based on the Constitution (Part 1 of Article 65), and municipalities - based on the subject of legislation, in which they are [7, p. 1].

The second case, if "none of the heirs has no right to inherit or excluded from all heirs inherit" needs no comment because the law makes direct reference to Art. 1117 Civil Code, which is called "unworthy heirs."

In turn, Art. 1117 of the Civil Code provides three grounds for exclusion from inheritance.

These grounds for exclusion from inheritance apply to the heirs of those who are entitled to a compulsory share of inheritance, such as dependents of the testator who committed illegal actions against him or other heirs.

Unlawful acts and the circumstances that serve as grounds to declare an heir unworthy, must always be confirmed:

1) the commission of criminal acts - a court sentence;

2) termination of parental rights - court decision;

3) fraudulent evasion of the duty of maintaining the decedent - the court decision.

The law stipulates that those citizens who were deemed unworthy or heirs are not entitled to inherit in case of unjustified receive property from the heritage obliged to return the property.

The third situation - "none of the heirs not accepted the inheritance." The law has in mind here the inheritance using the application and, moreover, the heir to the period prescribed Clause 1, Article. 1154 of the Civil Code.

If none of the heirs has not filed a declaration under the said rules laid down in the rules, then comes vidumerlist. However vidumerlist still does not occur even in cases of failure to the application if any of the heirs committed acts that indicate the acceptance of the inheritance. The list provided in the following paragraph. 2, Art. 1153 of the Civil Code. So vidumerlist arise in cases where at least none of the heirs not applied for the inheritance, but respect any of them there is a presumption of acceptance of the inheritance.

The order of succession and accounting abandoned property and the procedure for the transfer of its ownership of the Russian Federation or the ownership of municipalities is defined by the Civil Code. The subject of the right of succession abandoned property is exclusively Russian Federation. This means the inability to inherit property abandoned citizens, legal entities and municipalities that are not heirs at law or will. Here we see the difference between Ukrainian legislation where ch. 3.

1277 Civil Code of Ukraine stated that heritage, acknowledged abandoned, becomes the property of the territorial community of the place of opening the inheritance. In ch. 2, Art. 1151 of the Civil Code specifies that a particular classification of persons who may become owners of a property. First, it refers to the urban or rural settlements, municipal areas and city districts. By way of inheritance by law in their property becomes abandoned following property located on their respective territory: the living room; land, and on it are buildings, structures and other immovable property; share in right of common share ownership in listed in the second and third paragraphs of this paragraph immovable property. If these objects are a subject of the Russian Federation - the city of federal significance Moscow or St. Petersburg, they become the property of the subject of the Russian Federation. Here we see a vivid manifestation of the principle of federalisation of the country, on which rests the Russian Federation. Other abandoned property is transferred to inheritance by law the ownership of.

One of the main features of the position of the Russian Federation in the field of inheritance abandoned property is the special situation of the state as heir. The first feature of the position of the Russian Federation concerning the inheritance due to the fact that it is acting in dual roles. On the one hand, the Constitution confers on it the role of guarantor inheritance rights. The decree of the Constitutional Court number 1 MP said that the Constitution provides "state switching harantyrovannыy estate, prynadlezhavsheho umershemu, for second persons. This - konstytutsyonnaya duties of the Russian Federation "[15, p. 1].

Another feature of as legal heirs abandoned property is that it is endowed with a status that in some respects different from that of other heirs at law. First of all, the Russian Federation, acting as successor abandoned property must not take the inheritance: "For Purchase of property vыmorochnoho Adoption legacy is not required" (p. 1 Art. 1152 Civil Code).

Another significant difference in the position of the Russian Federation as legal heirs abandoned property concerns rejection of heritage. Civil Code states that "naslednyk exercise otkazatsya from legacy in favor of others persons or entities not

specified in favor, that nasledstvennoho of property" (p. 1 Art. 1157). When the Russian Federation is the heir legally abandoned property, the Civil Code deprives her of this right: "When the property nasledovanyy refusal from legacy not allowed" (p. 1 Art. 1157).

Conclusions. The paper describes the main provisions concerning abandoned property under the Civil Code, and as a result, found both similarities and differences between Ukrainian and Russian law. Primarily, this is due to the fact that Russia is a federal state, and Ukraine - unitary. By definition implies special subjects - Moscow and St. Petersburg. The Civil Code of Ukraine stated that in case of finding of abandoned property in the Kiev region, the property becomes the property of the city. Kyiv. It goes either to some local community, or state ownership in general. Also the CC nor Ukraine nor the Central Committee of the Russian Federation there are no rules that would ensure the prevention of abuse in the transmission of abandoned property (Heritage), the form of responsibility for violating the law. This allows us to propose the idea to create such rules.

Summarizing should be pointed out that the lack of special legislation significantly reflected in the distribution of abandoned property (Heritage) between subjects that encourages lawyers every day to find a new and analyze old information to create the necessary standards.

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SERVICES AS OBJECTS OF OBLIGATION LEGAL RELATIONSHIPS

Summary

In the article the problematic questions are considered in relation to the services as an object of obligatory legal relationships. Judgments of legal scholars and scientists-economists are analysed as to the problems viewed in the article.

Key words: services, criteria, customer, performer, consumption, realized and unrealized result.

Problem formulation. The need to study the legal category of services is due to an increase in the current conditions of their significance. The relevance of the research problems related to the definition of services as an object of obligations relations determined by the development of property relations that arise in connection with the provision of services.

Analysis of recent research and publications. Theoretical problems associated with the definition of services as an object of obligations relations have been the subject of academic research as a jurist: A.U. Kabalkin, L.V. Sannikov, D.I. Stepanov, E.A. Sukhanov, E.D. Sheshenin, L.V. Shchennikova and others.

The purpose of the article. The aim of this study is to determine the place of services within the facilities of obligations relations, defining features of services as an object of obligations relations.

Statement of the basic material. In today's world, the relations connected with the provision of services to occupy one of the first places. This is primarily due to the

increase in the consumer need for a particular type of service. And, because these relations are governed by civil law, it should consider the current issues related to the characteristic obligation to provide services. As correctly indicated AY Kabalkinym 'prominent place in the obligatory relations, which are an integral part of the subject of civil-law regulation by the services. Their role is essential in the present conditions ... when increasingly civilian circulation, development of entrepreneurship and competition is based on commodity-money relation and the law of value [4, 1].

The h. 1, Art. 901 Civil Code of Ukraine determines that the contract for services, one party (contractor) undertakes to the other party (the customer) to provide a service that is consumed in the course of committing certain acts or implementation of certain activities, and the customer agrees to pay the executor of these services, unless otherwise established by law. The literature clearly defines the legal nature of a contract for services, it is consensual, for compensation, two-sided. For a proper understanding of contractual obligations, aimed at the provision of services should be made of their basic characteristics.

E.M. Romanov proposes to recognize the obligation to provide services in the presence of the following: "a) the subject of the contract is a useful effect in the form of facilities for contractors (saving time, money, additional guarantees ...); b) service as the activity is consumed in the process of providing" [7, 12].

E.D. Sheshenin singled out the following characteristics: "a) ... is an activity the person (natural or legal) that provide services to ... b) the provision of services do not leave the real result ... c) beneficial effect services (activities) consumed in the provision of services, and consumer cost of the service disappear ... "[11. 356]. The service in the legal literature is regarded in most cases as a result of an activity.

So S.S. Alexeyev pointed out that "service - is not in itself the activity, a certain result" [1,267]. It should be clearly understood that we are not talking about any result, both positive and negative. In this case, the object of the civil service as the obligation should be worn only positive. OS Ioffe in his work, wrote that in the contracts to provide services is to be determined "about the activities of these species, which do not

receive or should receive embodied in materialized, and even more in the objective result" [3, 234]. Among the many judgments of the signs as objects of service obligations are the following features: a) the inherent features so-called "stealth"; b) quality of service is differentiated and is closely linked with the personality of the person who has it; c) the service is inexhaustible; d) unlike the works and services it has no tangible material results and is fully consumed in the process of care. In legal science distinguish features such services: a) it is always vigorous activity of the performer; b) the activity is aimed at providing or receiving certain benefits; c) the service is provided on the basis of a specific task of the customer; d) services related to the personality of the customer, both through the services met their needs.

This feature can be illustrated quote D.I. Stepanova: "customer enter into a specific agreement on the provision of the service, pursues a simple goal - to meet personal needs. Artist ... performing a specific operation, always pursuing a common goal - a means of obtaining material (compensatory service contracts), or to achieve the moral, spiritual or otherwise meet (gratuitous contracts ...) "[9, 178].

Considering services as objects debt relationship, should pay attention to their unity with the concepts of "need" and "good." So, Dictionary S.I. Ozhegova defines the word "need" as the need, the need for something that requires satisfaction, and synonymous with "good" is the word "good." So N.N. Ivanov pointed out that "by the need to understand the need, the need for something that requires satisfaction for good - something that meets the need. Based on these interpretations, the service is defined as the activities aimed at satisfying needs through the provision of appropriate ... that need good material and immaterial " [2, 145]. In our judgment, this approach to the definition of service is acceptable, as a person who wants to satisfy their need through the provision of services, eventually reaching this result, that person as a necessary good. A. Marshall pointed out that the benefits of "desired us a thing or things that satisfy human needs" [5, 145].

Menger called "... useful items, which have the ability to be delivered in a causal relationship with the satisfaction of human needs" [6, 236]. From the foregoing, it

follows that the action aimed at the provision of services can be regarded as a kind of link between those (needs) and the end result, that is a blessing (of the service). T.N. Sofina writes that "the services are as good relations between people, immaterial beneficial effect of direct interaction of economic agents, ie, the result of financial activities, irrespective of the acquisition of this result (effect) material form "[10.124]. Otherwise adheres N.V.Mironova judgment that under the service understands the "economic benefit in the form of activity, this action (or sequence), whose purpose - improving the usefulness of the object Services consumer, and the problem - the impact on the object services. After analyzing the citations authors T.N. Sofina, N.V. Mironova, it can be concluded that the first author defines services as a result of the actions, and the second author sees itself as a service activity. Legal scholar A.Yu. Kabalkin pointed out that "... the service along with the works are considered as a commodity, ie, product activities intended for the free exchange of manufactured goods equivalent " [4,3].

Karl Marx in his work, wrote that "the work of providing services, not as things, but as an activity." As you can see, science services regarded as the activity itself, and as a result of this activity. In our opinion, the service should be viewed as an activity that is inseparable from the personality of a service, as well as the final result of such activities. The activity itself and its result, the positive effects are inseparable. In the economic literature, can be found the following characterization services. Thus, the service can not be displayed as long as it will be provided. Goods might consider, compare it with other products prior to its acquisition. A person who needs a service that does not have such a possibility.

L.V. Sannikova legal scholars, in his work on the analysis of service writes that "... the degree of intangibility of services is different. Tangible services, the result of which is to change (improve) things or manufacture new things quite tangible. The consumer of such services formed a relatively clear picture of the qualitative characteristics of the result of a similar product. Result of intangible services can be assessed by the consumer only after receiving it and only at the level of subjective perceptions and sensations ..." [8, 5].

Analyzing this statement, we can conclude that when it comes to financial services, that its customer before the conclusion of the service agreement has a clear understanding of what should be the result, ie subjective opinion about the quality of customer service made up before run-time services. If the services are intangible, the assessment of the consumer about the quality of services (for example, treatment of a disease) develops after the provision of such services. Thus, examining the issues relating to services and their qualitative characteristics, we can conclude that if a service is the material, the subjective assessment of the result of the service provided before the contract is formed. If the service is immaterial, the subjective assessment of the result of the service rendered is formed after the provision of the service. As correctly indicated L.V. Sannikova "... the failure to form a single concept of services related primarily to the fact that in the service sector is too wide a range of public relations" [8, 5].

And, as if echoing the judgment of L. Sannikova, V.P. Bulgakov writes: "The breadth and diversity of the service industry makes it difficult to determine the possibilities for different sectors of services of general regularities characteristic for services" [8, 25]. On this issue, he expressed N.V. Mironova, which clarifies why it is impossible to give a clear and unambiguous definition of "services", ".. services are all of the economic benefits that can not be attributed to agriculture or industrial production; services are many and varied actions aimed at a variety of facilities; These many and varied activities are the existing official statistics to the same class of economic benefits "service - a flexible object, whose boundaries are easy to change" [8.79.].

Summarizing these statements it can be determined that, despite the differences of some services from others, it is still possible to separate the individual attributes that are common to all services. Firstly, it is a sign inseparable from its results service performer. Secondly, the result of the services consumed at the time of its delivery. Third, despite the fact that the result of the services is closely linked to the personality of the artist, for him (contractor) does not matter how the service provided will be consumed by the customer. In the legal literature have the following statements

concerning the civil service entities.

Since N.A. Barinov, A.Y. Kabalkin services characterized as "efforts to meet the needs of citizens" [8, 18]. Diametrically opposite opinion was expressed O.S. Ioffe, O.S. Krasavchikovum, E.D. Sheshenin that "... the service in question as a matter of obligation for the provision of services" [8, 18].

Considering services as a matter of obligation for the provision of services, it is necessary in the context of this article, submit statements of some legal scholars on this matter. So, O.S. Joffe states that "..in the contract services in question" about the activities of such species that do not get or do not have to get translated into materialized, and even more so in the materialized result of "[8, 19]. E.D. Sheshenin defined the following features of services as a matter of obligation for the provision of services: "... it is an activity the person (natural or legal), the service provider; ... The provision of services does not leave a real result; ... services useful effect (activity) is consumed in the provision of services and use-value services disappear " [8a, 19].

For a complete understanding of the concept of service is necessary to point out opposing views regarding the nature of services. So Yu.Kh. Kalmykov believed that a row is a variety of services. Such judgments adhered to A.U. Kabalkin, who wrote "... seems valid to consider works as a kind of obligation to provide services based mainly on the fact that any service is not possible without performing a certain work" [4, 11].

Conclusions. Having considered the individual judgments about the place, concept and features of services in the civil law science, it can be concluded that at present there is no single approach to the definition of services, their characteristics, as well as the qualification of services on the well-established criteria. The solution of this problem will allow not only legal scholars, and practitioners to consider issues relating to the definition of conflict of existing services without problems. In addition, you must specify that the concept of quality of services as an object of obligations relations can be seen following its definition: the service - a kind of objects of civil legal relationship is expressed in the form of a certain legitimate transactions, ie as a series of Executive action or activity that is the obligation of the object that has an intangible effect.

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FEATURES OF LEGAL REGULATION IN ECOLOGICAL SPHERE OF SOCIETY

Summary

Regulation of social relations in the environmental field provides a solution to problems of legal support to reduce negative human impacts and the formation of guarantees of the right to a healthy environment. The author analyzes the current state and the structure of the legal regulation of ecological spheres of society on different levels. It is shown that the need for environmental management and the prevention of environmental conflicts led to the integration of natural resource and environmental law while the so-called ecological method received widespread. Environmental protection at the state level can be achieved through the application of organizational and legal mechanism; the role of international cooperation in the environmental field on the basis of international legal principles and norms is steadily increasing.

Key words: environmental sphere of society, ecological and legal regulation

Problem formulation. Today, the power of the modern civilization has become dangerous for the society and for the existence of life on this planet, in this connection, the law as the most effective tool of social regulation becomes one of the essential factors of sustainable development. An integral problem of research of interaction between society and nature is the formation of the theoretical and practical bases of the analysis and search for solutions to environmental problems. Special attention in this matter requires legal regulation of the environmental sectors of society, both at the national and international levels.

Analysis of recent research and publications. The study of the various legal aspects of the interaction between society and nature are devoted Tiunova O.I. (2011), Valeev R.M. (2012), Bogolyubov S.A. (2011, 2013, 2014), Hetman A.P. (2014) and others. In their studies, the authors discuss the legal regulation of the environmental sectors of society as one of the key elements in overcoming the global environmental crisis.

Purpose of the article - to consider the present state and the structure of the legal regulation of the environmental sectors of society at different levels.

Statement of the basic material. The right, as a universal regulator of public relations agent of compromise and balance of private and public environmental interests, should ensure minimization of social conflicts arising, including on the grounds of environmental problems. Without legal control can not be sustainable development of society, based on a mutually agreed and balanced economic development and environmental conservation. That's right, on the one hand, is a necessary means to achieve the environmental priorities of the state, and on the other - is an instrument, subject formalizes them into the national legal system. Among the main tasks of modern environmental law are the following - the formation of effective legal guarantees for the realization of the right to a healthy environment and legal support reducing pollution. By the conceptual problems of legal regulation of ecological and include the creation of legal conditions for the organization and development of environmental education and training, as well as the legal basis for the formation of ecological culture. The legal community today plays a leading role in the dissemination of ecological and legal values, as well as in environmental issues and conflicts [1, p. 23-27].

Environmental sphere of society - a biosocial phenomenon subsystem of society, which includes elements such as environmental activism, environmental needs and abilities, ecological relations, ecological form of social consciousness, specialized administrative structures and material and technical base. The overall objectives of this sector is to restore, preserve and improve the natural and human protection against negative symptoms and the achievement of its state of the biosphere noosphere. Legal

regulation is an essential objective of environmental performance, which is the core of modern ecological aspects of society. The transformation of the structure of social relations and relations between society and nature in the course of environmental performance is the main prerequisite for the changing nature of the legal regulation of the environmental sectors of society [2, p. 84-90]. Effective regulation of social relations in the environmental field due to both the ecological security of the state, and with the emergence of new challenges at other levels (genetically modified organisms, bioethics issues, cross-border and global pollution, etc.).

We know that the legal regulation of the relationship between society and nature is changing with the transformation of this relationship. In its history there are three stages: the natural resource, environmental and socio-environmental. At the beginning of XX century. many laws regulate the relationship between society and nature, mainly through the establishment of a special regime for the protection of natural objects that have cultural, historical, scientific and conservation value. From the middle of XX century., In connection with the use of natural resources on a large scale, an increase of anthropogenic impact on the environment, in the legal regulation of relations between society and nature to the fore the problem of rational nature. Nature and resources law - a system of legal rules governing natural resource relationship for the purpose of rational use of land, water, forest and faunal resources to meet the needs of the economy, and to protect the rights of nature and the state. Unfortunately, the continued destruction of the biosphere, which has led to the emergence of a new kind of activity - environmental protection, according to which was formed and a new branch of law - environmental law and conservation began stage of interaction between society and nature. Environmental law - a system of legal norms regulating social relations in order to protect nature and the environment from the damaging effects of human activities. In 1980-ies. there is a new concept that the main task in the relationship between society and nature is to create an environmental management system that alerts to the possibility of environmental conflicts. At this stage, natural resource conservation, and the right to integrate. So there is a socio-

ecological law - the system of legal knowledge and standards in the field of environmental protection and nature, which establish and regulate the relationship in this field between the state, on the one hand, and the associations, enterprises, organizations, and individuals - on the other hand, in order to harmonize the relationship between society and nature, and to ensure a high quality of environment of existence. Thus, environmental law is not only a system of legal norms, but also a system of legal knowledge in the environmental sphere of society. On the one hand, it is an independent branch of law, but on the other - a separate subsection of legal science and social ecology [3].

In real conditions of legal regulation of social relationships may be subject to a number of industries: diversity of social relations requires additional mechanisms to group norms by industry and institutions, in this case, the method helps to solve the problem of legal regulation. Methods of legal regulation is divided into types: mandatory, permissive, advisory, promotional, Subordinate et al. [4, p. 318-322].

The emergence of legal regulation of ecological relations is the result of the evolution of natural resource relations, reflecting the growing global problem of "man - society - nature". According Bogolyubov S.A. pravorealizatsii participants should understand the possible environmental law and legislation in the environmental management, which are not unlimited, due to economic conditions and depend on the level of scientific and technological progress. In addition, the author notes that the position of the complex nature of the regulatory environment spheres of society represented a number of scientists discussion, as in the title of "ecological" is seen only environmental aspect; especially difficult to perceive the inclusion in environmental law (and the law) land, forest, water law (and the law). Understanding environmental law and legislation as a difficult and complex area of law consisting of nature protection and natural resource parts, allowing you to see them in a common object, methods to isolate them in the environmental sphere of society and not to divide artificially prirodoohranenie and nature. For environmental legislation characterized by certain general provisions, signs, principles, specific legal concepts and indicating their ecological and legal terms, defining a special control mode [5, p. 35-59; 6, p. 21-28].

According to modern concepts, in the legal literature, the environment can be achieved by application of a complex of organizational, legal and economic measures aimed at the restoration of the destroyed facilities of the environment, reduction of anthropogenic load on ecosystems, restoration of natural resources and ensuring their sustainable use. The complex of measures is considered as the legal mechanism for protection of the environment, which consists of two system-forming elements - institutional (system of government and public institutions engaged in management) and functional (examination, control, regulation and standardization, management of inventories, registration of natural resources, monitoring, etc.). At the same time the legal mechanism is seen as: environmental management (environmental management and environmental protection); management and control of natural resources and environmental protection; public administration in the environmental sector; governance in the field of environmental management, environmental protection and environmental safety [7, p. 56-109].

The legal basis for governance in the field of ecology, along with the norms of environmental law are also rules of administrative law. The first are called to show the specificity of the subject, objects, subjects and the principles of legal regulation of social relations in this sphere. The latter define the overall objectives, tasks and functions of state public relations managerial, folding in the executive, corporate activities of other state bodies, as well as in the implementation of community organizations, external legal powers. On the subject of regulation of social processes of administrative law norms are common, and environmental law - special, providing a more specific regulation of the same subject [7, p. 60]. In this case, we are talking about the so-called greening of the method by which environmental law is able to work on other areas of law, such as criminal and civil law. This method is considered as a manifestation of the general ecological, environmental approach to any and all events and phenomena of social life, in all aspects of human behavior. Therefore, dual purpose and location in the environmental law provisions aimed at environmental protection and rational use of natural resources should not be in doubt. Method

greening of all branches of law, including international, is an objective necessity, due to the alarming environmental situation of the global humanity [6, 32-37; 8, p. 33-39].

According to A.P. Hetman and other researchers in the field of environmental management is complex, so only the union of the various activities, means and methods of administrative influence will enable the society and the state to solve the problem of transition to sustainable development. A distinctive feature of the modern period of development of public relations in the field of environmental protection is considered the participation of private sector in addressing environmental problems, including facing the world community [7, p. 56-109].

Restoration and preservation of dynamic equilibrium sotsioekosistemy - a global, human problems, so today increasing the importance of international cooperation in the field of environmental protection, the formation and consolidation of the legal norms of correct behavior in the field of relationship with nature. International environmental law is a set of international legal principles and norms governing international environmental relations between subjects of international law, ie relations concerning environmental protection, environmental management, environmental security and enforcement of environmental human rights.

One of the distinguishing features of the current stage of development of international environmental law is the further expansion of the international relations governed by this branch of international law. The immediate result of this process was the addition of two traditional subject areas of regulation (relations on environmental protection and environmental management), two new - relationship to ensure environmental safety and enforcement of environmental human rights [9, p. 23-38].

Principles of international legal regulation of environmental protection can be divided into general and special. The principles of a general nature - these are the basic principles of international law, its basic assumptions inherent in the regulation of relations between subjects of international law regardless of the specifics of these relationships. Another part of the generally recognized principles and norms of international law - the provisions of this special character, designed to provide the

functionality of its entire system and its individual sectors. They have a specific character due to the nature of these principles governed relations. The principles of international environmental cooperation, which must be taken into account in the future management of the environmental sectors of society are the following: 1) Each State has the right to use the environment and natural resources within its territory, for the purposes of development and the needs of its citizens; 2) environmental well-being of one country can not be provided by other States or excluding their interests; 3) the economic activity in the state must not damage the environment, both within and outside its jurisdiction. The economic interdependence of nations and international trade involve the use of new technologies and cleaner production, the implementation of effective means of national and international environmental monitoring, notification, and other neighboring states of emergency harmful emissions into the environment, compensation to other countries and entities of environmental damage caused; 4) can not be any kind of economic and other activities, which are unpredictable ecological consequences for the environment. This principle is closely linked with the previous principles and suggests caution in the implementation of genetic engineering, cloning, wildlife, and the transfer of damming rivers, as well as the need to strengthen the state ecological expertise aimed at preventing negative environmental decisions; 5) States should assist each other in environmental emergencies; 6) All disputes related to environmental issues should be resolved by peaceful means. Mankind has formulated many appeals of this kind and often takes a concerted effort to implement them in terms of respect, respect for international law and the recognition of mutual interests and members of the national legislation of international relations in the environmental field.

Civilization and effectiveness of national legal regulation depend on how countries are implementing the recommendations of international law, implementing it in their legislation. Implementation of international views and views into national law does not necessarily have to be linked to the introduction of changes and amendments to the national legislation, which is already full of them, but in need of significant improvement of efficiency of the implementation by specifying requirements ensuring

the actions of law enforcement and environmental protection mechanisms, the inevitability of liability for environmental offense [5, p. 35-59].

The development of international law on the protection of the environment is mainly through negotiated. The peculiarity of international law for the protection of the environment is the use of international instruments (declarations, strategies, principles of conduct, etc.) that are often called "soft law". Typical in this respect, the Stockholm Declaration of the United Nations on environmental issues in 1972, which for the first time at the global level to define approaches to solving environmental problems. Not having legally binding, it is definitely the right has a great influence. Similarly, the Declaration and assess (a set of agreed principles of international cooperation on environmental protection) adopted at the UN Conference on Environment and Development in 1992 (Rio de Janeiro) [3].

A key role in the coordination of international cooperation for the protection of the environment plays a body - the United Nations Environment Programme (UNEP). The activities of UN agencies in the above areas manifests itself as a method (method) for cooperation of the formation and development of group norms regulating social relations in the field of environmental protection (International Environmental Law) in the new, emerging institute - management in the field of environmental protection. Targeted impact of international relations in this sphere covers so international legal regulation, coordination and organization of cooperation in the field of environmental protection [10, p. 60-77].

Legal regulation of the environment due to the complexity and multidimensional relations developing in this area, so revealing that can serve as an illustration of certain significant efforts of the international community to solve global problems through cooperation. The subject of the legal regulation of international relations in the field of environmental protection is its rational use and reproduction for the purpose of environmental safety and sustainable development. The subject of the legal regulation of environmental protection as the human environment determines the content of the institutions of this branch of law [11, p. 70-73].

National environmental law feels the effect of international law has priority over national standards. Since an exhaustive list of environmental principles and norms of international law does not exist, their registration in law-making and law enforcement quite difficult. Activation of international relations implies a more extensive review of the theoretical and practical problems of international relations and the principles of national requirements in the environmental field, their mutual influence on each other. Focus on the integration of the company into the world community involves the expansion of the creative use of foreign experience of nature, expressed in the application of international and foreign environmental-legal institutions, their convergence, harmonization, alignment, implementation in domestic practice. However, the formation of norms and principles of international law in the environmental sphere of influence to the relevant national norms and principles, as laid down in national legislation and tried out in practice, the international community to deliver their ideas, their both positive and negative experiences.

One of the main problems of interaction between international and national legal regulation of the environmental sphere is the combination of the principles of need for global environmental protection, universal rational use of natural resources and ensuring the sovereignty, integrity and sustainable development of individual countries [5, p. 35-59].

Legal contradictions are expressed in different legal thinking in the misconduct of government, international and public organizations in the claims and the existing order. Collisions are expressed in contrasting differences in legal views and positions, in a clash of norms and acts out in domestic systems of misconduct within the mechanism of public power between the state and other institutions and bodies, in discrepancies between the rules of international law, disputes between states and the contradictions between the norms of national and International Law [12, p. 34, 43, 346; 13].

At the same time, determines the way a legitimate impact on the state for their involvement in the agreements on the protection of the environment [14, p. 50-58]. Thereby expanding the circle of participants of international treaties which are the

subject of legal relations in the sphere of solving environmental problems. However, it is expanding the regulatory framework and regulation of relevant relations. To expand the regulatory scope of regulation of domestic relations in the sphere of ecology is also useful to appeal to the experience of the codification carried out at the international level. The codification of international law contributes to the establishment - in the economically and politically mature modern basis - a more precise content of the universal international treaties, greater objectivity branches of international law, specifying the objects of international legal regulation, taking into account the achieved level of expression of [15, p. 50-58]. Codification considered as a specific kind of method of legal regulation.

Conclusions. The modern environmental law focused on the tasks of legal support reducing the negative anthropogenic influences and the formation of guarantees of the right to a healthy environment. The regulation of public relations in the environmental field related to the ecological security of the state and the emergence of new environmental challenges at other levels. The conceptual task of legal regulation of the environmental sectors of society remains the task of forming the ecological culture.

The need for environmental management and the prevention of environmental conflicts has led to the integration of natural resources and environmental law. Widespread greening method by which environmental law influences the other branches of law. Today this method is considered as a manifestation of the general ecological, environmental approach to any and all events and phenomena of social life.

According to modern concepts environmental protection can be achieved through the application of organizational and legal mechanism, which consists of two system-forming elements - institutional (system of government and public institutions engaged in management) and functional (examination, control, regulation and standardization, management of inventories, the calculation of natural resources, monitoring, etc.).

The role of international cooperation in the environmental field on the basis of international legal principles and norms governing relations between subjects of

international law for the protection of the environment, environmental management, environmental safety and environmental human rights.

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CONCEPT OF THE MARINE RESOURCES

Summary

The article is devoted to the knowledge classification and the definition of the marine resources concept based on the analysis of the theoretical principles of the environmental law and key regulations of the international and national legislation of Ukraine.

Key words: marine environment, marine resources, marine ecosystem, water living resources.

Formulation of the problem. Great value for a full human life has a favorable natural environment. It as a whole and its individual objects are used to meet different needs, ranging from food resources and ending human needs rest and recovery. Mankind has long used the fish resources in the form of food, water surface of the sea to transport cargo and passengers, and the coast to the health and cultural purposes. So, all this activity is directly connected with the use of the marine environment, which consists of marine biological resources and marine waters. With the development of industrial fishing was clear that marine biological resources, although renewable, are not infinite, and they need management and protection.

On the one hand the problems of modern fisheries associated with the aggravation of the struggle for resources, which is caused by the deterioration of these resources and the intensity of their excessive use. On the other hand a significant negative impact on the marine environment and its biological resources does pollution of the seas through the organization and operation of shipping, leading to the death of fish reserves, contamination of harmful substances, the inevitable destruction and

depletion of stocks.

And that's not all the problems associated with the marine environment. The priority issues of protection and restoration of the marine environment also include: Activities of States, businesses and individuals to develop the resources of the seabed and disposal of waste, reducing the quality of recreational resources, the intensification of negative geological processes and so on. All this leads to negative processes that eventually affect life and health.

Of course, to improve the efficiency of legal regulation in the field of protection and restoration of the marine environment, conservation and reproduction of marine resources, determining the legal regime of natural objects arises a need for the definition and classification of marine resources.

Analysis of recent research and publications. The issue of the legal status of water bodies, use and protection of marine resources and Rehabilitation of the seas in general has been the subject of analysis specialists in environmental and international maritime law, such as V.I. Andreytsev, G.I. Baluk, S.O. Bogolyubov, N.N. Brynchuk, M.I. Vasilieva, A.P. Getman, A.L. Dubovik, M.I. Erofeev, I.I. Karakash, A.S. Kolbasov, Y. Kolosov, V.M. Koretsky, N.R. Malyshev, V.L. Muntean, V.V. Petrov, V.K. Popov, A.V. Chornous, Ya.S. Shemshuchenko, M.V. Shulga and others. Immediately the use and protection of water resources and natural resources of the exclusive (maritime) economic zone of Ukraine were devoted to T.V. Grigorieva and I.V. Vitovsky. Along with this, it appears unresolved question of the definition and classification of marine resources based on theoretical studies and laws of Ukraine, which will contribute to the definition of the legal regime of natural objects.

The purpose of this article is to systematize knowledge, scientific opinions and analysis of national legislation of Ukraine taking into account the provisions of international maritime law regarding the definition of marine resources.

Presenting main material. From an environmental point of view, lawyer, V. Petrov said: "Any area of nature - natural complex, but specially protected category includes only those for which there was decision of the competent authorities of ... Individual acts of government set special protection of natural systems seas ... "[1, p.

59]. Under the current legislation of Ukraine waters is defined as: "body of water reservoirs or the sea, limited by natural, artificial or conventional borders" [2]. Sea fishery is defined as water bodies used for fisheries management purposes [3, p. 1; 4]. By fishery water bodies, according to Art. 26 of the Law of Ukraine "On Wildlife" from December 13, 2001 №2894-III [5], are all superficial, territorial and internal sea waters used (can be used) for industrial production, cultivation or breeding fish and other objects water fishing or relevant to their reserves of natural reproduction, and exclusive (maritime) economic zone waters and the continental shelf within Ukraine. Internal sea waters and territorial sea (with estuaries and estuaries), exclusive (maritime) economic zone of Ukraine belongs to the fishery water bodies of national importance, according to Art. 13 of the Law of Ukraine "On fisheries, commercial fisheries and protection of aquatic biological resources".

In general, given the characteristics defined I.I. Karakash objects on Environmental Law (natural origin, relationship with nature and the ecological system of the functions of life support) [6, p. 46], the marine environment and its natural resources are the objects of environmental law. And considering classifications of environmental legislation provided I.I. Karakash [6, p. 49], the marine environment can be defined natural complex within which operates several species of living and non-living natural resources.

The totality of living marine organisms and environment Sea, interact, defined in the current legislation of Ukraine as marine ecosystems [2]. The combination of aquatic organisms (fish, other aquatic animals and aquatic organisms) that continuously or at certain stages of development are in the water, while being in the wild, or semi-captive conditions, objects can be used within the state jurisdiction and for concise definition T.V. Grigorieva is water living resources [7, p. 11]. Given the limitations of this study the concept of the marine environment and its protection, attention will focus on marine resources, which is a kind of aquatic resources.

Marine biological resources can be defined as a necessary component of biological diversity of the Black and Azov Seas. In accordance with Para 2 of the

Preamble Conception biodiversity conservation Ukraine, approved by the Cabinet of Ministers of Ukraine from May 12, 1997 № 439 [8], this variety is the national wealth of Ukraine, providing the ecosystem and biosphere functions of living organisms and their environment groups and forms excreta. Marine resources are the property of the Ukrainian people [9, p. 13; 5, p. 4] and natural resources of national importance [5, p. 5].

Under the provisions of the UN Convention on Law of the Sea (1982) [10], marine resources are divided into two categories: 1) living resources, which includes objects of animal and plant world. In particular, the term "marine resources" is used in this article as the overall ecological and legal category of objects on animal and plant life marine ecosystems;

2) non-living resources, comprised of minerals and mineral resources. I.V. Vitovska said about this category of marine resources, "international law separates these concepts. Mineral resources - a "resources in place", ie the resources in place of their occurrence, and minerals - is removed from the place of occurrence of mineral resources " [11, p. 8].

T.V. Grigorieva has given more extensive classification of aquatic resources, according to which they can be divided into categories according to:

1. biological properties (incidentally, biological resources defined in the current legislation as "biological components of the biosphere that could be used to people and other material benefits" [2]) - the fish, cyclostomes (lampreys and hagfishes) aquatic invertebrates, sea mammals, higher aquatic plants and other algae [7, p. 4]. In terms of biological properties, we believe I. Vitovska provided more refined classification of: living and non-living resources (water (sea) living resources, fish resources, industrial resources, etc.) [11, p. 4, 8].

2. Environmental indications of the existence of the state of water resources on the environment - by the sea, coastal sea, lake, annual and other [7, p. 4].

In addition, the jurisprudence to distinguish between a territorial arrangement of those marine resources, living, in the waters covering the seabed, on the seabed and depths of the seabed. The classification of marine resources corresponding to two

categories of aquatic biological resources defined in Art. 12. Law of Ukraine "On fisheries, commercial fisheries and protection of aquatic biological resources": 1) water biological resources that are in conditions of natural freedom internal sea waters, territorial sea, continental shelf, exclusive (maritime) economic zone, transboundary waters and inland fisheries water bodies (parts) located in more than one area and in waters outside the jurisdiction of Ukraine; 2) water biological resources that are in the water bodies within protected areas of national significance and species listed in the Red Book of Ukraine [3, p. 12].

3. Goals of Use - resources for industrial, and amateur athletic use [7, p. 4].

Dan classification can also add recreational resources contained in Chapter I of the National Programme of Protection and Rehabilitation of the Azov and Black Seas, approved by the Law of Ukraine on March 22, 2001 № 2333-III are defined as objects and effects of natural and anthropogenic origin used for health, recreation and tourism [2].

Conclusions. Overall, understand the concept of marine resources is a prerequisite for subsequent research on the legal regime of these objects and classification of natural objects, according to V.K. Popov, helps determine the legal regime of each type of natural object [12, p. 15], which is important given the variety of marine biological resources and ecosystem relations between them in the marine environment. In practical terms, this classification is important given the fact that Ukraine is a country of origin anadromous species of fish - sturgeon, beluga, spine, Azov-Black Sea (Danube) herring vyrezuba, Atlantic salmon, Danube salmon and others [3, p . 18].

Pollution of the marine environment reduces food resources, fish stocks, and their contamination with harmful substances to humans. In the case of marine pollution damage is applied to the whole industrial / food chain: water pollution - loss of spawning grounds - the depletion of fish stocks, or otherwise water pollution - Fish disease - human disease. Thus, the Japanese faced with the spread of the disease "minomata": "... a substance that causes the disease, is considered an organic mercury ... This mercury poisoning fish, favorite food Japanese.

The consumption of poisoned fish for a long time leads to a disease "[13, p. 48]. At the national level Ukraine in chast. 14 rozd. III National Programme of Protection and Rehabilitation of the Azov and Black Seas of 22 March 2001 referred to the adverse effects of economic imbalance that "led to a decrease in fodder, the number of spawning grounds, feeding grounds and places the existence of fish and other aquatic organisms. Improper extraction of fish and seafood, unsatisfactory performance measures to their reproduction, causing a decrease in their productivity and biological impoverishment in species composition. " Thus, human well-being depends on the state of the marine ecosystem in the economic, environmental and social aspects. Its protection is an important task of the state and the public at national and international levels.

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LEGAL NATURE OF EMPLOYMENT CONTRACT IN THE MARKET ECONOMY

Summary

This article examines the legal nature of the employment contract in the modern social and economic conditions. It analyzes the differences of the employment contract against civil-law agreements.

Key words: employment contract, civil contract labor, legal nature of the employment contract.

Formulation of the problem. Changes in the structure of the labor market and in work organization lead to changes in forms of work both within and outside the scope of employment. One of the consequences of changes in the structure of the labor market, labor and inefficient application of the legislation, is to spread the category of workers who actually have employees, but denied protection under labor relations by concluding civil contracts related to work (contract award, contract assignments, etc ..). In such circumstances, it remains questionable distinction of the employment

contract of civil-legal agreements on labor, as the literature suggests that in a market economy the employment contract actually replaced civil law contract labor.

Analysis of recent research and publications. Problems employment contract has always been the focus of scientists. Theoretical and practical issues of legal regulation of the employment contract in his works explore the representatives of science of labor law: N.B. Bolotin, E.M. Bondarenko, Yu. Baranyuk, V.S. Venediktov, L.P. Garashchenko, S.Y. Golovin, K.N. Husov, O.V. Danyluk, S.V. Drizhchanyy, V.V. Ershov, O.O. Ershova, V.V. Zhernakov, M.I. Inshyn, I.J. Kiselev, V.V. Lazor, L.I. Lazor, V.M. Lebedev, A.M. Lushnikov, N.V. Lushnikova, I.P. Lavrinchuk, O.V. Makogon, O.M. Mogilnuy, S.P. Mavrin, P.D. Pylypenko, S.M. Prylypko, V.I. Prokopenko, O.I. Protsevskyy, V.G. Rotan, B.A. Rymar, S.O. Silchenko, O.V. Smirnov, M. Stadnyk, V.M. Tolkunova, G.I. Chanysheva, E.B. Khokhlov, N.M. Khutoryan, O.N. Khutoryan and others.

The purpose of this article is to determine the legal nature of the employment contract in the current socio-economic conditions and its correlation with related civil contracts on labor.

Presenting main material. International Labour Organization (ILO more) pays great attention to the definition of the scope of employment. The ILO recognizes that concept of employment is equally present in all legal systems and traditions, but the obligations, rights and benefits related to labor relations, vary from country to country.

ILO encourages Member States to provide a clear definition of the conditions applied to establish the existence of an employment relationship, such as such as liability to or dependence.

ILO notes that in the interests of all parties involved in the functioning of the labor market, to ensure that all arrangements and a wide variety of conditions in which employees perform their work or provide services that were delivered to the appropriate legal framework. For many countries this is a difficult task because of one of the following factors or their combination:

- Vaguely worded legislation, its scope is too limited, or it has other weak points;

- Labor relations hidden in the form of civil or commercial arrangements;

- Labor relations are uncertain;

- The worker is in fact an employee, but it is unclear who is his employer, what rights the worker has and who is legally obliged to enforce these rights;

- Did not ensure compliance and law enforcement.

However, the ILO specifies that the employment hidden harms the interests of workers and employers and an abuse that is contrary to decent work and should not take place. In this regard, governments, employers and workers should take active steps to prevent this practice, wherever it took place.

ILO calls attention to the need for clear wording of the legislation, its scope. The legislation and its interpretation should be consistent with decent work - namely quantitative promote growth and improve the quality of employment, they should be flexible enough to not obstruct the emergence of new forms of decent employment, and promote such employment and growth. Legal and other regulations must be sufficiently clear and precise to offer predictable results, but at the same time to avoid creating rigid structures and interference in purely commercial or purely independent contractor relationship.

The problem of separating the employment contract of civil law related legal actions, especially the contract award, has acquired urgency in the 20's. Last century. Most authors isolated the differences on two groups of grounds: legal and economic.

Some researchers consider the employment agreement as a kind of civil law on the basis of similarity of these agreements. Thus, we speculate that in the future the employment contract is transformed into a kind of civil contract when all labor relations are governed by civil law, which together will form a corresponding structural element of civil law, its institution [1, p.78].

The employment contract is endowed with civil legal properties. Thus, the legal definition of employment contract implies that it is always a two-way and mutual

(Article 21 of the Labor Code). His party is the employer and employee related mutual rights and obligations. Regarding oplatnosti or chargeless, the employee performance features resulting from the employment contract, from the perspective of civil law is its provision of material employer, which entails mandatory counter-property provision by the employer to the employee in the form of payment of wages for work performed, manufactured products worked or working hours.

Through these and other similar traits studied treaties, there has been a substitution of labor relations civil-law that not only zaschemlyaye worker rights, and may cause adverse consequences for the employer.

Analysis of the current legislation reveals the following differences of labor and civil contracts. The subject of the employment contract is the fulfillment of certain employee determined by agreement work function. The employee agrees to perform certain job or hold a position in the organization, and the employer shall ensure that its work to provide the means of production, equipment, machinery, etc., to give specific problem. The employer has the right to instruct the employee to perform any tasks within the work resulting from the employment contract. At the same time the subject of civil contract labor is labor embodied product or to a single character. That is the subject of this contract is the final result of work (building construction, prepared accounting, etc.).

The employment contract is usually for an indefinite period and terminated only on grounds prescribed by law. Fixed-term employment contract may be awarded only in cases stipulated by law (Article 23 of the Labor Code). These rules also turns focus of labor laws to protect the employee. Civil legal agreements concluded work on the implementation of specific and limited work done (services, products).

The specificity of the subject and determines the effect of contracts that are considered, in time: a civil contract terminated after the parties assumed obligations, the employment contract is continued, ie, as a general rule, the parties of their responsibilities in relation to each other does not terminate the contract.

Since the subject of the employment contract is the realization of a person's ability to work, it is clear that this property of the employment contract can be realized only by the man himself, and to entrust the realization of their own ability to work to another person a man can not. Hence, on the side of the worker in the employment contract has always advocated a living human person, an individual who personally sells it actually inherent ability to work, and a full range of related fact of rights and obligations. On the contrary, the parties to a civil contract can act as physical and legal entities.

There are differences in the manner conclusion, modification and termination of civil law and labor contracts. Conclusion, modification and termination regulated in detail by labor laws. With certain categories of persons the employer must conclude an employment contract. Termination of employment is on the grounds and in the manner prescribed by law. Civil contracts concluded by agreement of the parties, subject to the principles of voluntariness and equality and terminate on the grounds defined by civil law.

An employee concluding an employment contract included in the state organization and must be subject to internal regulations, approved in a particular enterprise or to carry out orders of the employer - physical person. Labor relations are governed by legal regulations of different levels - from central to local. Failure of such rules is considered as violation of labor discipline, for which an employee may be disciplined. In labor relations the employer has disciplinary authority on employee until release. For violation of employment duties, which resulted in causing material damage to the employer, the latter is entitled to bring an employee to liability and own damage charge in the amount of average monthly earnings of the employee. In civil matters the employer has no disciplinary authority in respect of the employee. In the case of causing property damage penalty carried by the courts.

During the work the employee is required to perform a certain extent work in a part-time - labor standards, observe the rules of labor protection and industrial safety. In carrying civilian labor contracts valuation work is absent, the process of labor is not regulated by law and carried out independently by the person on your own.

Labor laws set standards and guarantees in pay, terms of payment of wages, indexation rules, wage compensation in case of delay of payment. Law "On labor" provides two areas of regulation of wages - the scope and sphere of public contract regulations. In a civil contract wage (scope of work) is set by agreement.

There are agreements between the studied differences in risk sharing lost, damaged products, without fault of the employee who is on labor law by the employer. Under civil law contract this risk lies with the employee.

For an employee who works under an employment contract, subject to the guarantees and benefits provided by labor legislation. The employer pays premiums to social insurance funds for salaried employees (the Pension Fund of Ukraine and social insurance funds). In civil contracts, the employer also bears the costs for social security contributions, but it fulfills its obligation to respect all of society, not employees of a particular company, financing social funds from which payments are made on the basis of the solidarity principle.

Different ways of protecting human and civil rights and interests. An individual as a subject of civil relationships can turn to the labor disputes commission to resolve individual labor dispute may not participate in the strike.

It noted that the draft Labour Code of Ukraine for the first time included provisions on the invalidity of the employment contract or some of its provisions (Articles 54, 55) [2]. The mechanism envisaged project differs from the mechanism of recognition of the transaction invalid in accordance with the Civil Code of Ukraine.

In recognition of the employment contract null and void in the interests of employee termination is permitted in the future, but not with the conclusion, as in the invalidation of civil transaction. The project provides for the invalidation of the individual contract of employment that do not entail the annulment of the employment contract as a whole. Article 217 of the Civil Code provides the legal consequences of the invalidity of individual parts of a transaction that does not preclude the annulment of the transaction as a whole. This article refers to the following: "Invalidity separate part of the transaction does not entail the invalidity of other parts and the whole

transaction if it can be assumed that the transaction would have been committed without the inclusion of invalid".

Different terms and judicial protection of civil and labor rights. To appeal to the court to protect the civil rights provided trohlitniy limitation antiquity (Art. 257 Civil Code of Ukraine), while the protection of violated labor rights provided three months from the day when he knew or should have known about the violation of his right (p. 1 st.233 Labor Code).

In judicial practice, the criteria for differentiation of labor and civil contracts (contracts, services) are formed within the two categories of disputes: claims of citizens to employers concluded agreements on the recognition of labor provided by law and provide working conditions; the demands of the executive bodies of social security or tax authorities to employers about retraining civil legal contracts with citizens in employment contracts and collection of mandatory payments of social security (in the amount of accrued benefits under employment contracts).

According to Clause 8 of Resolution of the Supreme Court of Ukraine of on March 17, 2004 № 2 «On Application of the RF Labor Code of the Russian Federation" if the parties entered into a contract of civil law, but during the trial it is established that this contract actually governed the employment relationship between the employee and the employer, such relations because of ch. 4 should apply the provisions of Article 11 of the LC RF. A similar provision is advisable to include in the resolution of the Supreme Court of Ukraine on November 6, 1992 № 9 "On the practice of courts of labor disputes."

An important question is how to protect their employee rights in the event of dispute as to the legal nature of the contract. For the determination of the existence and content of the employment contract worker is entitled to apply directly to employers through the courts with a claim for recognition agreement concluded labor contract and the provision provided by law conditions. According to ch. 8 Art. 6 of the draft Labour Code of Ukraine labor legislation does not apply if a person performs work under civil law contracts. We believe it is reasonable Making Addendum to the above provision of the draft Labour Code of Ukraine as follows: "In cases where the court found that civil

law contract actually governed the employment relationship between the employee and the employer, such relationship, the provisions of labor law." Consistent application of this provision exclude arbitrary interpretation of the question of the legal nature of contracts governing labor relations.

The application of labor laws to relations that are at the crossroads of civil and labor law or to labor relations, veiled under civil, associated with difficulties due to the inconsistency of this relationship and the uncertainty of their industry sector. In case of dispute in many foreign countries to the delimitation of the employment contract of the contract award is offered to use the following criteria: extent to which company-customer determines when and how work should be carried out, including working hours and other working conditions; or the company pays the employee-customer due to him remuneration periodically and according to pre-established criteria; the extent to which a user undertaking surveillance and control of the contracting officer regarding work performed, including control of the discipline; the extent to which a user undertaking investments and provides tools, equipment and machinery necessary to perform appropriate work; whether the employee profits or at risk to suffer losses in the performance of work; whether the work is performed on a regular and continuous basis; or a person working for one company-user; the extent to which the work is part of the ordinary activities of the enterprise; or provides enterprise employee training [3, 172]

In many countries the trend was to include these "border" of relations within the scope of the labor law, which is evidence of its spread.

Conclusions. Thus, in a market economy legal nature of the employment contract remains unchanged - the employment contract remains trudopravovu nature and can not be replaced by civil contracts related to the difficulty. Between the latter and the employment contract except in common, there are fundamental differences that can not be considered as a form of employment contract of civil contracts related to the difficulty. The main difference between the employment contract of civil contracts lies in its deep social nature that can be considered as a means of ensuring labor rights and interests of workers in a market economy, to distribute to employees the guarantees

provided by current labor legislation. The employment contract was in the contemporary socio-economic conditions continues to be the main form of the right to work.

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CRIMINAL LIABILITY AS A FORM OF LEGAL LIABILITY

Summary

The work carries out the characterization of criminal liability as a form of legal liability. The concept and characteristics of criminal responsibility are stated, the different approaches of scientists in the definition of criminal responsibility and the prospect of jurisprudence in this area are emphasized.

Key words: legal liability, criminal liability, obligation, public censure, restrictions, signs of offense, negative consequences.

Formulation of the problem. Criminal liability is one of the main categories of criminal law, along with crime and punishment. In addition, it is a special element in the mechanism of legal regulation of relations on the person who committed the crime. However, around the concept of criminal responsibility has long sustained discussion. One reason for this is that often the Criminal Code of Ukraine (hereinafter - the Criminal Code of Ukraine) and other regulations, as well as scientists put a different

meaning to the concept of "criminal responsibility". Legal uncertainty in the theory of criminal and criminal procedural law allows you to interpret the term differently.

Analyzing the concept of criminal responsibility above all we must proceed from the fact that criminal responsibility - a type of legal liability. According to ch. 1, Art. 3 Criminal Code of Ukraine criminal liability and punishment only be a person guilty of a crime is such that intentionally or negligently committed prescribed by law on criminal responsibility socially dangerous act. It is this legal provision gives grounds to consider criminal responsibility as a criminal-legal type of legal liability.

Man lifelong interact with other people by engaging them in social relations. Man takes his social position, which requires certain functions objectively agreed with the functions of other members of society. Violation of these functions can lead to malfunction of the system. As a result, this has a negative impact on the subjects of the system. To organize the interaction of individual actors in general, the company introduces social control, that set of different norms and values that set the rules of conduct and standards regulating the interaction between the actors of society, as well as sanctions that apply to their implementation.

The rules differ in the degree of severity, and their violation entails different types of liability. In case of violation of any rule violator liability will be implemented by the state, the society called to monitor the implementation of such rules. In accordance with the result of the application of the rule of law and, above all, the implementation of sanctions by the state will be a kind of social responsibility - legal responsibility. Consolidation in criminal law the most dangerous acts indicate that the criminal liability as a form of legal liability is the most severe type of such liability.

Analysis of recent research and publications. Problems of criminal responsibility, its concepts and features studied by many scientists, such as M. Bazhanov, J.M. Brainin, B.V. Volzhenkinym, A.A. Gertsenzon, T.T. Dubinin, M.I. Korzhanskym, V.M. Kudryavtsev, M.S. Tagantsev, A.N. Trainin, M.D. Sergius, M.S. Strogovich and others. In the modern theory of law of Ukraine study the problems of crime and their signs deal with such scientists as Y. Baulin, N.V. Volodko, M.I.

Melnik, Y.I. Soloviy, V.V. Stashys, V.J. Taciy, M.I. Havronyuk, S.S. Yatsenko and others.

The purpose of the article. The aim of this publication is to define concepts and attributes criminal liability as a form of legal liability.

Presenting main material. We know that the legal liability is a form of social responsibility and they relate to each other as the type and class. Legal liability - a relationship between the state and the subject of offense, characterized by condemning the wrongful act and the offender and imposing the obligation to incur under sanction violations of the rights of the adverse effects of the personal, property and organizational nature. According OF jumper legal responsibility - a statutory type and size of state-powerful (compulsory) feeling person losing the benefits of personal, organizational and economic nature for an offense [1, 430].

As a relatively independent element of the legal system, legal liability is characterized by the following features:

1. is a special legal institution within which the state response to crime.

2. Combined with the use of (the possibility of application) coercive measures by the state.

3. Provides a formal assessment of the appropriate authority behavior of a person as an offense, and himself as the offender. This feature leads to negative person point and contains an element of public condemnation.

4. Pulls certain adverse consequences for the offender. Sometimes they are confined to the above assessment of the offender, but in most cases specified limitation of certain rights and freedoms offender or imposing certain obligations.

However, the concept of criminal responsibility includes both generic characteristic of legal responsibility in general, and specific features characteristic of responsibility within the criminal law. In criminal law, some of these signs legal liability specified - especially considering the subject and method of legal regulation of this industry. With this specification, they are species (specific) signs of criminal responsibility. Thus, the signs of criminal responsibility include:

1. Criminal responsibility - a specific element in the mechanism of legal regulation, within which the State's response to the person committed a criminal offense.

2. Official Rating behavior of a person as a criminal offense, as well as the offender himself, according to ch. 1, Art. 62 of the Constitution of Ukraine [2], and ch. 2, Art. 3 of the Criminal Code of Ukraine [3] can be carried out only by the court in a conviction.

3. Criminal liability entails adverse consequences for the offender. In some places they are reduced by the court to recognize a person guilty of a crime and thus its condemnation of the state, but mostly a censure combined with application specific measure of legal influence provided by the law on criminal responsibility.

Recently in the legal literature actively developed the concept of so-called positive (prospective) criminal liability. Its essence is to ensure that in addition to responsibility for past behavior, which is a retrospective liability in the mechanism of legal awareness of the need to respect a person is criminal and legal prohibitions. Noting the fruitful concept of positive responsibility in theoretical terms, it should be noted that the current legislation of Ukraine considers criminal liability only as a responsibility for past behavior.

The above description of criminal responsibility, does not prevent discussion of the theory of criminal law on the substantive content of the concept. We can say that each of the different points of view somehow reflects the content of criminal responsibility. The most common in this regard points of view are:

- Criminal liability - regulated by the law the duty of the person committed a crime, subject to certain measures of negative impact and undergo statutory limit [4, 26];

- Criminal responsibility - a duty to be subject to measures of legal influence that contain restrictions suffering imposed by law on the person who committed the crime [5, 31];

- Criminal liability - is set by criminal law legal obligation to account to the person before the court of his socially dangerous act and suffer for it prescribed by law conviction and sentence [6, 136];

- Criminal responsibility - a kind of Ukraine under the Criminal Code and the size limitation of rights and freedoms of the offender that the court individualized and made special by the state [7, 626];

- Criminal liability - is the responsibility of the person who committed the crime, give an account of their socially dangerous acts and the obligation to undergo criminal punishment tolerate its legal consequences [8, 60];

- Criminal liability - is enshrined in the criminal law assessment on behalf of the state on behalf of authorized it acts as a specific crime [9, 35];

- Criminal responsibility - a statutory duty to comply with the perpetrator in the case of the crime in criminal proceedings, to submit to coercive measures that the state has the right to apply for committing socially dangerous acts [10, 96];

- Determination of criminal liability associated with the public condemnation of the criminal court for a verdict of guilty. This position is justified by reference to the known decision of the Constitutional Court of Ukraine of 27 October 1999 in the case of parliamentary immunity, which specifies that criminal liability is incurred from the date of entry into force of a court conviction [11, 43];

- Criminal responsibility - a forced sense of the person who committed the crime, public censure, and also under the Criminal Ukraine limitations of personal, property or otherwise determined guilty verdict and imposed on the perpetrator special bodies [12, 27].

Try to understand the above-mentioned positions of scientists. Start needs of etymological understanding of the term "responsibility". It means someone placed on duty to answer for things, be responsible for something. That criminal responsibility, as a kind of legal liability means that a person must be responsible for their behavior, which is caused by the requirements of the law on criminal responsibility. Thus, the criminal law obliging a person to behave a certain way. In other words, criminal

liability - is the responsibility of the person assigned to it by the law on criminal responsibility not to commit crimes.

This is fully consistent with the philosophical and sociological understanding of concepts such as responsibility, reflecting the objective, historically specific nature of the relationship between the individual, collective, state in terms of conscious exercise of mutual claims that relate to them.

It seems that the essence of criminal liability is to limit the rights and freedoms of the offender. This understanding of the nature of this category stems from its nature as a category of criminal law - one of the branches of public law [7, 627].

Publicly-legal relations are relations of power and submission, by regulation which is imperative method, and the only center of this regulation is the state [13, 36-46]. It is within these relationships established and implemented criminal liability for criminal offenses. Since the purpose of such liability is punishment and correction of criminals and prevent crime, the criminal responsibility can not be anything but a limitation of the rights and freedoms of the offender. But in this case there are contradictions between scientists, which boil down to the fact that the obligation of a person to answer for a criminal offense and bear no statutory restrictions is a reaction to state crime. In this regard, it is clear obligation itself can not be criminal liability. You can not equate criminal responsibility and punishment. The penalty is the main but not the only form of implementation of criminal responsibility, as evidenced, in particular, the provisions of ch. 1, Art. 3 and Art. 50 of the Criminal Code of Ukraine.

Interesting observations on the relationship between the concepts "criminal liability" and "punishment" did Osadchiy VI. He believes that the punishment - a coercive measure applied by a court to a person convicted of a crime and is prescribed by the law, and freedom of the convicted person. Criminal responsibility - a concept much wider than punishment. It includes the obligation of the person responsible for an act prescribed in the Criminal Code of Ukraine and punishment as a process of real application of the measures specified in the law on criminal responsibility [9, 75].

Drawing conclusions from the above, it should be noted that the science of criminal law there is no unambiguous understanding of criminal responsibility: some

authors identify it with a criminal penalty; second - characterize the criminal liability as a certain kind of duty; others - consider it as a specific criminal relations; fourth - understood as the realization of criminal liability sanctions criminal law; Five - find criminal liability conviction of those guilty verdict for the crime of sentencing or without others.

However, this restriction is vital for human benefit based on the rule of law, taking into account the possible separation of state power into legislative, judicial and executive (Art. 6 of the Constitution of Ukraine). In other words, the type and size limitations of rights and freedoms, guilty of a criminal offense shall be defined by the legislator (legislative aspect of criminal responsibility), appointed by the court (judicial aspects) and made special executive bodies (executive aspect).

Each of these activities has its own meaning and legal form which nevertheless reflect a single entity for their criminal responsibility - namely, limitation of rights and freedoms of the offender. The content of this activity can be represented as the interaction of its constituent elements, which include its subjects, objects and just act.

From this point of view the subject of establishing criminal liability is only the Verkhovna Rada of Ukraine. According to paragraph. 22 Art. 92 of the Constitution of Ukraine are determined by the laws of Ukraine acts that are crimes, and liability for them. This is the law in the Criminal Code of Ukraine.

The object of such a legally-defined criminal responsibility, rights and freedoms are those that have the potential identified in the Criminal Code of Ukraine as potential criminals. The conclusion of this can be done by analyzing a number of norms of the Criminal Code of Ukraine. First, the Criminal Code of Ukraine determines that socially dangerous acts that are crimes and persons (entities) may be responsible for their commission. Thus, a mandatory element of any crime is a range of people, able to be subject to this type of crime. This restriction of the rights and freedoms of persons and are subject to certain legal and criminal liability.

Second, the Criminal Code of Ukraine also determines what penalties apply to persons who have committed crimes. This definition takes place in two stages. In the first stage of the Criminal Code of Ukraine determines penalties that may then apply

judgment. Article 51 of the Criminal Code of Ukraine provides 12 types of penalties. According to ch. 1, Art. 50 Criminal Code of Ukraine penalty is provided by law restricting rights and freedoms of the convicted person. But even before the figure will be convicted, Criminal Code of Ukraine establishes a comprehensive list of sentences and characterizes each of them (what and how The rights and freedoms of prisoners future). Further legislator provides for certain penalties sanctions in the relevant articles of the Criminal Code of Ukraine. Thus, the legal form of legally defined criminal responsibility is sanction criminal law.

The activity of the Verkhovna Rada of Ukraine to establish criminal responsibility is carried out within the constitutional relationship. It is concerning such activities take the concept of criminalization pedalizatsiyi and differentiation such liability. It Verkhovna Rada of Ukraine establishes and differentiates the type of restrictions and limits of rights and freedoms, which in the future may be adjudged guilty of a particular criminal offense.

For such persons individualized criminal liability by the court. There is a principle of justice, under which penalties and other measures of criminal law that apply to the person who committed the crime should be fair, that conform to the nature and degree of public danger of the crime, the circumstances of its commission and the individual characteristics of the perpetrator. This principle its content coincides with the principle of individualization of punishment. Along with these principles there is the principle of individualization of criminal responsibility, which in content is wider than the previous two. Its content is that all measures of legal compulsion in whatever form they are manifested, all penal consequences must meet the social danger of the criminal offense in respect of which they apply.

According to Art. 62 of the Constitution of Ukraine shall be deemed guilty of a crime and not be subjected to criminal punishment until his guilt is proved through legal procedure and established by a court conviction [2]. Thus, the subject of individual criminal responsibility is defined only court. The object of this individualization have specific rights and freedoms of a person who is recognized by the court guilty of having committed a criminal offense which is the basis for laying

criminal responsibility of the offender. Prerequisite court individualization of criminal responsibility is a legal qualification by the person committed a criminal offense. Depends on what rights and freedoms of individuals and as Court may limit because sanction the criminal law is typed, depending on the type of criminal offense, the commission of which convicted the person concerned.

Activity Court for individualization of criminal responsibility is governed by the provisions of the Criminal Code of Ukraine about the concept and purpose of punishment, general principles and order of sentencing. Therefore, individualized court criminal responsibility is identified mainly with the concept of punishment.

Legal form individualization of criminal responsibility is a court indictment. Under the current Criminal Code of Ukraine can define three types of individualization of criminal responsibility. The first - the recognition of a person guilty of a crime without punishment, that limit its dignity. For example, according to ch. 4. 74 Criminal Code of Ukraine a person who committed a crime of small or moderate, perhaps by a court released from punishment if it is recognized that in view of excellent behavior and conscientious attitude to work that person at the time of the trial can not be considered socially dangerous. In that case, the court shall render a guilty verdict, which recognizes the person concerned guilty of the act of committing a particular crime, but it makes no punishment.

The second type of court individualization of criminal responsibility - a conviction with the appointment of the person of a certain type and amount of punishment from serving which it is released. For example, according to ch. 1 and ch. 2, Art. 75 Criminal Code of Ukraine if the court when sentencing of correctional labor, official restraint, restriction of liberty and imprisonment for a term not exceeding five years, given the severity of the crime, the identity of the perpetrator and other circumstances of the case, determines the possibility of correction convicted without punishment, it may decide to release from probation. In this case the court approves release the convict from serving the sentence, if within a specified court probationary period does not commit a new crime and perform the duties assigned to him.

The third type of court individualization of criminal responsibility - a conviction with the appointment of that person of a certain type and amount of punishment with the need to serve it.

Personalization court criminal responsibility is carried out within the criminal legal relations. These relationships occur after a person has committed a criminal offense. At this stage, the executive carries out prosecution of a person under criminal procedure relations. The Court notes in a conviction that the person actually committed certain criminal offenses and individualize her criminal responsibility in the manner specified above. Personalization considered completed after the date of entry into force of conviction. In this form it exists before the date of this sentence to execution.

Criminal legal consequences of individualization of criminal responsibility is, as a general rule, the emergence of conviction in the convicted person.

Executive aspect of criminal responsibility has two aspects: on the one hand, is the activity of special executive bodies (stakeholder) to implement the judgment of conviction, ie activities related to real restriction specified by the court the rights and freedoms of the person sentenced. On the other hand, this feeling that person restriction of rights and freedoms (of the object) that individualized trial.

Conclusions. Based on the above during criminal responsibility should be considered a type of legal liability, which is the duty of the person who has committed a criminal conviction to experience and feel the state limit personal and property as defined by the Criminal Code of Ukraine and specified in the judgment of conviction. The concept of criminal responsibility includes both generic characteristic of legal responsibility in general, and specific features characteristic of responsibility within the criminal law.

Criminal responsibility exists within the criminal relations but does not coincide with the moment of their appearance, because its starting point is the conviction of the court, not a person has committed a criminal offense.

The legal form of the criminal liability is a guilty verdict. You can define three forms of implementation of criminal responsibility: the recognition of a person guilty of a crime without punishment; the conviction of the person of a particular purpose of

punishment from serving which it is released; conviction of the purpose of a particular person and his real punishment serving.

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CO-OPERATION OF OPERATIVE SUBDIVISIONS OF INTERNAL AFFAIRS ORGANS WITH THE SPECIAL SUBDIVISIONS DURING LEADTHROUGH OF VISUAL SUPERVISION

Summary

The article features the co-operation of operative subdivisions of internal affairs organs with the special subdivisions during the leadthrough of visual supervision as to one of the most effective organizational-administrative forms of counteraction against organized crime and corruption. Basic forms of co-operation, namely general and special are specified. The ways of optimization of internal affairs organs operative subdivisions co-operation with the special subdivisions are determined.

Key words: visual supervision, organs of internal affairs, co-operation, forms and methods of activity.

Formulation of the problem. Tracking the activity of law enforcement is a special feature, the feature of which is mainly tacit in nature and focus on getting the information is used mainly to detect, prevent and solve crimes, wanted persons, fugitives from the investigation and trial, as well as missing persons. The interaction and coordination of operational units particularly relevant when the crime is a versatile character, deeply conspiratorial, and she opposes the activities of an extensive network of law enforcement units that require regulation, interconnection, coordination of joint actions relevant subordination and maneuver capabilities [1, 140].

At present, legal science has not developed a common approach to the concepts of "interaction", "coordination", "forms of interaction" and so on. For practitioners of important operational units precise regulation of the nature and forms of interaction.

The purpose of the article. The article studies the features of the interaction of operational units of the Interior with special units during visual observation as one of the most effective organizational and administrative forms of combating organized crime and corruption.

Analysis of recent research and publications. Some aspects of legal regulation of visual observation as investigative operations in Ukraine investigated Bandurka O., A. Venediktov, V.I. Vasylynchuk, N.F. Voytovych, O.A. Hapon, V.O. Glushkov, O. Dzhuzha, O.F. Dolzhenkov, E.O. Didorenko, V.P. Zakharov, A.V. Ishchenko, I.P. Kozachenko, O. Kozachenko, Y. Kondratyev, V. Nekrasov, D.J. Nykyforchuk, S.V. Obshalov, M.A. Pohoretskyy, I.I. Prypolov, N.E. Filippenko, V.A. Cherkovo, I.R. Shinkarenko and others. However, the presence of a number of unresolved legal issues of interaction between operational units during visual observation and granting it the status of tacit investigative (detective) action Criminal Procedural Code of Ukraine on April 13, 2012 determines the need for further research.

Presenting main material. The term "interaction" is derived from the term "mutual", ie one that affects each other, joint, one that applies to both [2, p. 50]. In a philosophical sense means interaction category, reflecting the impact of various processes objects at each other, their mutual conditionality, change of status, vzayemoperehid and other object one generation [3, p.57].

In military affairs during the interaction is understood the agreement on assignment, direction, action abroad and sometimes different units of the armed forces in order to achieve the goal battle. There are interactions tactical, operational and strategic [2, 211].

In terms of the science of social management, interaction - is a form of directional exposure to achieve a specific goal, and the exchange of information [4, p.12].

In the area of criminal procedure and criminology operating units interaction with the prosecutors formulated as agreed on the purpose, time and place of joint action [5, p. 13].

Interaction in the internal affairs according to KK Ermakova - is based on the laws and regulations agreed by the purpose, place and time of the activity of various components of the system of internal affairs for the protection of public order and crime [4, p.4].

In modern forensic literature there are several definitions of "interaction". M.O. Selivanov said that interaction is agreed activities to ensure the successful detection and investigation of crimes each party within its competence inherent means and methods [6, p. 47]. O.M. Porubov believes that interaction - this cooperation, based on shared goals and organized in such a way that the actions of the investigator and expert mutually agreed upon to achieve the most effective results in the implementation of criminal justice problems [5, p. 23]. In the works of R.S. Belkin interaction also defined as one of the forms of crime investigation, which is based on law cooperation investigator with the investigation, specialists and experts. This cooperation agreed on goals, place and time [7, p. 25].

One of the first theories of operational activities O.G. Lekar introduced the concept of interaction ATS operational staff, which includes realized joint or coordinated by time, place and purpose of action of two or more units (bodies) to address specific problems fighting crime [8]. Building out the definition, D.V. Hrebelskyy notes that interacting with the authorities managing one branch of government activities (fighting crime), which operates with one common purpose [9].

I.P. Kozachenko and V.L. Rehulskyy believe that interaction - a kind of model of integrated operational-search and other law enforcement activities performed taking into account relevant terms of operational situations (conditions). That interaction is the concentration of forces, means and methods to achieve this goal, the implementation of appropriate joint measures, choice of tactics or their combinations that provide the best performance of tasks in an exceptionally short time with the resources that are available to business interaction, at least cost and with unconditional observance of current legislation [10, 177-203].

His vision in solving this problem provides O.M. Bandurka that defines interaction as a set of joint or coordinated in time and place of several operational units to address specific problems in the fight against crime joint efforts [1, 139-140].

After reviewing the collection of many signs that reveal the essence of the interaction, V.D. Pcholkin formulated the concept of interaction based on shared goals and objectives agreed upon time, place and content defined by law activities of competent actors on the rational use of available forces, means and methods to detect, prevent and solve crimes [11].

After analyzing the above concepts of interaction, we can conclude that the term "interaction" carries a lot of meaning load. This is due to the complexity and ambiguity of the term, and a variety of aspects of the investigation. The common feature of almost all the definitions of the term "interaction" is the interaction that the authors interpreted as a consistent activities aimed at achieving the goals, tasks or achieve results.

In the scientific literature there are also different views of scientists on the relationship between the concepts "cooperation" and "coordination". After their analysis, during the interaction we mean based on laws and by regulations agreed on the objectives, place, time activity units or individual police officers on a combination of capabilities, forces, methods and tools that are at their disposal for the success of complex procedural, search operations, organizational, technical and other measures to combat crime. Coordination - a set of actions that caused the power of the subjects of management to ensure the orderly functioning of the subject and object management, including coordinated work of all parts of the system and her individual employees.

For our study of greatest interest are issues of interaction ATS personnel operating units together.

Visual observation - a cognitive activity operatives collection, research and commit various facts observed objects and their relationships, knowledge of the individual object, which enables to simulate future events. Knowledge is part of in any human activity. In the process of goal objects, how knowledge can change

significantly, which means that changes the structure of cognitive activity. For this employee operating unit must have information about: operational environment; Treatment and lifestyle criminal element; have knowledge of the socio-economic characteristics serviced area (system of roads and communication lines. Features transit traffic and local transport, places of public entertainment, the place of the crime-tense where possible hooliganism, robbery, rape, place of growth, preparation, the sale of drugs, the deployment of government and military units, exchange offices, etc.). He should be aware of the location and operation of organizations, institutions, banks, post offices, storage facilities inventory, as well as facilities permit system [15]. In addition, as vowel or tacit employee should be familiar capabilities that are involved in the protection of public order, their disposition, procedures and communications with them.

The interaction between the employees of operational units in carrying out visual observation is used in the following two forms: general and special.

The total forms of cooperation are: joint analysis of situation in a particular area, information sharing, training surveys, joint meetings to discuss results and lessons, joint planning and conducting search operations, regular performances of heads of operational units to personnel, consideration jointly processed Action studying positive experience and so on. al.

The special forms of cooperation include: joint planning visual observation of the object, the exchange of information (the identification, treatment and follow-up assumptions object visual observation, as well as the characteristics of the person object, establishing his place of residence or temporary stay, it environment), organizational arrangements for selection possible positions of close observation, timely exchange of operational information obtained that affect the quality of the event.

The theory of operational activities under the collaboration of operational services with other departments of the Interior understanding based on the requirements of law activities of operational units, ensuring consistency and timeliness of visual observation to obtain and recording operational information to provide

disclosure, crime prevention, compensation for material damage caused by the criminal actions of suspects and defendants, as well as to identify and arrest individuals who are hiding from the investigation and trial [1, p. 25].

Practice has proved that the performance of joint search operations during visual observation largely depends on properly organized interaction, whose main objective consists in achieving the agreed use of existing capabilities. As part of the analysis of organizational practice of joint search operations in the application of the method of visual observation revealed the following most common types of such activities, coordination of place and time of the event led, joint planning various phases of its implementation; study of situation on-site implementation of operational search activities; joint participation in the preparation and implementation of operational and technical measures; coordination and encryption on lehenduvannyu conducted investigative operations; ensure the safety of participants during the examination; common organization developed action against persons or their relations in the period of MPAs and coordination of legalization and use of data in the course of the investigation of crimes; the mutual use of the available capabilities.

However, today the efficiency of visual observation depends on further improvement of departmental regulatory issues related to the procedure and the main directions of cooperation during visual observation, but also point to the importance of timely operational structure to bring information about the opportunities of interacting parties.

In applying the method of visual observation is very important for solving crimes is the interaction of operational units to special units that perform individual investigative operations by proxy, eg during visual observation important provision within the existing opportunities of mutual methodological and practical assistance in organization and conducting operational and technical, operational and search activities; joint research, exchange of experience in research, teaching activities and operational and technical work; exchange of experience on training; study and implementation of international best practice.

The important direction to improve the efficiency of operational and search activities associated with the use of visual observation method, there are issues of interaction optimization of operational units of the Interior special units of the Interior Ministry of Ukraine and Boz operative divisions Fiscal Service, Customs Service, Border Service, the Security Service Ukraine. The need for close cooperation between these bodies is due primarily common goals to ensure the safety of individuals, society and the state. It is clear that the interaction between the above units is possible in cases where employees carry out such work within certain laws competence and operational-search measures aimed at identifying disclosure of especially dangerous crimes and crimes committed by organized criminal groups and those with interregional and interstate nature related to drug trafficking or gained great public resonance.

The new realities of organized crime in Ukraine require fundamentally new approaches to interaction of law enforcement bodies of Ukraine, as one of the most effective organizational and administrative forms of combating organized crime and corruption. One of the main reasons for inefficient fight against organized crime is a dispersion of efforts the police and other law enforcement agencies, primarily in activities of their operational services [12]. In the implementation of mutually agreed activities in visual observation, these operational units of law enforcement agencies are able to enhance the common points of the following areas: exchange of operational and investigative, operational background and other information on conducting search operations under visual observation; the interaction on employee training techniques and tactics units use visual observation; joint workshops, business meetings heads of operating units; the mutual use of search operations and facilities; joint planning and implementation of a number of operational and technical measures; joint measures to search for and apprehend criminals. [14]

Wide range of objects search activity and possible sources of information about them recognizes the need to participate in this task all services and divisions of law enforcement. Although the legislator rozoseredyv activity detection and investigation of crimes by various law enforcement and security services, but this mechanical

separation does not indicate that the interests of these agencies, services and their employees who solve common problems, never cross when taking the various activities, the search for the same objects, fixing criminal information or intelligence nature. This particularly relates to information retrieval and work in the territory in which the visual observation of the various agencies, but may be the same line of work. Therefore, the direction of conducting visual observation of various departments, especially in the fight against organized crime should not function in isolation but as part of an integrated agencies in direct and indirect interaction and complementarity.

Thus, a key element of the organization of visual observation of a system of comprehensive measures aimed at readiness execution of the measure, which provides: analysis and assessment of the situation, as well as the operational situation; preparation and decision making; the organization of (sales) management solutions. Company visual observation is in conjunction with the operational and investigative tactics using special forces, means, methods, visual observation units and other operational services, the effectiveness of which depends on the information to plan visual observation; work with the performers; cooperation and coordination of stakeholders in the performance problems on observation.

The quality of the tasks to conduct visual observation depends on constant replenishment required for the event information timely provision of reliable data collection, processing, analysis and production of information on this basis of management decisions, and the need to take into account the real information needs of officers of objectively meet their occupation, specialization or line of work.

Conclusions. Therefore, to improve the quality of interaction between operational units of the Interior with special units during visual observation should: regulatory issues relating to interaction between operational units of law enforcement agencies in preparing and conducting search operations in the framework of the application of visual observation; improve the system of common training of specialists in various fields; joint or mutual exchange and publication of special

scientific and teaching literature on organization and tactics of visual observation; synthesis and dissemination of positive experience of working together.

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HISTORICAL ASPECTS OF ERROR IN THE CIRCUMSTANCE, PRECLUDING CRIMINALITY OF ACT DEVELOPMENT IN UKRAINE

Summary

The article investigates the historical development of the error in circumstance, precluding criminality of act and imaginary defense in the Ukrainian territory. Based on this study the author makes proposals for the formulation of Article 37 of the Criminal Code of Ukraine.

Key words: the error in circumstance, precluding criminality of act, the imaginary defense, random error or deception, non-acquaintance and delusion.

Formulation of the problem. One controversial by legal circumstances precluding criminality in the science of criminal law serves Ukraine imaginary defense. Until now underway debate over whether such a lawful act circumstance excluding criminality, or it appears certain type of errors in self-defense. Also, there is the question of a broad interpretation of the legal nature of imaginary defense by the existence of a theoretical science of criminal law provisions on the legal and factual error. Therefore, a historical study of the emergence and consolidation of the valid normative act at different stages of development of Ukrainian statehood is an important issue for the Ukrainian criminal jurisprudence, as it will provide an opportunity to determine whether the present modern legislative structures of the circumstances in art. 37 of the Criminal Code (hereinafter - CC) of Ukraine.

Background confirmed incompleteness research and study of the legal nature of mental self-defense as a legitimate act, which excludes criminality and the presence of considerable debate in the science of criminal law of Ukraine on this issue. In addition, it is due to historical aspects of existence expansive interpretation appointed due to a lawful act (ignorance) in circumstance, which is caused by the criminal act or that increases responsibility.

Analysis of recent research and publications. Partly study the historical development of mental defense (mostly within the Soviet period) without a detailed study of the content of standards and contemporary views of scientists carried V.V. Anischukom. Leading domestic scholars such as P.P. Andrushko, Yu. Baulin, M.I. Bazhanov, V.I. Borisov, P.S. Matyshevskyy, M.N. Pasche-Ozerskiy and V.I. Tkachenko al. in his work pay attention only to the theoretical aspects of the existing legislative imaginary construction of defense in its close relationship with the necessary. Therefore, a comprehensive historical study of development and legislative consolidation of the abovementioned circumstances (ignorance, error, deceit, imaginary defense) as an independent lawful act that excludes criminality with the study of primary sources in this regard and contemporary views of scientists in this field, and the subsequent formation of opinions on its enhanced legal structures, the science of criminal law of Ukraine is not carried out.

The purpose of article: the study of historical development and the law on mental defense (ignorance, error, deceit) as an independent public benefit lawful act with a detailed study of primary sources in this regard and contemporary views of scientists in this field; formation based on our historical research findings on current legislative imaginary defense construction in Art. 37 of the Criminal Code of Ukraine them appropriately justified.

Presenting main material. Definition lawful socially useful act, which would be responsible on its grounds or was similar to the imaginary defense, not anchored in the criminal law in force in the Ukrainian lands, to the middle of the XIX century. The rules of the various versions of n Truth (Academic list Synodal Akhatist, Karamzinskyy list, etc.), three Lithuanian Statute 1529, 1566, 1588r.r., Catholic Code

is 1649, Voyinskyh articles Peter I 1715. did not contain definite characteristics lawful act or content of links to it. So the first piece of legislation that ensured the emergence of separate circumstances precluding criminality - "random error or deception" (p. 4. 92) of the Penal Code was the criminal and correctional 1842.

In Article 99 of the Articles of 1842 stated that if someone commits a wrongful act of the law due to random error due to fraud or in the surrounding environment or due to ignorance of the circumstances on which such action is illegal, because such action is not entrusted to blame [1, p. 541]. In comments on the application at the time "random error or fraud" in the Russian Empire, NT Volkov of Articles Articles 92 and 99 in 1842 stated the following:

"Because, like fraud or error, as a result of which the offense was committed, belong to legitimate causes of insanity, so the statement about them in court, the court can not refuse to issue statement so special. Error may occur in self-defense, namely, when the circumstances that preceded the application of those defending forces, he could consider himself as being situated in a position in which the defense recognized by law required. Thus, recognized by the court, on the basis of the case, the presence of the accused in the false belief that the time specified in Art. 101 of the Penal Code penal and correctional 1842 (of self-defense) to attack him, he was in complete inability to resort to the defense or the nearest local authorities - could the strength centuries. 99 Articles of 1842, result in his release from responsibility. Similarly, the perception of the accused because of errors or completely legitimate peaceful actions of the victim for the attack that puts the life, health or freedom first of them real danger if you can not turn to the authorities - may not warrant treatment he committed in guilt.

The reason that destroys sanity, can only serve as a mistake of fact, not an error in law that, by force of Art. 62 legal bases can not serve as an excuse and do not fit the scope of Articles 92 and 99 of the Articles of 1842 "[2, 28-29].

In the wording of the Penal Code penal and correctional 1845 was fixed as random error or fraud as circumstances precluding criminality. For n. 4. 98 Articles of 1845 one of the reasons for which deeds should not be put in guilt was "accidental

error or due to fraud" [3, p. 31]. Its regulation was carried out in Art. 105 Subdivision II «On the reasons for their deeds should not be put to blame" Division I «On determining penalties in general and the circumstances in which the deed is not intended to blame" in Chapter III «On the determination of penalties for offenses" of Title I «On crimes general offenses and punishment ", which stated:

"Who will do anything illegal by law only committed from accidental errors or due to fraud that occurred ignorance of the circumstances from which it is turned to illegal acts, committed as it is not put in the wine. It may, however, in some cases by law, be sentenced to church penance " [3, p. 34].

At the final stage of the historical development of the Russian Empire in the Criminal Code in 1903 has changed the legal characteristics of the "random error or fraud" to "ignorance of the circumstances, which is caused by the criminal act or that increases responsibility." Article 43 Division IV «On the subject of crime and acts of sanity" in Chapter I «About the criminal acts and penalties in general" Criminal Law is solidified as follows:

"Ignorance circumstances, which is caused by the criminal act or that increases liability excludes attitude of guilt acts or circumstances that enhances accountability.

When careless actions of this rule does not apply if it was ignorance was the result of negligence of the perpetrator " [4, p. 81].

In comments to art. 43 of the Criminal Code in 1903 on ignorance, delusion and error NS Tagantsev said the following: "Ignorance and delusion can occur either because of mental activity of the subject, its negligence, due to the limitation of its development, or they may occur from the actions of others people who, in turn, became the basis of deceit unknowingly or knowingly and intentionally, when, respectively, was the result of ignorance delusion. According to its object, and at the same time to influence the sanity must be made between ignorance and misleading factual and legal [4, p. 84].

The lack of a more or less clear idea of the perpetrator of the actual conditions of his criminal activity, acting grounds of error or ignorance may apply: 1) the

circumstances that lead to criminality and those of his legal characteristics (in which the perfect losing the character of intentional assault) 2) the circumstances that produce the act with the generic concept of a criminal act in a particular species, to be enhanced or reduced punishment (if they eliminated the opportunity to enhance or mitigate liability on the circumstances which were unknown to the wine); 3) the circumstances which albeit relating to the situation the act but have no significance for its composition nor the size of the responsibility (minor conditions). These provisions are set out in Art. 43 for which differing circumstances of two kinds: those that lead to criminality, ie, within its legal structure, determine its legal concept; circumstances which only affect the level of responsibility, and no matter whether they relate to the actual situation or legal action, or they are caused by fraud or mistake of others and deceit of those who acted " [4, p. 84-85].

Concerning ignorance and delusion law, namely crime and bans the offense, it was noted that in this case "... Article 43 does not concern ... link the defendant that he did not know that committed the act prohibited by law, can not have any effect on his responsibility (Art. 62 Basic Law) ... these arguments are separated and the State Duma "[4, p. 85].

After the collapse of the Russian Empire and of the USSR norm error (ignorance) in circumstances precluding criminality ceased to exist and based criminal legislation of the USSR in 1919, 1924, 1958 and the wording of the Criminal Code of the Ukrainian SSR, 1922, 1927, 1960 not fixed. However, because of practical necessity, gradually, in judicial practice within the necessary defense began to develop the doctrine of the imaginary (imaginary) defense, which was seen as an error in the presence of a socially dangerous attack in self-defense. Formation of the provisions of this legitimate act took place at Resolution of the Plenum of the Supreme Court in 1956, 1969, 1984, 1991 that synthesized judicial practice disadvantages associated with the use of self-defense. For example, in Resolution 1956 stated, "courts should distinguish between the state of self-defense and so-called imaginary (imaginary) defense when a person does not feel real attack and only wrongly presupposes the existence of such an attack ..." [5, p. 6]. Edited p. 13 Resolution 1984 "the courts

should distinguish between the state of self-defense and so-called imaginary (imaginary) defense when there is no actual encroachment and socially dangerous person only wrongly presupposes the existence of such an attack ..." [6, p. 12]. The initial limits the formation of Ukrainian statehood in Resolution 1991 stated that "courts should distinguish between necessary defense against imaginary (imaginary) defense, when the person pomylyayuchys about the reality of assault and considering that it protects the legally protected interests, causing harm to another person ..." (Mr. . 9). [7] However, at the legislative level of the Criminal Code 1922, 1927, 1960 imaginary defense not found its consolidation.

After Ukraine became independent provision (imaginary) imaginary defense of generalization of judicial practice moved to the Soviet Criminal Code of Ukraine in 2001, where centuries. 37 imaginary defense has been identified as an independent circumstance precluding criminality. Duplication of content in judicial practice was held at Plenum of the Supreme Court of Ukraine of 26.04.2002 "On judicial practice in cases of self-defense" (p. 7).

As a result, in the current criminal law of Ukraine formed a narrower understanding of opportunities assumptions person mistakes only about the reality of socially dangerous attacks in self-defense, which is formed by generalizations of the court practice of the USSR, although historically, in times of empire, there was a broad understanding of error in any circumstances precluding criminality, as well as the circumstance that enhances accountability. The author considers it possible to use the described historical experience for the formulation of Art. 37 existing Criminal Code of Ukraine norms Error in circumstances precluding criminality, instead of the existing rules on the imaginary defense. As a theoretical justification may be noted that the false assumption a person can occur not only in self-defense (protection from mental socially dangerous attacks), but, at the extreme necessity (protection from imaginary danger), during the arrest of the person committed a crime (when incorrectly determined the identity of the person who is late or legal person qualification acts as an imaginary crime); in the performance of a lawful order or orders (regarding the apparent subordination of certain state officials) and others. In particular, the

emergency person may be wrong about the existence of danger, which actually was not, or for her character, who in reality was little, like the driver of the minibus route passengers moving at night along the road, saw him suddenly into the oncoming lane endowments turn left on a tool that lights blinded him. For a power lamps and lighting them, he decided that it was a truck (lorry vysokohabarytnyy). In order to avoid his death and the death of the passengers, he turned sharply to the side, drove into a ditch, causing several passengers received serious injuries. After the accident found that the specified tool was an ordinary wheelbarrow from the horse, which sylnohabarytnyh driver installed two lights that truly resembled light truck. Moving on dirt road between the trees, horse abruptly turned to the main asphalt road, but skilful management driver could miss out minivan if minibus driver continued to drive forward. So, as a result of this case, the driver minibus route arose misconception about the dangers (Going towards the truck) and its considerable character, which really was not.

Conclusions. Therefore by using historical experience and study, finds the feasibility of consolidation in Section VIII of the Criminal Code of Ukraine instead of centuries. 37 "imaginary defense" new article - "Error in circumstances precluding criminality". This centuries. 37 of the Criminal Code of Ukraine "Error in circumstances precluding criminality," according to the author, might read as follows:

"1. If a person because of errors felt that in a state the relevant circumstances excluding criminality and the situation that has arisen had reasonable grounds to believe their actions legitimate then this person is subject to criminal liability, provided that it is not aware of and could not realize the falsity of his assumptions.

2. If the person did not understand and could not realize his false assumption, but exceeded the permissible limits permitted by the Code for such circumstances that exclude criminality that person is subject to criminal responsibility for exceeding its limits.

3. If the situation prevailing person had reasonable grounds to believe their actions lawful and did not understand, but could recognize the state of lack of

appropriate circumstances precluding criminality, it is subject to criminal liability for causing harm through negligence. "

Characteristics of the Criminal Code of Ukraine such common mistakes in any circumstances precluding criminality, according to the author, is a progressive step forward towards improving the mechanism of legal regulation.

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FEATURES SURVEY PUBLIC INACCESSIBLE PLACES, HOME OR OTHER PROPERTY OF A PERSON

Summary

The paper investigates the basics and features of the survey of publicly inaccessible places, housing and other possessions of a person as an independent covert investigative action in criminal proceedings. The factual and legal bases of the survey of publicly inaccessible places, housing and other possessions of a person are clarified.

Key words: unspoken investigative actions, publicly inaccessible places, authorized the operational units.

Formulation of the problem. Most of the crimes committed in secret, carefully criminals disguise their activities, the number of latent crimes. Vowel investigative actions is not always possible to establish those involved in committing crimes and prove their guilt. That is why the only source of information is evidence based materials covert investigative (detective) actions, including examination of inaccessible public places, home or other property. Said tacit investigative (detective) the effect of limiting the constitutional rights of citizens for its performance should comply with a number of special requirements and have strong knowledge of criminal procedural law and its application [1, p.34].

Ukraine Constitution guarantees everyone the right to know their rights and duties (Article 57), which can not be limited, except as provided by the Constitution of Ukraine (Article 64) [10]. These and other constitutional rights and freedoms are

guaranteed and ensured person during criminal proceedings, during which apply measures of criminal procedure compulsion.

One of the guarantees of rights and legitimate interests of the person in criminal proceedings is clear and unambiguous procedural regulation of activities of the criminal process to comply with the procedural form during the investigation (search) and other proceedings. Instead, the presence of conflicts of criminal proceedings in Ukraine causes the appearance of contradictions in legal regulation of criminal procedure relations and differences in the theory of criminal procedural law and practice of investigation of criminal offenses. The above applies to certain aspects of the proceedings covert investigative (detective) actions, including inspection of inaccessible public places, home or other property.

Mergers in the system of investigation open and covert methods of gaining information about upcoming and committed crimes while increasing constitutional guarantees of rights and freedoms is an effective tool for combating crime, which will serve as the tasks of criminal proceedings across the whole country and will act as the key to high-level policing state [2, p. 15-23].

Legislative regulation of the procedure of the survey publicly inaccessible places, home or other property is flawed because not clearly defined tactics installation and removal of means of audio, video control person under this covert investigative (detective) action, which leads to a lack of regulated primarily by law performance of the act authorized the subject of criminal proceedings.

Analysis of recent research and publications. Some aspects of the institute of investigative actions examined both domestic and protsesualisty criminologists and scientists of the CIS countries: Yu.P. Alenin, R.S. Belkin, O.O. Bondarenko, V.V. Vapnyarchuk, V.I. Galagan, U.M. Groshevuy, N.S. Karpov, E.D. Lukyanchikov, V. Mariniv, V.T. Nor, M.A. Pohoretskyy, U.G. Torbin, U.M. Chornous, B.Yu. Shepitko, M.E. Shumilo and others. Their works are important to develop the tactics of the survey publicly inaccessible places, home and other property in criminal proceedings.

Specified circumstances in their totality determine the importance of the subject article, which contributed to its selection for the study.

The purpose of the study is to develop procedural and tactical bases of the survey publicly inaccessible places, home and other property in criminal proceedings modern conditions of Ukraine.

The object of investigation - criminal procedural legal relations arising during the examination of inaccessible public places, home and other property in criminal proceedings of Ukraine.

Subject of research - survey publicly inaccessible places, home and other property in the system of covert investigative (detective) of action.

Presenting main material. The legal basis, the implementation of covert investigative (detective) actions operational units of the Interior, is the written authorization of the investigator or prosecutor in criminal proceedings. In this case, at the time of these actions, the employee becomes operational division of powers investigator. Please note that workers operating units have the right to exercise procedural actions in the criminal proceedings on its own initiative or handle petitions to the investigating judge or prosecutor (Article 41 of the Code of Ukraine) [3].

Inspection of inaccessible public places, home or other property law relates to covert investigative (detective) actions of information and methods of fact which, except as provided by CPC of Ukraine, are not subject to disclosure.

Said tacit investigative action conducted: - first, in cases where the information about the crime and the person who committed it, can not be obtained by other means .; secondly, only in criminal proceedings concerning serious or especially serious crime; Thirdly, on the basis of decisions investigating judge within the territorial jurisdiction of which the pre-trial investigation.

When investigating judge is to be understood of persons referred to in Art. 247 Code of Ukraine, that the consideration of applications for examination publicly inaccessible places, home or other property should make head or in his definition of another judge of the Appellate Court of the Autonomous Republic of Crimea, the Court of Appeal region, Kyiv and Sevastopol within the territorial jurisdiction of which the pre-trial investigation.

To conduct the survey publicly inaccessible places, home or other property is entitled investigator who carries out pre-trial investigation of the crime, or on behalf of - authorized investigative units of internal affairs bodies, security bodies exercising control over compliance with tax laws of the State Penitentiary Service Ukraine, the State Border Service of Ukraine, State Customs Service of Ukraine.

This Code of Ukraine (ch. 2, Art. 233) for housing a person understands any room that is in permanent or temporary property, regardless of its purpose and legal status, and suitable for permanent or temporary residence therein of individuals, and all parts of the premises. For example, in this sense, to housing include: 1) personal house with all facilities intended for permanent or temporary residence in them, and those areas which, although not intended for permanent or temporary residence in them, but is part of building; 2) any dwelling, regardless of ownership, which belongs to the housing and is used for permanent or temporary residence (house, apartment building any form of property, private room in an apartment, etc.); 3) any other premises or buildings that do not belong to housing, but adapted for temporary residence (cottage, garden house, etc.).

It is no accommodation specifically designed for the detention of persons whose rights are restricted by law (investigatory isolators, temporary detention facilities of detention of persons in respect of sentence, etc.). In other possessions refers vehicles, land, garages, shops, cafes, bars, canteens, restaurants, shops, factories, offices other buildings or premises community, service, commercial, industrial and other purposes that are in the possession of persons , ie objects (natural and artificial origin), whose properties allow to penetrate there and keep or hide certain objects (things value).

Publicly available place, which can not enter or in which it is impossible to be on legal grounds without the consent of the owner, user or their authorized persons. Premises that are specifically designed for the detention of persons whose rights are restricted under law (the room with the detention of persons in connection sentence, arrest, detention, etc.) are publicly available status.

By "penetration" means invasion nezakryte or closed (unlocked) space or housing. It can be done as overcoming obstacles (locks closed doors, windows, hatches etc.)., And without this, such as using that person (s) left no space (housing) uncovered, unguarded. "Penetration" can also be performed using various technical devices and means, that is, when the desired result is achieved without entering the appropriate space [5].

Application investigator for permission to carry out this tacit investigative (detective) of action should be coordinated with the prosecutor.

Investigative judge shall consider the petition within six hours of its receipt. Consideration of a motion with the participation of the person who filed the petition.

At the request of the investigator must indicate:

1) the name of the criminal proceedings and its registration number;

2) a summary of the circumstances of the crime, in connection with the investigation of the petition is filed;

3) legal qualification of the crime indicating the articles (of the article) of the Criminal Code of Ukraine;

4) information on the person (s) and place for which it is necessary to conduct a survey publicly inaccessible places, home or other property;

5) the circumstances that give rise to the survey publicly inaccessible places, home or other property;

6) the term of tacit justification investigative (detective) of action;

7) justification of the impossibility of obtaining information about a crime and the person who committed it, in another way;

8) study the possibility of obtaining during tacit investigative (detective) actions evidence alone or in conjunction with other evidence may be essential to clarify the circumstances of the crime or the establishment of the persons who committed it [11].

A petition prosecutor attached extract from the Unified Register of pre-trial investigations in criminal proceedings, under which a petition is filed.

The decision to publicly survey inaccessible places, home or other property must be rendered investigating judge as prescribed in Articles 246, 248, 249 CPC of

Ukraine. In that judgment must always include its holding period that can be extended by an investigating judge in the manner prescribed in Article 249 CPC of Ukraine.

As a general rule validity investigating judge ruling on the tacit permission for investigative (detective) actions may not exceed two months.

If the investigator, the prosecutor believes that tacit investigative (detective) actions should continue, in consultation with the investigating prosecutor or prosecutor may apply to the investigating judge with a request to the adoption of resolution in accordance with Article 248 CPC of Ukraine.

During the survey allowed secret photographing, copying, mark detected objects using special chemicals establishment of means of audio, video person. Removal or replacement found during the examination of samples (items) for research permitted in exceptional cases with the permission of the actions. The use of means during the examination of inaccessible public places, home or other property is a necessary protective measure society and the state in the fight against crime. Limits of authority business use special equipment and conducting technical measures strictly governed by the laws of Ukraine. Carrying out technical activities with the use of special equipment is essential restriction of the rights and freedoms of exceptional and temporary nature, requires special regulatory regulation [6; 7; 8; 9].

To participate in the survey should involve specialists with skills relevant finding traces of fixing the situation, setting traps chemicals, technical audio and video control and more. Results of detailed record of professional certificates, acts that make up after the inspection, the exact definition of technical specifications introduced and applied technical means of data recording. Operational staff involved in the inspection of inaccessible public places, home or other property, fully instruct both the technical and organizational aspects of the meeting, and on compliance with conspiracy in the crime.

Having a court to conduct a public survey inaccessible places, home or other property, investigator (operating on behalf of the employee) and technical operations unit if necessary approaches to the study of the object, which is planned inspection

systems and types of protective devices, choose grounds for penetration into the room, trying to find out other necessary data determining the tactics of that tacit investigative (detective) actions.

In the survey conducted inspection of premises, buildings, terrain and objects located on them. Examination as inspection is visual, auditory and olfactory learning environment facility visits in order to identify, extract and study items that have a causal relationship with the circumstances of crimes, suspects and others. For example: When instructed investigator operatives visited the consent of the owner of the store, which constantly vchynyalys theft, and established a "chemical trap" on certain things, one of which in a few days was stolen. For traces remaining on hands and clothing of the suspect, the person was identified and arrested [1, s.39-40].

Consequently, the survey identified places investigator (operating on behalf of the employee) can learn the location of rooms, doors, furniture, the presence of any other items that may be relevant for the next assessment of the situation and making procedural or administrative decisions.

In accordance with Part 1 of Art. 252 CCP Ukraine fixing the course and results of undercover investigative (detective) of action should follow the general rules commit criminal proceedings. The results of tacit investigative (detective) of action drawn up, which, if necessary annexes attached.

Protocol on the implementation of the above actions with annexes no later than twenty-four hours from the time of termination sent to the prosecutor. The Prosecutor shall take measures to conserve received during the public inspection of inaccessible places, home or other property objects and documents that are planning to use in criminal proceedings. Persons whose constitutional rights were temporarily limited during the test publicly inaccessible places, home or other property, and the suspect, his lawyer must be notified in writing by the prosecutor or investigator on behalf of such restrictions. The exact time the message is determined taking into account whether or not the threats to an end the preliminary investigation, public safety, life or health of persons involved in the survey publicly inaccessible places, home or other property. Relevant information about the fact and the test results must be made within

twelve months from the date of termination, but no later than the date of the court to the indictment. Details of fact and methods of the survey publicly inaccessible places, home or other property, persons that it conducted and the information obtained as a result of, not be disclosed to persons to whom it has become known as a result of the discovery of materials other side in order, provided for by Article 290 CPC of Ukraine. If reports on the survey publicly inaccessible places, home or other property containing information on the private (personal or family) of others, defense counsel, and other persons who have the right to inspect the records, warned of criminal liability for the disclosure of information received of others. Making copies of the survey reports publicly inaccessible places, home or other property and annexes prohibited.

Those who conducted the inspection of inaccessible public places, home or any other property or been involved in their implementation can be questioned as witnesses. The interrogation of these persons may occur with preservation of confidential information about these people and using them on appropriate security measures provided by law.

Conclusions. Thus, the survey publicly inaccessible places, home or other property - a tacit investigative (detective) action, which has the right to conduct an investigator or on behalf of an employee operating unit, which is based in the survey defined objects, including the use of technical means by secret penetration, on the basis of decisions investigating judge to collect (identifying and fixing) information for meaningful criminal justice, public safety and state. Inspection of inaccessible public places, home or other property is exceptional as it limits the constitutional rights of citizens. This measure is carried out exclusively in criminal proceedings concerning grave or especially grave crimes, if the information about the crime and the person who committed it, can not get any other way. The Constitution of Ukraine guarantees the security of every citizen housing, non-interference in his private and family life. Prohibited the collection, storage, use and dissemination of confidential information about a person without his consent. Not allowed illegal entry in publicly available space, housing or other property of a person. The law makes an exception from the

rules in the interests of national security, the fight against crime, public order, rights and freedoms of others.

Obtained as a Result of covert investigative (detective) actions of information can become evidence in criminal proceedings solely by the court at the trial stage, after preliminary verification and evaluation prosecutor.

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ENERGY SECURITY IN THE SCIENTIFIC APPROACHES AND CONCEPTS OF INTERNATIONAL RELATIONS THEORY

Summary

This article considers the problem of energy security in international relations theory, taking into account the approach of particular schools and trends. Given that the question of energy security remains a determining point to both sides and multilateral relations, it is important to develop universal theoretical and practical approaches to ensure its application for all the parties. Otherwise the sphere of energy relations will continue to be confrontational.

Key words: energy security, energy, international relations, neorealism, neoliberalism.

Problem formulation. Energy security is one of the most pressing problems. Over the last few decades, mankind has used hydrocarbon energy more than in all previous history. Actively developing alternative energy sources are not yet able to completely replace carbon-based fuels and ensure a stable supply of energy resources of the state. Reliable energy supply stands today one of the most important factors of sustainable economic development. From the quality and smooth operation of power depends largely on the level of energy services to the population, and the national security of the country as a whole.

The increased interest in recent years to the problem of energy security due to the fact that, according to forecasts, in the near future, competition for access to energy

and to ensure uninterrupted supply will escalate. Developed countries have ceased to be the main buyers of energy, but not because their needs are reduced (on the contrary, consumption in this group of countries is steadily growing), but because the pace of economic growth in developing countries is higher than developed countries. Accordingly, there are powerful new players in the energy market, which also contribute to increasing competition for access to energy. The current situation on the energy market, once again raises the problem of energy security on the agenda in international relations.

Analysis of recent research and publications. For maximum objectivity and comprehensiveness of the study examined extensive material. Energy security is the subject of a significant number of scientists. Wide range of problems in the field of energy, the conceptual apparatus of political science understanding of processes in the energy sector, the issues of energy security and other related policy issues in the energy sector devoted to the works of famous Ukrainian scientists, such as VO Barannik, MG Zemlyanoi, O. M. Suhodol, EI Sukhin.

As well as the works of Russian scientists such as D. Bëme, M. H. Dunn, N.I. Voropai, S.M. Senderov, Gafurov A.R., K. Dench, S.Z. Zhiznin, N.V. Mironov, K.V. Trachuk. And the work of foreign scientists, such as: A. Bressan, B. Buzan, M. Clare, A. Goldfau, John. M. Whitt, Robert Grafstein, L. Kraemer, D. Moran, J. Russell, K. Waltz.

The aim of the article is to analyze the specifics of international security in the context of the energy problem through the study of the basic modern approaches to the definition of "security" and "energy security".

Statement of the basic material. The strategic need for States in a constant and uninterrupted supply of energy resources became apparent at the end of the XIX century, t. E. At a time when there was an active mechanized forces. Army mass transition to equip military equipment and various mechanisms, need a constant supply of fuel [24].

During the XX century the problem of supply sources of energy economy not just stand in front of the developed states of the West, which ultimately led to the

establishment of a modern system of energy security with its institutions and mechanisms of regulation.

We note that, despite the presence of a large number of studies so far there is no single universally accepted definition of the term "energy security." For the first time the concept was used in 1947 in connection with the adoption of a legislative instrument in the United States are regulated by the state policy in the field of national security [4, p. 179]. However, just the concept of "energy security" appeared after the oil crisis in 1973, established his background in 1974. The International Energy Agency has given the following wording: energy security is "confident that the energy will be available in quantity and quality, which are required under the given economic conditions" [3, p. 4].

Currently, the concept of "energy security" takes on new meaning. If the first scientific definition limits the scope of a single country, determined energy security as a necessary energy supply of the population and the national economy, the dominant over the past thirty years, the definition is subject to rethinking and expanding due to components such as, for example, environmental and technological safety. According to the founder of the Cambridge Energy Research Associates J. Stanislav energy security "in modern conditions - it is not just security of supply. The concept of energy security is defined more broadly. Energy security covers security issues in the political, environmental, infrastructure and even a sense in terms of the threat of terrorism, taking into account the new task of sustainable development and the challenge of climate change " [13, p. 3].

The traditional approach of realist international relations aimed at international security. Given a realistic concept presented K. Waltz, [26, p. 155] states act in accordance with their structural power in international relations. Uolttsovskaya system assumes that states are struggling to survive in the international system, characterized by the absence of any "global" power.

The struggle for power especially in interstate relations, including myself, and access to resources. K. Waltz predicted that the oil crises caused by the Arab embargo on the export will not be any change of power to the West [26, p. 155-157].

Nonetheless, energy security has become a question of motivation of security for many developed countries during the oil crises of 1973 K. Waltz argues that there is a continuity of the strategy of large western states in energy geopolitics. Political actors are changing, but remains a national strategy [26, p. 155-157].

Security can be defined as the defense (in regards to the threat) or offensive (the best benefit in relations with other actors [23, p. 139]). According to Waltz security is the main defense: a safe manner from the anarchic structure of society. Energy security is the offensive as soon as the weak spot are the Western countries, they prefer to use an offensive strategy.

The concept of security, which was revised by B. Buzanov. In the 1990s he joined the Copenhagen School, who studies security. According to the teachings of this school, "security" is not considered a direct consequence of the threat, but rather is defined as the result of a political interpretation of the threat, in a process called security. The authors of this school point to the need to build a conceptual model of security, which means that something more concrete than any threat or problem [20, p. 7]. Thus, security is defined as a non-linear response to the threat. Inheriting Realists point of view on international relations, said the Copenhagen School of anarchy as a major feature of the international structure, which also explains the views of state security (safety concerns). Furthermore, under this approach, the term security includes five specific sectors: the political sector with the participation of internal and external stability of the military, covering their defensive and offensive capabilities, the sector of social security means stability culture (ie, national or religious) identity, economic security, connected with access to resources and markets, and environmental safety is defined as the environmental protection of the biosphere [19, p. 19].

For example, in modern Russian science, the concept of energy security is treated as a "guarantee the security of citizens and the state from threats to energy access violation caused by a manifestation of adverse natural, man-made, in foreign policy, socio-economic and other factors" [9; 12]. Existing approaches to the study of energy security based on the theory of international security, which are the main areas

of neorealism and neoliberalism. Proponents of the first approach are international relations as a kind of chaotic development, which does not have the supreme power, and states are forced to build military power in order to maintain its position on the world stage. This approach adherents oppose the neo-liberal approach, which is credited with "a special role in ensuring the safety of international institutions and intergovernmental cooperation" [17, p. 220]. However, many authors today prefer to combine the individual position of each of the theoretical directions, allowing them to compile the most complete picture of events.

In particular, the problem of energy security, Russian scientists are exploring such as the KV Trachuk. For example, Trachuk notes, according to neo-realist concept (D. Moran, D. Russell, [25] M. Clare [21, p. 44]) a decisive influence on the energy sector has alignment relations between individual states. Each state, in turn, seeks to provide themselves with stable energy supply and also to supply its energy to other countries on the most favorable terms, which ultimately leads to an increase in tensions, the emergence of armed conflict and military build-up. The central thesis of neorealist approach is the so-called "resource nationalism, t. e. strengthen state control over natural resources" [7, p. 221]. Such a policy with respect to natural resources is characterized primarily for the producing countries, which are thus seeking to strengthen its position in the international arena and to protect its interests in the world market.

Ideas neorealist form the basis of one of the two approaches to globalization - the Beijing consensus, when energy resources are considered to be state property, is one of the key "pillars" of national security, and often depend on the political situation. The state in this model seeks to control all three main elements of the "energy chain" - extraction, transportation and distribution of energy [5, p. 28; 9]. An example of such a state can be a Russian, whose approach to energy security is based on long-term mutual cooperation of suppliers and customers and building the conditions under which importers have to believe in the reliability of supply and exporters - in the stability of demand. Focusing on long-term cooperation is especially important due to

the fact that "for the development of deposits and difficult to transport energy from suppliers to consumers need to create expensive infrastructure" [5, p. 20].

For example, K.V. Trachuk considers that the provisions of neorealism criticized by supporters of the neo-liberal concept of (A. Goldtau, J.M. Witte [22] A. Bressan [18, p. 269]). An important place is withdrawn neoliberal market mechanisms, which determine the main trends in the energy sector. That operation of the global free market of energy resources reduces the likelihood of the use of so-called "energy weapon" by the introduction of an embargo on the supply of energy, and does not allow any party to subdue the pricing mechanisms. In addition, the proponents of neoliberal direction point out that a key role in regulating energy relations as well as in the design of certain norms of cooperation is played by such supra-national institutions such as the International Energy Agency and the International Energy Forum. Thus, energy security is based on a mutual interest in co-operation of exporting and importing countries.

The ideas of neo-liberalism are reflected in a different approach to globalization - the Washington consensus, calling for the liberalization of the energy market. [1] Proponents of this area (USA, EU) in favor of free access to the raw material, not a complicated political obstacles, the expansion of the free market and against the long-term agreements, which lead to the "blocking" of the hydrocarbons in the long-term contracts and the impossibility of their entry into the free market [5, p. 21].

Considering the problems of energy security, many authors prefer to use both approaches as elements of neorealist and neoliberal as to clearly define the impact of the energy sector for the development of market mechanisms, on the one hand, and the interstate rivalry - on the other, is very difficult. This integration of elements of the two approaches is typical, especially for George. Stanislaw, who, featuring complex relationships importers with exporters of energy, at the same time emphasizing their mutual interest in co-operation [13].

Many Russian researchers in their work uses elements of both approaches. So, N.V. Mironov writes about high dependence of some countries and regions from

energy supplies, which could result in a potential military conflict. Despite the fact that, in my opinion, are the key military aspects of international energy security, he does not deny the role of international institutions such as the International Energy Agency and OPEC, as well as multinational corporations. Of course, the stability of the energy markets is important for all participants, but nonetheless, they are guided, first and foremost, their own benefit, ignoring the factor of global interdependence. [12]

The work of another Russian researcher – S.Z. Zhiznin, considering energy diplomacy Russia also combine both ways: as well as supporters of the neo-liberal concept, he noted great importance of international institutions for building the energy dialogue between Russia and partners, but after supporters of neo-realism the author draws attention to the fact that Russia will be able to strengthen its position in the world market only through effective and constructive cooperation of the Russian oil and gas companies with public authorities, ie. e. thanks to the active support of the energy sector of the state. [8]

The works of Ukrainian scientists in the economic encyclopedias define energy security as the presence of the economic sovereignty of the country to provide themselves with fuel and energy resources [7, p. 501]. Authors of the publication note that the reverse side of energy security is energy hazards arising as a result of the acute shortage of energy resources, wasteful use of energy, excessive dependence on import, denationalization and privatization of inefficient energy system of the state and the like. The main factors affecting the energy security is a level of its own oil, gas and some raw materials, energy consumption and high production.

M. Zemlyanoi, based on the concept of security in general as state security (someone, something) from threats, defines energy security as a condition of its vulnerability to energy-related threats, ie, a condition in which provided:

- Reasonable enough, technically reliable and secure supply of energy economy and population;

- Inability to significant internal and external pressure on the country's leadership, the factors which are related to the energy sector;

- Acceptable level of adverse effects on the environment from the production and use of energy;

- Lack of social tensions (significant conflicts, strikes and other social problems) associated with the energy sector [10, p. 61].

M. Sukhodolya also believes that "energy security - a state of defending the vital" energy interests "of individuals, society and the state from internal and external threats, providing uninterrupted customer satisfaction economically acceptable quality accessible under normal conditions and in emergency situations" [14; 15].

V. Nikitenko considers energy security as a system of a combination of potentials - economic, political, technical and technological, resource and, in fact, the energy and the factors of scientific, geographic, organizational, management, etc., without which the analysis of any security It is not possible [11, p. 41].

This view of the nature and content of energy security, it allows you to structure-based multiline and multi-layered approach greatly enhances the possibility of an objective analysis of the processes associated with changes in the energy sector. In addition, according to the actual structuring of the energy security of the state, based on the information and synergetic worldview can determine the priority in the development of fuel-energy complex.

E. Sukhin believes that energy security "is the ability of the state to provide the most reliable, technically safe, environmentally acceptable and reasonably enough energy economy and population, as well as the guaranteed provision of the possibility of the state leadership in shaping and implementing policies to protect national interests in the energy sector without excessive external and internal pressures in modern and future conditions" [16].

VI Shlemko and I. Binko under the energy security of Ukraine understand the "state's ability to make effective use of their own fuel and energy base, to carry out an optimal diversification of sources and routes of energy supply to Ukraine to ensure the viability of the population and the functioning of the national economy mode normal, emergency and martial law , prevent sharp price fluctuations in fuel and energy

resources and create conditions for the painless adaptation of the national economy to new prices for these resources " [6].

V. Barannik defines energy security as "the ability of the state to provide the most reliable, technically safe, environmentally acceptable and reasonably sufficient energy supply of the economy and population, as well as the guaranteed provision of the possibility of the state leadership in the formulation and implementation of policies to protect national interests in the energy sector without excessive external and internal Pressure in the current and foreseeable conditions" [2].

Conclusions. Thus, in modern science there are different approaches to the understanding of energy security, the ongoing debate between the proponents of neorealist and neoliberal approaches. The former believe that the relationship between states, each of which pursues its own goals, determine the development of the energy sector. Supporters of neo-liberal concepts, by contrast, the basis for the maintenance of energy security, taking the global market mechanisms and thus play a key role of the Institute for International Cooperation. However, disputes between supporters of different approaches do not exclude the possibility of simultaneous use of the provisions in both directions, which is very typical for modern research and allows most fully cover all aspects of energy security.

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THE ISSUE OF FORMATION OF MANAGEMENT COMMERCIAL SEA PORT

Summary

This article analyzes the relationships associated with the formation of the control system of the sea trading ports, in particular the integration of local governments in the management seaport, land use issues, and others.

Due to the beginning of reform of property relations in seaports and the course on privatization and liberalization of the industry being enshrined in the Law of Ukraine "On Sea Ports of Ukraine" there is a need to settle the interests of all subjects of control and management in ports in order to create a level playing field for each participant.

Key words: sea ports, local governments, business entities, privatization, land use, management system, the port authority, functions.

Formulation of the problem. Strategy of development of sea ports of Ukraine till 2038 among the areas defined direction of improvement of ports and restructuring their property complex toward privatization. The strategy adopted to attract private investors for the long term, the creation of clusters in the port sector of cargo handling ... [1]. Surely it requires port authorities a large number of diverse activities and most importantly - encourage private investment to expand areas, approach channels, construction of berths and port infrastructure, as stiff competition exposes them to the risk of crowding out competitors.

Seaports in the person of representatives of administrations interact with local authorities on social issues. It is likely that the level of competitiveness of business entities (including ports) affects not only the financial capacity, but also the social

environment, which is formed by the use of labor (HR) reserve city (region). Ukraine prepares many experts with the necessary education and qualifications and the necessary level of knowledge and business skills, as evidenced by the excess of proposals over the needs of the labor market. That is a favorable social environment is a factor increasing the efficiency of seaports of Ukraine. In light of the improvement of the mechanism of interaction between sea ports with local authorities on the subject of improving the social role of the port would be appropriate to include in the Board of Directors of the Public Administration seaport representatives of local government and regional administration, because the relationship with the local authorities could be useful in terms of improve relations between public authorities, officials involved in the political and economic life of the region and the ports, thereby contributing to the solution of social issues in the region and in ports in particular, and thereby allowing focus on the competitiveness of port business and steady growth of traffic, without being distracted by social policy.

Analysis of recent research and publications. The actual trend is currently reorganizing port administrations of public enterprises wholly owned by the government, the company, which involved regional, local authorities, private investors. The said subjects studied C. Belous, S. Gorchakov, L. Davydenko and O. Zima, A. Klepikov, V.V. Lebedev, O. Losevska, M. Melnikov, O. Naumov, A. Nitsevych, V. Razvadovskyy, Y. Sergeev, V. Stetsyuk and others. However, most of the questions this topic still debatable.

The purpose of the article. The most progressive in the relationship between the state and private investors recognized as enshrined in the law of the sea ports of Ukraine principle of separation of commercial functions of control and economic activity from the disposal of assets and their distribution between the public and private sector. This law ignores issues include local authorities to the management port, and however they need to meet the needs of the region (city) location of the port, providing employment, the formation of the local budget, facilitating the implementation of social projects. The powers of the executive bodies of local self-government include monitoring for enterprises, institutions and organizations located

in their territory, monitoring the activities of utility companies and the use of profits, hearing reports on the work of their managers, monitoring the operation and organization of public service enterprises Housing utilities, trade, catering, transport and communications.

The purpose of this article is to study the degree of consideration of the interests of local communities and local authorities in shaping management port on the basis of the Law of Ukraine "On Sea Ports of Ukraine" and making some proposals on this issue.

Presenting main material. Law of Ukraine on seaports legalized restructuring processes seaports, though they began long before its adoption. In particular, the activities launched non-state actors engaged in port activity, though not called ports. These include JSC "Sea specialized port Nika Terra" [2], located in. Nicholas, which was built entirely by the investor (he has his own pilot service necessary water area for maneuvering ships and special inspection of maritime safety and fire safety) , LLC "Port" Ochakov "[3], LLC" port water area "in the occupied territories in now. Sevastopol and others.

So, in this regard, firstly, it was necessary to introduce a list of port areas (electronic database of accounting seaports). Article 6 of the Law of Ukraine "On Sea Ports of Ukraine" from 17.05.2012. Provides for the establishment of the Register of sea ports to provide the data needed to perform tasks in the field of maritime safety, environmental protection, and to state supervision (control). Business Register seaports of Ukraine carried out in the manner determined by the Cabinet of Ministers of Ukraine [4].

Secondly, consideration seaport as somehow organized port area requires an appropriate legal settlement related to land use, especially trafficking non-agricultural land (including regulations under the Law of Ukraine on September 6, 2012 "On Amendments to Certain legislative acts of Ukraine on the delimitation of state and municipal property "[5], the Law of Ukraine dated 09.18.12." On Amendments to the Law of Ukraine "On Banks and Banking" on state land bank "[6], the draft Law of Ukraine 07.12.2011. "On Land Market" [7]), and port relationships with the executive

authorities and local self-government - towards the settlement of land acquisition and change the purpose of land with only exercise these authorities in coordination with the Ministry of Infrastructure of Ukraine .

In different countries the issue was solved in different ways, such as Rotterdam port belongs to the local authorities. This means that the city is also the owner of the land on which the port [8]. Port controls all the affairs of government Council. It consists of: Chairman, CEO, Director for shipping (on transportation) and many industry leaders. On behalf of the city government is caring for the port, manages and develops another activity that brings good income city - surrender of land to port (short, long and very long). That port administrative services form an integral part of the budget of the municipality.

In Ukraine seaport management system, the structure of its bodies and their powers defined by law and the central body of the industry and it is an inalienable right of States to self-determination, but we seek harmonious coexistence of all members of the international community and should therefore take into account their recommendations and best practices . Intergovernmental Authority UNCTAD (United Nations Conference on Trade and Development) identified certain organizational elements that are administered by local port administration, namely [9]: the choice of organizational structure, development and implementation of administrative procedures, cost analysis and control budgets, structuring tariff documentation of border and customs procedures, telecommunications and data processing, collection, analysis and use of best management practices, staffing (personnel selection procedures, training programs), marketing and public relations. All these issues could be effectively solve with the help of local authorities and communities.

As we have already noted, the government should ensure the implementation of international conventions in all its open ports regardless of the form in which property they are because the Law on seaports introduced electronic database of accounting seaports [4].

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"expected settlement of the current system of regulatory framework through full installation ports landed, when not only transaction terminals, but also a large number of non-specialized port services will be given in the contracts to the private sector, leaving administration port only functions of supervision [10].

The adopted law on seaports would enter the general principle on the issues of ownership of land and waters within the port, which can not be given to the ownership of private entities (with the administrations in the ports should be the exclusive right to use), but art. 24 of the Law stipulates that land within the territory of seaports may be in the state, communal and private property, and only land on which there are strategic objects of infrastructure, and land which provide administration activities seaports of Ukraine is not be privatized and / or alienated in any way.

Consider this question in more detail in terms of hotel land in communal ownership. In our view, the lack of adopted law on seaports should be called the absence of its provisions norms relating to consideration of the interests of local communities and local authorities in determining the number, size, location and boundaries of the seaport (city, district, regional, etc. - depending on the submission territory of the Seaport).

In this context of interest to us is, first, land use, and secondly, the fact that the port is usually one of the main employers and taxpayers, regardless of the size of the port. At the same time, according to the law on ports, seaport area defines and changes the Cabinet of Ministers of Ukraine (Art. 8 of the Act) - without the participation of local communities.

Conclusions. Thus, despite the adoption of the most important branch of the Law of Ukraine "On Sea Ports of Ukraine," the situation of land use and while taking into account the specific interests of communities requires further regulation of the rights of all stakeholders.

Maybe they can provide by including port corporation board members of city government, or through making the city an agreement on cooperation and coordination of port. Confirmation practical role of the proposal are the processes that are currently taking place in Illichivsk sea port, where according to the law on seaports Council was

established seaport performing coordination activities between entities whose work is connected with the Sea Commercial Port. The functions of the particular concerns and develop proposals for the development of engineering infrastructure in the region. Members of the Council are: chief port, the port captain, representatives of stevedoring companies that handle cargo at the port, sharing the representatives of the City Council and Odessa Regional State Administration, heads of trade unions.

Considering the above, we also offer to amend the claim. 2 of Article 8 "Scope seaport" Law of Ukraine "On Sea Ports of Ukraine" and put the said paragraph by the following: "The limits of the territory Seaport defines and changes the Cabinet of Ministers of Ukraine by prior agreement with the authorities local government, based on the provisions of the Land Code of Ukraine"

As for the water area of ports, then we believe it should be transferred to the control of local governments, it would more quickly and efficiently provide its technical updating (including through the port charges) and more democratically manage it, and most importantly, would remove the conflict with the Constitution, according to which bodies of water are the property of all the people of Ukraine, not public property.

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IMPLEMENTATION OF INTERNATIONAL LEGAL NORMS OF WAR AS AN OBJECT OF GLOBAL RIGHTS LAW IN UKRAINE

Summary

This article explores the implementation of international humanitarian law regarding war legislation in Ukraine as an object of global rights, examines some aspects of the implementation of international norms that establish liability for violations of the laws and customs of war into the law of Ukraine.

Key words: international humanitarian law, domestic law, implementation of international standards and global rights laws and customs of war.

Formulation of the problem. The proclamation of independence in Ukraine, the implementation in practice of the provisions of the Constitution of Ukraine on protection of rights, freedoms and lawful interests of man and citizen, as well as its focus for EU membership set domestic legal science fundamentally new fundamental questions. Ukraine, as a member of the international treaties governing the fight against international crime in accordance with the principle of «Pacta sunt servanda» must conscientiously fulfill their obligations under those treaties. This principle, which was originally formed in the usual right was legally enshrined in the Vienna Convention on the Law of Treaties of 1969. Thus, in accordance with Art. 26 of this Convention "Every treaty in force is binding upon the parties and must be performed in good faith" [2]. The same position is enshrined in Art. 26 of the Vienna Convention on the Law of Treaties between States and international organizations or between international organizations on 21 May 1986 [1]. However, the principle of "Rasta sunt

sehvanda" only records the obligation of good faith and to comply fully with international obligations arising from recognized international treaties.

Analysis of recent research and publications. The scope of the legal regulation of these rights as a global object rights not given much attention even dissertations. Investigation of legislative regulation of international norms that establish liability for violations of laws and customs of war in the criminal legislation of Ukraine, devoted their work Mathias Herdehen, M.O. Baymuratov, B.V. Babin, M.V. Buromenskiy, A. Ivanov , Y. Kolosov, V. Kuznetsov and others. However, due to the renovation and extension of states participating in the international arena, the importance of the chosen subject, as mentioned above, some unexplored aspects require special attention and detailed study them.

The purpose of the article. The article reveals and justifies the theoretical foundations of the global property rights as the law of war in the legislation of Ukraine.

Presenting main material. Internal Criminal Law states directly affects the formation and development of the principles and norms of international law in the fight against international crime, since the entry into certain contractual legal state, first of all guided and obtained from the content of national crime policy and its own legislation [5, 16-17].

That is, the state can not take on the international obligations of the innovations which follows international law, if the latter contradicts the content of the national criminal policy and legislation. Thus any coercion on the part of other subjects of contractual relations does this rule invalid for the government that is forced. This provision is based on the provisions of the Vienna Convention on the Law of Treaties between States and international organizations or between international organizations on 21 May 1986 and the Vienna Convention on the Law of Treaties of 1969. According to Art. 52 of those Conventions "contract is void if its conclusion was the result of the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations." It should be noted that determine how

compliance with international obligations related to exercise state sovereignty and enters the domestic jurisdiction of states themselves. In this regard, we can assume that international law requires that it has been prepared to intrastate law, legislative techniques and the choice of its implementation is the responsibility of the national law states.

The possibility of direct application of international norms sanctioned by national law by means of acts which the State expressed consent to be bound by international treaty (of ratification, accession, approval, etc.). In fact, such acts authorize the implementation of international legal norms, not only in international relations but also within the country. However, the expression of consent to be bound by international treaty state does not change the legal nature of "self-realization" of international law relating to the possibility of direct grant public authorities, businesses and individuals parties to the treaty rights and obligations without additional internal rulemaking. The majority of international humanitarian law is self-realization. The main instruments of international humanitarian law, especially Fourth Geneva Convention of 1949 and Additional Protocols I and II of 1977, contain a fairly accurate and multidimensional rules (600 articles), which, as is often formulated in a very detailed manner suitable for direct use by individuals and the state. However, the right to declare war belongs to elected representatives and therefore this right belongs to the people, that proves a direct link with global rights.

Other rules of international humanitarian law are the standards the implementation of which depends on the promotion of national law and appropriate organizational measures by the state - party treaty. This principle is especially underlined in Article 1 common to the four Geneva Conventions for the protection of war victims 1949, which includes provisions that the High Contracting Parties undertake under any circumstances comply and make comply with the Convention.

In this connection, it should be the Law of Ukraine "On international agreements of Ukraine", adopted June 29, 2004, establishing the procedure for the conclusion, performance and termination of international treaties of Ukraine and exercising national interests, the implementation of goals, objectives and principles of foreign

Ukraine policy enshrined in the Constitution of Ukraine and laws of Ukraine [4]. According to Art. 1 of the Act, it applies to all international treaties of Ukraine governed by international law and concluded in accordance with the Constitution of Ukraine and requirements of this law.

Proposals for the conclusion on behalf of Ukraine, the Government of Ukraine of international treaties of Ukraine submitted under the President of Ukraine or the Cabinet of Ministers of Ukraine (ch. 1, Art. 4). Proposals for the conclusion of international agreements of Ukraine submitted by the Ministry of Foreign Affairs of Ukraine. Other ministries and central bodies of executive power and the Supreme Court of Ukraine, the National Bank of Ukraine, the Prosecutor General of Ukraine shall submit proposals to conclude international agreements of Ukraine and the Ministry of Foreign Affairs of Ukraine. Council of Ministers of Crimea, oblast state administrations submit proposals to conclude international agreements of Ukraine through the Ministry of Foreign Affairs of Ukraine and other central executive body authorized to issue offered to settle an international agreement (ch. 3, Art. 4). Required articles of this law fully regulate the ratification of international treaties (Art. 9) or approval (Art. 12), Ukraine's accession to international agreements or their decision (Art. 13), the entry of force (Art. 14), compliance (Article . 15) and the implementation of international agreements of Ukraine (Art. 16), the overall supervision of their implementation (Art. 17), the effect of international treaties of Ukraine on the territory of Ukraine (Art. 19), monitor the implementation of this Law and international treaties of Ukraine (Art. 28), etc. [3]. Thus, based on the analysis of the above provisions can be noted that the implementation of international norms that establish liability for violations of laws and customs of war in the criminal law of Ukraine - it is the actual implementation of Ukraine's international obligations domestically, carried out by the relevant internationally reception law national criminal law.

In general, Ukraine acceded to these international instruments governing laws and customs of war: St. Petersburg Declaration on the Prohibition of the Use in War of explosive and incendiary bullets on 29 November (11 December) 1868 Hague Convention and Declaration 1899 Hague Convention 1907 Hague Declaration of 1907

banning the throwing of projectiles and explosives from balloons Havana Convention on Maritime Neutrality of 20 February 1928, the Convention on the Prevention of the Crime of Genocide and Punishment of 9 December 1948, the Fourth Geneva Convention 12 August 1949 and the Additional Protocols thereto of 1977, the Geneva Convention on the Protection of Civilian Persons in Time of War of 12 August 1949, the European Convention on Human Rights of 4 November 1950 Hague Convention for the Protection of Cultural Property in the event of armed conflict on May 14, 1954 and the Second Additional Protocol of 26 March 1999, the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, the Convention on the Prohibition of Military or any other hostile use of environmental impact from 18 May 1968 g., Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 10 October 1980, Protocols to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to be Excessively Injurious or to Have Indiscriminate Effects of 10 October 1981, the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction in 1997 and so on.

The Geneva Conventions of 1949 for the Protection of War Victims provides mechanism for international control of humanitarian organizations and third countries intended to impartially and effectively protect the interests of the parties participating in the conflict, promote compliance with the standards of international humanitarian law regarding persons displaced during the armed conflict under the authority of a another state. WARNING Ukrainian SSR to Article 10 of the Geneva Convention relative to the Treatment of Prisoners of War, Article 10 of the Geneva Convention for the Amelioration of the Wounded and Sick in Armies, Article 11 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, Article 10 of the Geneva Convention for the Amelioration of the Wounded, Sick and persons shipwrecked, of the armed forces at sea determined prerequisite renovation features international supervision of compliance with international humanitarian law regarding

prisoners individuals consent of the governments of the countries of which they are. Reservations to Article 12 of the Geneva Convention relative to the Treatment of Prisoners of War, Article 45 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War was supposed denial of the principle of continuity of State responsibility for the execution of prescriptions Conventions in connection with the transfer of detained persons. Reservations to Article 85 of the Geneva Convention relative to the Treatment of Prisoners of War persons convicted of committing war crimes, lost the opportunity to enjoy treaty protection, in particular, the right to address a complaint to the competent authorities in the country they vtrymuvalysya and representatives of third countries concerning fixed for them mode stay (Article 78), free visits by the Contracting Parties and international humanitarian organizations include the retention of such persons (Article 126) bans collective punishment and whatever it was torture (Article 87) and others.

It should be noted that this law aims at establishing the legal regime of detention of prisoners of war according to international standards for the protection of human and civil rights and obligations of Ukraine as a member of the Council of Europe. Also, it should be and the Rome Statute of the International Criminal Court, the idea of a permanent international criminal court has repeatedly considered in UN after the Second World War. In 1993 and 1994 the UN created two special tribunals to punish serious violations of international humanitarian law .. Since 1994, conducted negotiations on the establishment of a permanent criminal court that would have jurisdiction over serious international crimes. As a result, in 1998, as already mentioned was adopted by the Rome Statute of the International Criminal Court. Under the jurisdiction of the ICC are subject to the following crimes: war crimes, genocide, crimes against humanity, aggression. To date, 139 States have signed the Statute of peace and ratified by 92 states. Ukraine signed the Rome Statute on Jan. 20, 2000, however, Ukraine has not yet completed the process of ratification. As you know, Ukraine began the process of ratification, but it was terminated in June 2001, when the Constitutional Court ruled the conclusion that it is necessary to amend the Constitution to ratify the Rome Statute. So, for the full implementation of international

law governing liability for violations of laws and customs of war in legislation Ukraine, in order to bring it into compliance with the applicable rules of international law Ukraine, in our opinion, above all, must ratify the Rome Statute of the International Criminal Court of 17 July 1998, which was signed by Ukraine 20 January, 2000.

Conclusions. Thus, the presence of internal mechanism of implementation of international law, including humanitarian, allows for complete, comprehensive and timely implementation of international commitments taken by Ukraine. From the efficiency of national mechanism implementation depends largely on the image of the state, the efficiency of the legal system, the possibility of protection of human rights in armed conflicts, including warfare, both international and international character. However, the right to declare war belongs to elected representatives and therefore this right belongs to the people, that proves a direct link with global rights.

Although according to the Constitution of Ukraine "human life and health is the highest social value" and that is why the coordination of all the contradictions of international politics is a major challenge as the implementation of international humanitarian law into national law and diplomacy.

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ON THE QUESTION OF THE EXISTENCE OF A GENERAL CONTEXTUAL ELEMENT IN INTERNATIONAL CRIMES LIKE GENOCIDE

Summary

The article is devoted to the study of the issue of the general contextual element of international crimes existence. The article analyzes the need to establish widespread and systematic attack on the crimes of genocide.

Key words: genocide, contextual element, widespread, systematic

Problem formulation. International crimes stricto sensu - grave crimes threaten the peace, security and well-being. These socially dangerous acts are endowed with features that are not inherent in ordinary crimes. Crimes criminalization which occurs at the national level, are known to include two mandatory elements - subjective (mens rea) and objective (actus reus). At the same time, the plane of international law, the individual criminal act tolerated only if it includes a third, unknown systems of domestic law, a contextual element.

Each of the four regulated Rome Statute of the International Criminal Court (ICC), the compositions of international crimes characterized by specific specific contextual circumstances, allowing to individualize the above criminal acts. However, the very common view as to the existence, among others, a characteristic of each of the contextual circumstances of international crimes, referred to as large-scale or systematic acts. VN Kudryavtsev says: "... if the international crimes may be a little different from ordinary crimes committed in the framework of national law ... the international crimes in the strict sense, reach a global scale, and therefore, the objective

of the party is not a single action, or even a series of actions of one face, and a complicated and extensive activities of many individuals and organizations ... " [1, p.69]. However, it must be noted that this position can not qualify for certain.

Indeed, crimes against humanity or war crimes can not be imagined in isolation from widespread or systematic criminal activity. However, the discussion is the question about the existence of the contextual circumstances in any part of the crime of genocide. A similar opinion was expressed by G. Werle: "... the crime of genocide does not require a separate act was committed in an objective within the broader context of organized violence" [2; p. 222].

The lack of a common approach regarding the availability of a part of the crime of genocide in common contextual element in the form of a systematic broad scope, determines the relevance of the research topic.

Analysis of recent research and publications. Construction features of a crime of genocide has long been at the center of scientific interest of many scientists. At the same time one of the most pressing issues in the scientific discourse is the question of the presence or absence of a part of the above acts, the so-called general context of (large scale or systematic acts). This is clearly evidenced by the works of such scholars as N.A. Zielinska, N.V. Dremina-Volok, M.I. Kostenko, V.N. Kudryavtsev, A.N. Trainin, V.V. Shubin, A. Cassese, C. Kress, G. Verle, Yv. Ternon, R. Lir, P. Gaeta, W. Schabas and many others.

The purpose of the study is to answer the question whether the existence of the crime of genocide is the general context of (large scale or systematic offenses)?

Statement of the basic material. Charter of the International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis countries in Nuremberg (the Nuremberg Tribunal) is not within the jurisdiction of the judicial organ of the crime of genocide. As pointed out by NI Kostenko: "According to the classification given by the Charter, genocide closest to crimes against humanity, but differs from them in the scale of repression against certain groups of the population and the pronounced objectives" [3; p. 149]. This is confirmed by the provisions of

paragraph C of Article 6 of the Charter, that crimes against humanity include persecution on political, racial or religious grounds.

The verdict of the Nuremberg Tribunal was first focused on the mass of discriminatory acts: "... the evidence is clear that, in any case, in the East the massacres and atrocities committed not only to suppress the opposition and resistance to the German occupation forces. In Poland and the Soviet Union these crimes were part of the plan lies in the intention to get rid of all of the local population by the expulsion and extermination of it ... "[4; p. 384-389]. In general, within the meaning of the Nuremberg Tribunal, genocide - a system of criminal acts aimed at the physical destruction of the population [5; p. 409].

Official measurement of the international crime of genocide gave the Convention on the Prevention and Punishment of the Crime of Genocide for it (the Convention), adopted in 1948. Article 2 of the Act determined that genocide means acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such. By the acts constituting the crime of genocide include killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about the total or partial physical destruction; imposing measures intended to prevent births within the group; Forcibly transferring children of the group to another group [6].

The definition implies that the Convention does not directly regulate the need for a broad scope in a systematic genocide. As rightly observes P. Gaeta: "For many, the genocide - the massacre. Murder can be massive, but the sense of Article 2 of the Convention, not necessarily those ... Although in paragraphs (A), (B), (D) and (E) of Article 2 used the plural "group members" as the direct victims of the crime of genocide, usually enough focus individual act against at least one member of the group "[7, p. 88, 94]. This position supports and A. Cassese, pointing out that, in accordance with the definition contained in Article 2, the actual total or partial destruction of a protected group is not mandatory. In this connection, at least in theory, an isolated act may be enough to qualify an act as a crime of genocide [8, p. 335].

Of fundamental importance for specifying the elements of the crime of genocide was the work of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Both the Tribunal devoted considerable attention to the interpretation of drill features and contextual elements of the crimes of genocide.

Thus, the Appeals Chamber of the ICTR, in its judgment in the case "The Prosecutor v Kayishema» (Prosecutor v. Kayishema) from 01 June 2001, indicated that genocide does not require the commission it within genocidal campaign or widespread or systematic attack on a protected group [9; p. 163].

In another decision, the case "The Prosecutor v Akaezu» (Prosecutor v. J.-P. Akayesu) dated 02 September 1998, the ICTR Trial Chamber found that the imputation of genocide is not required to establish the precise number of victims - is sufficient to establish the commission with a view full or partial destruction of a protected group any act constituting the objective side (actus reus) [10, p. 497].

The Trial Chamber of the ICTY in the case "The Prosecutor v Krstic» (Prosecutor v. Krstic) dated 02 August 2001, the situation is actually anticipated in the future, regulated by the Elements of Crimes of the ICC. The court stated that the crime of genocide should be perpetrated in the context of a manifest pattern of similar conduct directed at the full or partial destruction of a protected group, or behavior, which in itself could lead to such destruction [11, p. 682].

V. Schabas notes that individual criminal act committed against only one or a few individuals, but for the total or partial destruction of a protected group, it is necessary to qualify as a crime of genocide. The author also points out that such a qualification does not apply to the provisions of paragraph (c) of Article 6 of the Rome Statute of the ICC (deliberately inflicting on the group conditions of life calculated to bring about physical destruction of it) as the victim of an individual act, in this case, are not members of the protected group, a group per se [12, note 15]. With this position, however, it is difficult to accept. In accordance with the provisions of the ICC Elements of Crimes, Genocide by deliberately inflicting on the group conditions of life

calculated to bring about physical destruction it is considered ended since the establishment of certain conditions of life for one or several persons.

It is not uncommon, and the opposite opinion. Some authors believe that the common features of human rights violations, which could potentially be classified as international crimes are, in particular, gross and massive nature of such violations (bearing in mind that systematic violations included in the concept of mass) [13, p.4]. Interest in this sense, are the provisions of Decree-Law №1 dated July 15, 1979 adopted with a view to prosecution for crimes committed during the period of Democratic Kampuchea. This act defines genocide as "... the planned mass murder of innocent civilians, the expulsion of people from towns and villages and its concentration in" communes "..." [14; p. 25]

Conclusions. Relying on the provisions of the ICC Elements of Crimes it may be concluded that the crime of genocide is completed as soon harm (such as murder, causing serious bodily injury and so on) at least one member of a protected group. Moreover, the Elements of Crimes of the ICC along with the commission of an act in the context of a manifest pattern of similar conduct directed at complete or partial destruction of a protected group (design, covering acts that can not be interpreted otherwise than as part of a large-scale campaign) expressly provide contextual element in the form of behavior that by itself it could lead to the destruction of the protected group. That is, hypothetically, we can assume a situation in which a person has committed a murder of one or more members of a protected group, but has all the means, resources and, most importantly genocidal intent to destroy all or part of such a group. In this case, the individual criminal act could potentially be qualified as a crime of genocide.

Of particular relevance this issue is in the light of such a function of the International Criminal Court, as a timely intervention and the quick response of the Court (timely intervention).

However, one must take into account the fundamental requirement. The ICC, in its judgment in the case The Prosecutor v Al-Bashir (Prosecutor v. Al Bashir), indicated that the individual act can be qualified as a crime of genocide only if the act

is a particular threat to the existence of a protected group or part thereof. In other words, the norm that defines the crime of genocide is a mechanism Ultima ratio - this rule works only in situations where the threat to the existence of a protected group, or part of it becomes a real and concrete, not hidden and potential [15, p.124].

For example, the crime of genocide, we can conclude that not every international crime stricto sensu inherent contextual element in the form of a broad scope of systematic action.

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ANALYSIS AND TENDENCIES OF THE POLISH-BELARUSSIAN RELATIONS AT THE BEGINNING OF THE XXI CENTURY

Summary

In this article, we give analysis on the relations of Poland and Belarus after Poland's entrance into NATO. The analysis is conducted in the light of the general external policy of the EU and NATO in respect to the CIS; the relations of Poland and Belarus in this context are of great interest because the border of Poland and Belarus became the line of contact of NATO and the CIS in 1999. On the basis of the relations of Poland and Belarus we have tried to discover mutual interests of these countries in each other and based on it to model a scenario of further development of the relations of Poland and Belarus in the regional and global context.

Key words: Poland, Belarus, NATO, EU, Eastern partnership.

Problem formulation. Study of the Polish-Belarusian relations on the latest stage of history, important for Ukraine to determine the interests and goals of Poland in the Eastern direction, after the integration into NATO and the EU.

In addition, the experience of building the Polish foreign policy in the post-Soviet integration process into NATO and the EU could be useful Ukraine on the basis of its foreign policy vector.

Also, it should be noted that after Poland's accession to NATO in 1999, the Polish border was the line of contact between NATO and the CIS, and this position is interesting study of Polish foreign policy as a conductor policy of NATO and the EU

to Eastern Europe, in particular - in the country to the beginning of the century, it was part of the CIS.

Polish-Belarusian relations are also relevant for Ukraine, since both countries are close neighbors of our country and the study of their bilateral relations - points of contact and cooperation, and points of tension and potential conflict between Poland and Belarus, it is important from the point of view of the concept of security of Ukraine and the development of the strategy of bilateral relations with both Poland and Belarus.

Analysis of recent research and publications. The topic of Polish-Belarusian relations in the XXI century in the Ukrainian bibliographies studied even less than the theme of relations between Poland and Belarus in 1990. This is partly explained by freezing relations and their transition and predictably intense phase, whereas in the early 1990s, it was possible to assume different scenarios of development of bilateral relations between Poland and Belarus.

Among the works of Ukrainian scientists should be made of Article Lviv researcher Oleg Borynyaka in which the scientist describes in detail and analyzes the period of the Polish-Ukrainian relations in the 90s and their development in the early 2000 [12]. In addition, when writing the article were involved in the archives of various news agencies [7,8]

We should also highlight the analytical materials of the Polish journalist - a specialist in Eastern Europe Jacob Loginov, who analyzed in detail the energy aspect of Polish-Belarusian relations in the mid-2000 [9].

The purpose of the article. The study is a thorough study of the history of Polish-Belarusian relations in the beginning of the XXI century on the basis of which the author, after analyzing this topic, trying to formulate a mutual interest of each other, based on which, you can simulate the scenario of further development of bilateral relations between Poland and Belarus - the nearest neighbors Ukraine.

Statement of the basic material. Since the beginning of the XXI century, after Poland's accession to NATO and the signing of the Belarus-Russia treaty establishing the Union State, the Polish-Belarusian relations went into "frozen" phase. Belarus

failed to develop a strategy of constructive relations with Poland in an environment where Poland is a NATO member. Poland is focused on internal reforms and the upcoming accession to the EU.

Nevertheless, in 2002 it was created the first and only purely Polish-Belarusian Euroregion - "Bialowieza Forest". The aim of the Euroregion is the development of regional relations, as well as work to preserve the environment, in particular the unique forests in the region. [4]

Over time, high-level political attempts to restore dialogue. So, in 2003 in St. Petersburg was the second official meeting of Alexander Lukashenko and Alexander Kwasniewski (the first was held in 1996 in the Bialowieza Forest). This meeting was the impetus for intensification of bilateral dialogue. In 2003-2005. held meetings and negotiations of prime ministers, secretaries of security councils, deputy prime ministers, foreign ministers, economy ministers, the heads of supervisory agencies, other public leaders of Belarus and Poland. [3]

Meanwhile, in 2004 in connection with Poland's accession to the EU between Poland and Belarus was established visa regime.

However, intensification of bilateral relations was not to continue. The stumbling block was the situation with the Union of Poles in Belarus. In the election of the chairman of the Union in March 2005, won social activist Anzhelika Borys. However, the former chairman Tadeusz Kryuchkovsky submitted an application to the Ministry of Justice of Belarus to recognize the election illegitimate, complaining of violations of the election procedure. The Ministry of Justice has satisfied his claim, however, the new leadership of the Union refused to hold a second congress. Poland said the Belarusian government to intervene in the affairs of an independent public organization. In the Soviet Union there was a split. Supporters held Kryuchkovsky Congress which announced the exclusion of Angelika Borys and her colleagues from the Union of Poles in Belarus and elected new Chairman Joseph Bowman. This decision recognized the Belarusian authorities, however, did not recognize Poland, chairman of the Union continues to believe Anzhelika Borys. Since then, in fact, there

are two Belarusian Union of Poles - recognized by the Warsaw and Minsk recognized. [4]

As a result of this conflict, May 2005, Belarus expelled the First Deputy Ambassador of Poland. Poland said the expulsion of a diplomat from Belarus and banned entry to Poland Minister of Justice of Belarus.

Then there was a few more big diplomatic scandals. The Belarusian authorities have not given permission to span over the country of the Polish plane with top-level delegation, which was sent to Smolensk on the fifth anniversary of the opening of the Katyn memorial. The plane flew through Ukraine and Belarus authorities then stated that in fact permission was granted, and that it was a provocation on the part of the Poles. In response, Poland recalled its ambassador from Minsk. About a year in Belarus there was the Polish ambassador. Although the new ambassador - Henryk Litwin was appointed in February 2006, credentials to he could give only one and a half years - in December 2007 [7]

In general, the 2005 and 2006 can be called the most difficult period in the relations between Poland and Belarus. Indirect cause of tension coil can be called "orange revolution" that occurred in Ukraine in late 2004 and brought to power a pro-European President Viktor Yushchenko. It was after the events in Ukraine, the Belarusian authorities have stepped up the fight against foreign non-governmental organizations within the country and abroad, primarily Polish diplomats openly accusing them of spying.

Thus, in the same 2005 Belarusian authorities decided to ban the activities on the territory of Belarus, the European Foundation "Dialog", which has been registered in Poland. At the same time, the official Minsk has accused Poland of espionage with the aim to destabilize the situation inside Belarus. Poland initiated in response to the expulsion of another representative of the Belarusian Embassy in Poland [8].

Recession tensions gradually began to attack immediately after the presidential elections in Belarus in spring 2006. Then Ambassador Pavel Latushko submitted to the Polish Foreign Ministry a package of proposals for the implementation of several small

collaborative projects such as the improvement of infrastructure of border crossing points, cultural cooperation [9].

This gesture was the beginning of a gradual warming of relations at the diplomatic level, although at the highest political level, relations have remained frozen. A powerful reason for the resumption of active dialogue, was the intensification of the construction of the pipeline "Nord Stream" in 2007 - a direct gas pipeline from Russia to Germany via the Baltic Sea bottom. This project is clearly contrary to the national interest as Poland and Belarus. Therefore, to resume dialogue on the possibility of building a second branch of the Yamal gas pipeline, which serves Polish and Belarusian side as a cheap and cost-effective alternative for all parties, "Nord Stream". [9] Although the second branch of the Yamal gas pipeline was never built, and the "Nord Stream" by contrast, was a few years running, this situation has given a powerful impetus to unfreeze the Polish-Belarusian relations, and most importantly - made clear that in the case of joint foreign trade problems both countries are ready in some way to unite and develop a common position. The situation with "Nord Stream" has shown that Poland can and must defend its national interests often contrary to the countries of "old Europe", and Belarus can and should defend their national interests against the interests of Russia, especially since the year 2007 is already evident was the failure of the project of the Union State and a deep stagnation of the CIS.

After that, there was a significant intensification of Polish-Belarusian relations in the energy sector. So, in 2009, the Ambassador of Belarus to Poland Viktor Gaisenok said that Poland and Belarus is interested in the connection of gas networks for energy security. According to the diplomat, the connection of networks would change the direction of flow of gas, and in the case of an accident or other emergency situation gas from Belarus would be able to come to Poland and vice versa. [10]

In addition, in late 2008, at the First Belarusian Investment Forum in London, a contract was signed between the Ministry of Energy of Belarus and the Polish company «Kulczyk Investments», owned by the Polish entrepreneur and one of the richest Poles Jan Kulczyk. It was an investment project to build a large power plant in Belarus. Two years later, the project was designed as a thermal power plant in the town

of Zelva in Grodno region. [10] However, at a certain stage the negotiations have reached an impasse, as the parties were unable to reach a common decision on the distribution of electricity produced at the power plant in Zelva. According to other information, the failure of the agreement took place because of the conflict of interests of Belarusian and Russian energy ministries, as well as the Russian side was interested in the construction of the power plant on its own terms. [11] In any case, the project is now frozen.

However, energy cooperation is one of the most promising potential of the Polish-Belarusian cooperation. And it is with joint work in the energy sector of the Polish-Belarusian relations can reach a new level, because it is this area for the first time after a busy period 2005-2006, the Belarusian leadership has made it clear that much more effective and promising to see in Poland is not a threat to national security, potential ally and partner. And further development of Polish-Belarusian relations, in our opinion, will be directly dependent on the pressure of the Russian side to the energy security of Belarus. The stronger the pressure - is more active cooperation with Poland, the more projects will be launched. And that's energy sector at this stage sees the key to the first step in a potential union of Poland and Belarus.

Since 2008, Poland has started to give citizens of the former Soviet Union, the so-called "card of the Pole" - a document which gives the right to free multiple entry visa to Poland and gives in its territory the right to equating the owner of the document to a citizen of Poland (legally work without a work permit, to do business on a par with Polish citizens, get an education on the same conditions as nationals of Poland, etc.). The owner of the "Polish Card" is open to any citizen of the former Soviet Union, who has Polish roots, and recognize that they belong to the Polish people.

The initiative is intended, above all, to Ukraine and Belarus. Thus, as of 2012 from 100 thousand issued by "Polish Card" 46 thousand have been issued to citizens of Ukraine, 42 thousand - citizens of Belarus, 5000 - the citizens of Lithuania and only 2.7 thousand - citizens of Russia. [13] In addition, 89% of "Polish Card" issued in 2013 accounted for the citizens of Ukraine and Belarus. [14]

In 2009, Belarus was incorporated into Poland and Sweden initiated a project of the European Union "Eastern Partnership", designed to deepen relations between the European Union and some countries of the former Soviet Union.

"Eastern Partnership" was intended to be a platform for multi-level dialogue and the significant strengthening of relations between the countries. The Belarusian leadership initially seen in the "Eastern Partnership" economic outlook, as well as the possibility of normalizing relations with western partners and balancing the foreign policy of Belarus [15].

However, the dialogue in the framework of "Eastern Partnership" is carried out not only at the level of government, but also at the level of civil society. For example, more than once in the meetings of the different platforms representatives of Belarusian non-governmental organizations, as well as representatives of the opposition.

At the same time, if the European side a lot of attention is paid to the development of democracy and protection of human rights, the official Minsk has been configured for specific projects, in what appears a serious activity. So, it has been proposed and implemented projects auto corridor Klaipeda-Vilnius-Minsk-Kyiv, celebrating the 600th anniversary of the Battle of Grunwald et al [16].

It can be stated that at the initial stage of its existence, the project "Eastern Partnership" for Belarus has fulfilled an important function - he led her out of international isolation, he has given a platform to renew and strengthen the ongoing dialogue especially with its immediate neighbors - Poland, Lithuania, Ukraine.

However, conflicts remain unresolved, and sometimes worsening. So, in 2009, Poland imposed sanctions a group of Belarusian officials, accusing them of persecuting recognized Warsaw Union of Poles in Belarus.

In 2010, on the eve of the next presidential elections in Belarus again broke diplomatic scandal around the Union of Poles in Belarus. This time he was associated with the ownership of the Polish House in the village Ivianiec Minsk region. Arriving at the place of conflict representatives of the Polish Embassy called the Belarusian side

charges of interfering in the internal affairs of Belarus and led to the withdrawal of the Polish ambassador to Warsaw [17].

The course of the presidential elections in Belarus in 2010, the arrests of opposition figures and the dispersal of mass meeting even more aggravated the relations of Belarus with Western partners, prompting harsh criticism of the Belarusian regime.

At the beginning of 2011 Poland, speaking out against the persecution of Belarusian opposition and reprisals against protesting citizens, forbidden to enter the territory of Poland Alexander Lukashenko and some Belarusian officials. The Belarusian authorities are also accused of organizing protests 19 December 2010 Polish and German intelligence agencies.

However, Belarus continued to actively use the initiative "Eastern Partnership" as a platform for dialogue and initiation of various projects, although it has gone a little shadow on the background of making steps towards European integration - Moldova and Ukraine.

The impetus for the next activation of relations between Belarus and the EU in general and Poland in particular, were the events in Ukraine in 2013-2014. Belarus, as well as Poland did not recognize the annexation of the Crimea, and Russia is trying to act in a situation of war in eastern Ukraine as a peacemaker, offering its territory as a place of negotiation. At the same time over the last year ceased diplomatic scandals with Poland and vice versa, can be observed intensification of the dialogue between Belarus and Europe. Thus, in February 2015 in Minsk visited several EU officials and the "Eastern Partnership" to meet with the Belarusian authorities and the Belarusian President said he expects at the beginning of a kind of dialogue between Minsk and Brussels, and that now the relations between Belarus and the EU is not as obscure as the before. [18]

Thus, analyzing the relations between Poland and Belarus in the period from 1999 to 2015, it can reveal some interesting trends. Coil tension in bilateral relations always takes place before the presidential elections in Belarus - it was 1999, when it was still aggravated by Poland's accession to NATO, which the Belarusian government

considered a threat to its national security. And at the time of elections in Belarus in the autumn of 2001, relations between neighbors were actually frozen. So it was in 2005, when a year before the presidential election broke the biggest diplomatic row between Poland and Belarus, the Union of Poles in Belarus at the time of the elections in 2006, in Belarus, in fact not even the ambassador of Poland worked since he could not have presented his credentials. It was the same in 2010, the year when the pre-election scandal erupted again with the Union of Poles in Belarus. However, in 2015, the continuation of this trend is not observed, which suggests that Belarus is watching the developments in Ukraine, and now sees a threat not only to the West as in the East. Moreover, such a situation can contribute to efforts by authoritarian tendencies in Belarus, in connection with which the Belarusian authorities do not feel the danger before the election.

In addition, seriously affect bilateral relations between Poland and Belarus external factors. If the influence of Brussels and the EU common foreign policy to the actions of Poland consistently and predictably, the actions of the Belarusian vary depending on the relations between Belarus and Russia. Thus, in the early 2000s, when there were hopes for the project of the Union State, the relations with Poland and the West in general remained frozen, but in 2007, when it was obvious failure of the project of the Union State and the stagnation of the CIS, and most importantly - after the launch of Russia unprofitable Belarus "Nord Stream", Belarus immediately began looking for options for alternative energy projects, in particular with Poland. Further, an agreement was signed on the establishment of the Customs Union and, almost simultaneously - "Eastern Partnership". At this stage of Belarus conducted a multi-vector policy, but the priority is still given to the eastern direction that the Belarusian leadership is perceived as more reliable and specific. However, with the outbreak of war in Ukraine, the rhetoric of the Belarusian leadership has become much tougher, both in relation to the customs union as a whole, and in particular the Eastern partners, and we are seeing a warming of relations with the EU.

It is possible to observe a consistent trend in Poland work with the Belarusian population regardless of the relations with the official Minsk. Thus, in Belarus there

are several large Polish institutions such as the Union of Poles in Belarus, the Polish Institute in Minsk and others. It is also significant that in 2005 Poland has not remained aloof from the conflict with the Union of Poles in Belarus, and despite the evident deterioration of relations with the Belarusian authorities to settle and is now supporting the Union of Poles in Belarus with the leadership is not imposed by the Belarusian authorities. In addition, in this regard, the example of the introduction of "Card of the Pole," which, though applies to all post-Soviet countries, but mainly issued to citizens of Ukraine and Belarus - the nearest and largest neighbor Poland. The inclusion of Belarus in the initiative "Eastern Partnership" as significant, as Belarus is the most authoritarian state of all that are included in the initiative. However, the "Eastern Partnership" is used as a platform for dialogue not only with the authorities but also with civil society in Belarus.

Thus, we can observe a consistent interest of Poland to the development of relations with Belarus and if there is no possibility of such a development with the official authorities, then there are opportunities for joint projects with civil society. We can assume that such a policy is Poland's strategic direction and will continue in a similar vein and beyond. For Poland, Belarus - one of the closest ethnically and culturally nations, a country that can bring great benefit Poland because of its geopolitical position. Therefore, in our opinion, Poland sees in the medium or long term, Belarus, as one of its closest allies. In addition, having a historical parallel, we can see that one of the strongest European countries XVI - XVIII centuries - Rzeczpospolita, includes in its membership the entire territory of present Belarus and Lithuania, a considerable part of the territory of present Poland and Ukraine. Therefore, bearing in mind the history of Poland and develops in the future, in our opinion, will develop a close relationship with these historically close nations themselves. An example of such a policy can be read and various social programs aimed at the citizens of Belarus and Ukraine, and the "Eastern Partnership" and the Polish-Ukrainian-Lithuanian battalion created in 2015 - the first example of military cooperation in this format to exchange experiences and help Ukrainian armed forces in approximation to NATO standards. [19]

In general, we can say that the war in Ukraine is considerably affected as a Polish-Belarusian relations and foreign policy of Belarus in general. Note solidarity with the position of Poland, Belarus and the western world in the non-recognition of the annexation of the Crimea Russia. In addition, last year the trend of progressive rapprochement between Belarus and the western world. The Belarusian government wants to develop a series of contacts between the so-called dialogue on modernization, involved in the program "Eastern Partnership". [20] Belarus is expected to sign the Bologna Convention.

In addition, the war in Ukraine is largely influenced by the Belarusian-Russian and Belarusian-Ukrainian relations. A month after the events euromaidan, Alexander Lukashenko in Belarus, the Acting President of Ukraine Oleksandr Turchynov. The main message of the meeting was to certify the parties in mutual friendship. [21] Taking into account that at that time, the Russian leadership is still referred to as legitimate fugitive President Viktor Yanukovych, such a meeting, including wear and demonstrative character. Belarus has shown the world its integrity and independence from Russia in the Ukrainian question.

Already in the midst of war in Ukraine, Lukashenko quite strongly criticized the positioning of the Crimea as Russian territory, once again, making it clear that he does not recognize and does not recognize the annexation of the Crimea by Russia [22].

Meanwhile, the Ukrainian issue, Belarus proved to be a conciliatory side, offering Minsk as a platform for negotiations. For example, in Minsk signed two international agreements, the purpose of which was the de-escalation of the conflict in the Donets Basin - the fall of 2014, the winter of 2015. The talks in Minsk attended by Presidents of Ukraine, Russia, France, and the German Chancellor. For the first time in many years in Minsk were once two key political figures in the EU.

In December 2014, the bilateral meeting of Presidents of Ukraine and Belarus, where President Alexander Lukashenko assured the Ukrainian counterpart that Belarus is ready to provide full support to Ukraine [23].

Against this background, Belarus unilaterally renew the customs control on the border with Russia [24], thereby effectively discrediting the idea of the Customs Union, and Alexander Lukashenko in January 2015 year shows that Belarus is not a part of the "Russian world" [25].

Conclusions. Thus, the events in Ukraine in 2013-2015, may be a key period that changed the foreign policy vector of Belarus. Such a trust relationship with Russia as they were previously, and now should not expect, because now obvious potential threat from the east to Belarus. However, it is premature to talk about a certain foreign policy vector sharp reversal of Belarus. It is understood that the start of an active dialogue and cooperation with European institutions, will mean the need for internal reforms in Belarus, which may be disadvantageous to the current Belarusian regime, on the other hand - the situation in Ukraine shows a clear danger to the Kremlin and Belarusian regime understands. In such a situation, Belarus is trying to build strategic relations with Western partners, to try to protect themselves against a potential threat from the eastern neighbor. And Poland in this direction could be the first ally of Belarus, as a conductor of EU foreign policy, and as a country that is constantly throwing "bridges" in the form of various social and political projects of its eastern neighbors. Therefore, in our opinion, we should expect further warming and intensifying relations between Poland and Belarus. Ukraine in this situation should be developing bilateral relations with the two countries to take an active part in integration projects of the "Eastern Partnership" and to initiate new projects with the participation of Poland and Belarus, which could become a tool for further allied relations between the three countries.

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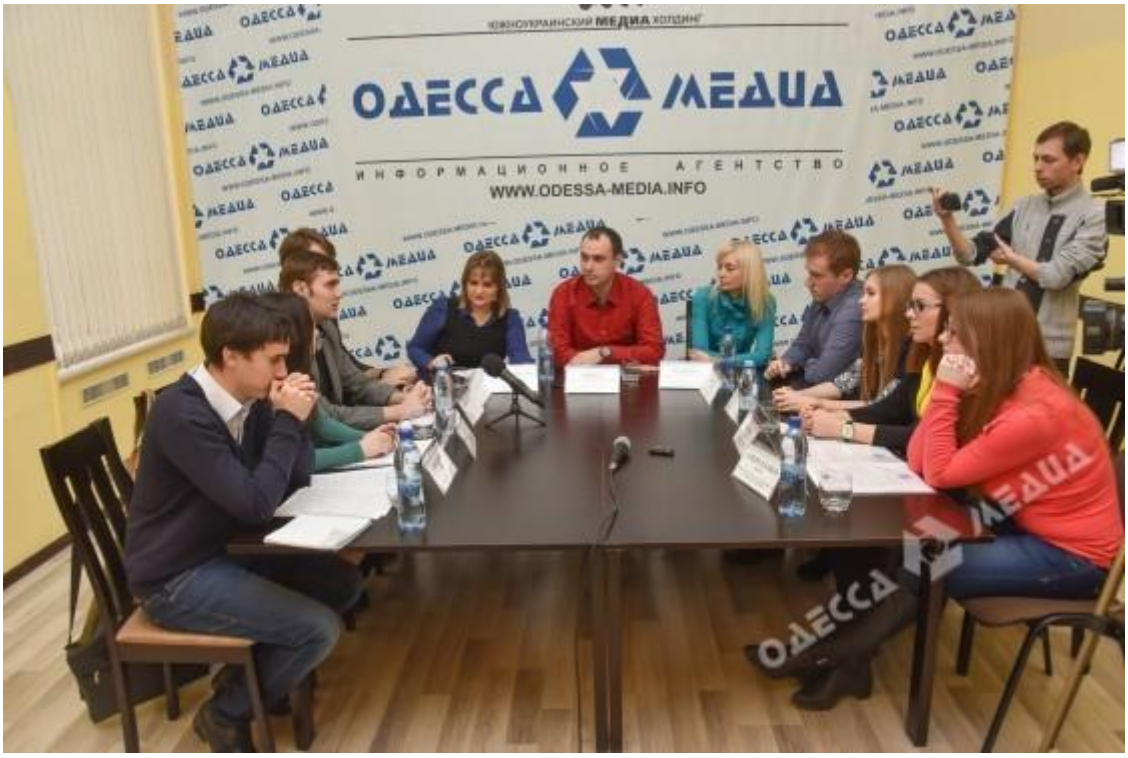
EXCLUSIVE PRACTICAL PROGRAMS FOR STUDENTS ELF



In December 2014 in Odessa National University named after I.I. Mechnikov, on economic and legal Faculty received a proposal from the Union of Lawyers of the Odessa area together hold exclusive practical program for students of 4th and 5th year, ie future masters, specialists, bachelors.

Management Economics and Law, represented by the Dean, Ph.D., Professor of V.I. Trybu very positively responded to the proposal, as exclusive practical program is very useful for students, and theory, ideally, should be combined with practice.

To implement the project selected ten of the best and promising students of the Faculty of Economics and Law of Odessa University to pass pre-diploma and practical training (A.I. Aleksandrov, M.S. Alekseenko, N.N. Belyaeva, D.V. Goloborodko, A.M. Myagchenko, V.A. Pavlov, N.I. Sasova, A.G. Snitko, V.S. Steblyuk, A.A. Yaroshenko).

Young lawyers had an opportunity to try his hand in practice to work on their own projects. Within three months they worked on each of the selected areas:

legislative work (proposals to the Law of Ukraine "On Higher Education"), working to resolve conflicts in the legislation, protection of intellectual property issues in the field of consumer protection, the cooperation of the public with the public organizations and institutions (Odessa Regional State Administration), employment of young specialists (simplification of procedures for the employment of young professionals), and others.

Law students receive hands-on experience with the exclusive practical program. Even before graduating from high school students an opportunity to apply the acquired knowledge in the university into practice. Helps students to representatives of the Union of Lawyers of Odessa region (E.A. Ivanchenko, A.M. Rjabets) and lecturers of Odessa National University named after II Mechnikov (E.V. Bailo, T.A. Gonchar, V.A. Zavertneva-Yaroshenko, L.M. Zilkovskaya, N.V. Ilieva, V.N. Masin, Yu.A. Pilipenko, O.N. Sadovskaya).

Exclusive practical program has opened new horizons for young lawyers and allowed them to gain real experience in working with government and other bodies.

Research Coordinator

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