Roman Alyamkin

THE FACTOR OF TRUST WITHIN THE SYSTEM OF ECONOMIC SECURITY OF BANKING SECTOR OF ECONOMY OF UKRAINE

An important aspect of the essence of the category of trust is the affinity of this category with the category of faith. The faith in its nature is the phenomenon based on feelings of safety and guarantees of human life security. To our mind, in that broad sense the faith constitutes the basis for trust, since no trust can exist without the constant search of security and self-confidence and confidence in people around.

The trust is a mirror of social relations, because it is based on the person's ability as an element of society to believe that it is able to be decency, honest and reliable. Awareness of these virtues and belief in their existence in every person's mind raising the general level of trust in society.

At the core of this definition rests person's ability to receive the information without critical analysis, «in faith», thereby protecting their own minds from negative perception of reality, setting a moral, material and physical safety of their existence. The person's feeling of confidence is set selectively on the basis of internal criteria of interests affinity that define a high degree of credibility of people or their opinions.

The confidence in person's own strength makes him or her permanently compete in order to prove his of her strength. In contrast the awareness of self-weakness requires individuals to search for co-operation with others that combines their interests in security and creates the phenomenon of trust. It is the key to the effective development of society.

For the most part in economic studies the category of trust is formulated as predictability of partner's actions, who must fulfil its obligations, and its behaviour is predictable and fair. Although the opposite result cannot be excluded.

In this case, the trust serves as a quantitative and dynamic category that describes variations in the level of risk that economic actors' do not comply with their obligations. The dynamism of this category is shown in the subjective perception of reality, that is, a change in attitude towards the counterpart change the level of risk.

In our opinion, the study of category of trust should be carried out on both horizontal and vertical levels. The trust in the horizontal dimension appears as subject-subject interaction, i.e., the relationship of partners. In the vertical dimension the trust is manifested in the relationship of subjects at different levels of the economy, such as the relations of the individual citizen and the state. It should be noted that the relevant relationships are interdependent, since the loss of confidence on the one hand leads to a decrease of the overall level of trust.

The trust is measured not only in value but also in time, i.e. time required for establishment of business links. Accordingly, the presence of a significant resource of trust leads to savings in time, and its absence to spending a significant amount of time searching for communications.

The core component of the market economy is the capital, therefore we should make an attempt to define the influence of trust on capital. We believe the capital – an abstract category that expresses the interaction of economic resources with the needs of their owner to create added value.

In case the capital is the result of complex economic relations, the price of capital largely depends on trust. Trust is a regulator that determines the cost of the capital and transaction costs of economic relations of different subjects that are conducted over time at a certain rate and depend on the liquidity of such relationship.

It should be noted that the trust as a category of mental order in the economy has entirely material dimension. Social and economic systems that are able to generate trust, can effectively implement their own development strategies. This is done by reducing the transaction costs and saving time, reducing costly pressure on margins and increasing business activity indicator of the economy.

The banking sector is no exception, where the trust is crucial. Its presence reduces the percentage load on the cost of the final product, increases customer capital, extends the range of investing possibilities of their customers and establish the competitive advantage. Thus the trust is one of the founding elements of banking business, it provides stability throughout the whole system, making it more predictable and efficient, able to withstand external financial shocks, and ultimately enhances economic security of the banking sector of Ukraine.

Ruslan Alyamkin

INTERNATIONAL LAW BASIS OF HUMAN RIGHTS PROTECTION IN INTERNAL ARMED CONFLICTS

The article highlights the relationship between the rules and principles of international human rights law and international humanitarian law applicable in armed conflicts of non-international character. The provisions of the key documents in the field of international humanitarian law related to armed conflicts of non-international character have been analyzed. In addition, the nature of interrelation between the international human rights law and international humanitarian law related to armed conflicts of non-international character.

A large number of internal armed conflict that take place in almost every part of the world, makes it necessary to study the relationship between international law of human rights and international humanitarian law. In the context of an armed conflict that is happening in Ukraine, the abovementioned issue appears to be burning and extremely relevant.

The purpose of the article is to determine the international legal framework of human rights protection during non-international armed conflicts. The achievement of the above purpose makes it necessary to accomplish such tasks: firstly, to conduct the legal analysis of such category as non-international armed conflict (internal armed conflict); second, to define and analyse international legal standards of human rights protection applicable in non-international armed conflicts; third, to determine the nature of the interrelation between the relevant rules of international humanitarian law and standards of human rights protection.

The war is an integral part of human history. For a long time the war remained not regulated by international law. The first international humanitarian law rules were created only in the mid-nineteenth century, when Henry Dunant initiated the establishment of the International Red Cross Movement. However, the major part of international law norms aimed at protection of victims of wars, only applied to international conflicts.

In turn, quite trivial to say that the internal (non-international) armed conflicts were common throughout the history of mankind. A large number of armed conflicts occur within the borders of one state, the confrontation in such conflicts occur between government forces and organized armed groups or between armed groups operating independently of the state. Despite the fact that armed conflicts of non-international character, by definition, does not occur between sovereign states, international law contains a system of rules that regulate the conduct of the parties in such conflicts.

According to ICRC an armed conflict is armed confrontation that takes place between States or protracted armed confrontation between governmental authorities and organized armed groups or between organized armed only groups. In turn, internal (non-international) armed conflict is an armed conflict that occurs in one state and in which forces of any other state do not participate. Qualification of an armed conflict as international or non-international is crucial in terms of law, because there are different rules and regulations of warfare. Each party of am internal armed conflict is bound by the fundamental humanitarian principles enshrined in Article 3 common to the four Geneva Conventions of 1949 . These provisions are developed and supplemented by the Second Geneva Protocol of 1977.

In the context of internal armed conflict there is one general question of how armed group may be bound by international law that have been adopted by States against which they are fighting. The answer lies in the fundamental principle: international agreements are not concluded on behalf of the Government, but on behalf of the states that legitimately represent their people.

In our study we should reveal the question of how international humanitarian law and international human rights law relate and interact. Both branches of international law are applicable in situations of internal armed conflict, international humanitarian law in view of the specific provisions and customary nature of certain rules, human rights law in view of the fact that it establishes the legal regime of the relationship between the state and its citizens.

International human rights instruments are crucial even during internal armed conflicts. Probably the most important is that the international legal instruments on human rights contribute to the expansion and refinement of various modes of protection provided by humanitarian law by equating commitments in human rights law to elementary considerations of humanity enshrined in common Article 3.

Mykola Andrienko

STATE OF THE REGULATORY SUPPORT OF PUBLIC ADMINISTRATION IN THE FIELD OF FIRE SAFETY IN UKRAINE

The article substantiates the urgency of research regarding the aspects of the regulatory support of the state administration in the field of fire safety in Ukraine due to the fact that these issues were investigated before either more generally or within the Code of Ukraine on Administrative Offences or the Criminal Code of Ukraine without uncovering the issues concerning the regulatory support of the state administration in the field of fire safety in terms of implementation of organization and coordination effects on each and every component of the aforesaid field.

Accordingly, the state and aspects of the regulatory support of the state administration in the field of fire safety of Ukraine in terms of implementation of organization and coordination effects on all components of the fire safety were explored. In this regard, the initial moment of the research was 1991, when Ukraine began establishing its national system of the state administration in the field of fire safety.

It is stressed that the adoption of the Law of Ukraine «On Fire Safety» had laid the foundation of the national system of fire safety in Ukraine.

The key aspect of this Law, which is to ensure the fire safety, is defined as the integral part of the state activities regarding the protection of people's life and health, national wealth and environment, as well as the common legal, economic and social basis to provide fire safety within the Ukraine's borders.

In the course of the research, the vital steps aimed at ensuring the functionality of the fire safety in Ukraine were defined. They constitute a number of the state plans to provide for the fire safety and they defined a set of various activities (legal, organization, financial, material and technical, scientific) aimed at the implementation of the state policy regarding the boosting of fire safety in the country and improvement of the material and technical and financial status of the fire-fighting departments.

The article evidences the defining moment in establishing the legal foundation of the state administration in the field of fire safety was the adoption of the Constitution of Ukraine on June 26, 1996.

During the research, the legal acts, which provided for the establishment and operation of the fire safety system in Ukraine, as well as ensured the transformation of the state government bodies, which were entrusted with the implementation of the state policy in the field of fire safety at various stages of the state-establishing throughout the whole period of the formation of our country, were ascertained.

Close attention is paid to establishing the cause-and-effect relations, which stipulated the formation and further restructuring of the bodies, which carried out the state administration in the field of fire safety in Ukraine directly.

The rule-making activity of the Cabinet of Ministers of Ukraine and central executive bodies, which was the basis for the strengthening of the state administration in the field of fire safety along both the vertical and horizontal of the administration, is studied.

It was established that the legal support of the state administration in the field of fire safety is quite distinct, hierarchic and fundamentally interdependent system of regulatory acts, which meets mainly the current public needs, but requires improvement.

It is proved that the significant emphasis within the current legislation regarding the state administration in the field of fire safety in Ukraine is made on the implementation of the regulatory function, whereas the issue of the legal support of the state administration in the field of fire safety in terms of implementation of organization and coordination effects on each and every component of the fire safety still lacks the research.

Bani-Naser Fadi

FOREIGN POLICY OF UKRAINE WITHIN A CONTEXT OF PEACEFUL SETTLEMENT OF ARAB-IZRAELI CONFLICT:LEGAL ASPECTS

In article the main directions of Ukraine's foreign policy within a context of peaceful settlement of Arabic-Israeli conflict in the Middle East are examined. As is well-known, this conflict poses a serious threat on the global and regional levels.

Taking Ukraine's dependence on export energy resources into account, it is important to conduct steady monitoring of the situation in this region with the aim to make informed state decisions in energy

and economic spheres. Moreover, the main principles and features of the implementation of Ukraine's policy in Arab-Israeli conflict in the early XXI century are analyzed, the mediate possibilities of Ukraine's diplomacy at the present stage of Middle East peaceful process are studied an also provide recommendations concerning minimization of negative impact of Arab-Israeli conflict in relationship of Ukraine with the parties of conflict. The large scale and complexity of tasks facing our state in the Middle East dictate need to make holistic approach of state authorities of Ukraine to the peaceful settlement of Middle East problem. The main features of such approach should be: complex, strategic nature as well as the dynamism and pragmatism that would allow to respond flexible to unpredictable changes in the regional balance of power. The article focuses on the need of long-term fixing of political and economic positions of our state in the Middle East region.

Policy of the leading states of the world concerning Middle East is still unagreed. The failure to reach consensus on problematic issues relating to Syria, Israeli-Palestinian conflict and other Middle East problems clearly showed discrepancies of the foreign policy interests of the USA, EU, China, Russian Federation and Turkey in this region. This not only prevents finding of suitable solutions to conflicts on the Middle East, but creates serious causes for deterioration of bilateral relations between powerful states, increasing tensions in the global international environment. The aforementioned problem, of course, is relevant for Ukraine. Because the Middle East conflict creates serious difficulties for the normal development of trade and economic relations with the countries of this region, as each of the conflicting parties trying to gain support for their positions from the side of Ukraine. Instead, our country is primarily interested in the development of stable economic and political relations with both Arab states and Israel.

In the literature it indicates that at this stage our country has significantly increased the Middle East vector of the foreign policy, and it reflected both in deepening bilateral relations with the countries of the Middle East region, so also in efforts to resolve the Arab-Israeli conflict. Evidence of this was Ukraine's position in the UN, primarily as a non-permanent member of the Security Council, the activities of Ukrainian peacekeepers as part of the UN Interim Force in Lebanon, as well as establishing a position first Special Envoy of the MFA of Ukraine, and later – Plenipotentiary of Ukraine in the Middle East, whose main task was, along with the establishment of economic and political contacts of our state with Arab countries, intensification of Ukraine mediation in the conflict between Israel and its Arab neighbors

Among the priorities of the foreign policy of Ukraine development of relations between our state and Middle East occupies a prominent place. The importance of this region for Ukraine is caused by a number of important factors, including: geographical proximity of the Middle Easton Ukraine; leading role of Middle Eastern countries in the structure of world trade of energy; the presence of significant financial resources in some Middle Eastern countries and thin place in the international monetary and financial relations; size of the market of good sand services most of the region.

Viktoria Filippova

ADAPTING COGNITIVE MODELING METHODS TO THE ANALYSIS AND EVALUATION OF PUBLIC POLICIES IN THE FIELD OF TEACHER EDUCATION

In modern conditions of uncertainty, there is a need of forming effective state policy in the field of teacher education, effective methods of diagnosis, predicting the future and risk assessment based on adequate scientific models. Such methods include cognitive modeling method that actively developed, which allows a single scheme as a graph to describe qualitative and quantitative relationships between elements of the system.

A systematic analysis of national scientific developments science of public administration and their comparison with foreign level cognitive research in public administration confirms the relevance of our research points to the lack of empirical research is developed cognitive models of analysis and evaluation of public policy.

The article in the context of the above definition is a basic conceptual framework of cognitive modeling in the analysis and evaluation of public policies in the field of teacher education.

The mechanisms of governance in the field of teacher education are not systematic, become spread simultaneously in different directions, in some cases, conflicting or are imitative character. This task requires another level analytical tool, as that can be a simulation. The formal simulation model of state policy in the field of teacher education may allow identifying the most vulnerable factors and conditions which influence they can give the best results.

Simulation rather slowly penetrates science in public administration, mainly due to unreasonable expectations placed on models that cannot be justified in reality. In this regard, it is necessary to clearly indicate the limits and conditions effective use of simulation in the study of public-management focus, decision-making, educational activities. Among the latest methods of simulation modeling of weakly – structured systems include cognitive modeling. Through the use of high-quality performance and accountability relationships significant number of factors, this method allows us to give a qualitative description of different processes.

Cognitive modeling is an effective approach to the study of the situation based on the construction of graph models. It allows you to investigate the situation, including the following activities as self-development, external influences modeling, simulation focused developments (controlled development). Cognitive model has the advantages of a simulation model, but more simple in design.

We believe that the algorithm cognitive modeling process analysis and evaluation of public policies in the field of teacher education is as follows: the formulation of goals and objectives modeling; a field of study and the field of teacher education; collection, analysis and systematization of statistical data needed for modeling; construction of cognitive maps; The aggregated indicators; partitioning models into subsystems; sequential decomposition received subsystems to primary statistical indicators; determine relationships between factors; creating cognitive models; determine the orientation relationships (positive or negative) cognitive maps; determine the types of relationships between factors (linear, s- shaped, etc.); determine the intensity of relationships between indicators; allocation of factors that may operate; implementation of computer models; choice modeling tool environment; preliminary experiment; test the adequacy of the model; drawing conclusions and recommendations according to the purpose.

One of the benefits of cognitive modeling, including process analysis and evaluation of public policies in the field of teacher education, it is possible to conduct scenario based research. Thus, under the scenario we mean a set of control and external influences and trends in initial basic factors, because the initial set trends scenario will be characterized by a set of control and external influences.

Consequently, the proposed approach to the analysis and evaluation of public policies on teacher education can extend the range of application of the method of cognitive modeling in government. The main task, which resolved within cognitive modeling, is forecasting task and the task of selecting alternative strategies for the development of public policies on teacher education. Cognitive maps allow analysis of the public policy analysis is the study of the situation by studying the structure of mutual influences concepts of cognitive maps and dynamic analysis, which is the generation of possible scenarios. That said, in my opinion it is expedient further directed to develop cognitive models of analysis and evaluation of public policies in the field of teacher education.

Alla Gubska

LEGAL NATURE OF REPRESENTATION IN GROUP ACTIONS

An author probes the question of legal nature of representation in a group actions. In civil procedure a representative carries out judicial actions on results that arise up, created, the right and duties principal cease. In a court a representative protects own not interests that are not the matter of judicial dispute, but interests of principal.

An author considers that legal nature of representative legal relationships in group action has other maintenance.

Representative plaintiffs applies in a court after defense of own interest However he also carries out defense of all members of group, interests of that are broken as a result of illegal actions of one defendant. These interests have a common warrant for their defense. An author considers that in group actions a representative plaintiff protects own interest, operates on its own behalf, but also protects all group as side in a trial. In this connection legal relationships in a group action differ from a classic representation in civil procedure.

In the article foreign experience of realization of representation in group actions is also analyzed (Canada, Sweden, Italy, USA).

For example, in Canada in group actions a representative plaintiff in a trial must be presented by a representative that can justly and adequately to be of interest group. A representative must be able to carry out legal expenses, his advocate must be competent. A representative plaintiff in a group action is guilty to have the same interest, as well as other members of group. In Sweden a court checks up the

personal interest of representative plaintiff, him financial possibility and other circumstances. Representative plaintiff in group action be under an obligation to have an advocate. But a court also can allow to him to participate in a process without an advocate. In Italy the criteria of adequacy in a law are not indicated.

Main criteria for the decision of adequate representation in these countries is financial possibility of representative plaintiff, his reputation, presence of general interest for a representative plaintiff and all members of group and other. After the conclusion of author majority from these criteria is an evaluation, that complicates them practical application.

An author specifies on a general aspect for the decision of criteria of adequacy of representation: a representation of interests of group is adequate, if interest of representative plaintiff coincides with interest of all members of group, id est when own interest of declarant is will be identical to interest of group.

To the article the authorial going is driven near the decision of representation in a group action as legal relationships, in that one or a few persons carry out on behalf of members of all group the judicial actions sent to defense of own interest and interest of all group, that in this process are identical: the general have a warrant, circumstances and method of their defense.

Legal nature of legal relationships in a group action is the special, an author considers that is why, that a group action is one of types of representative actions.

A representative action is the requirement directed in a court on defense of the broken interests (certain or indefinite) of far of persons, during consideration of that their interests are presented by one or a few persons in default of participation of all persons rights for that are broken, in a trial.

An author specifies on complication in the decision of question of analogicalness of interests of representative plaintiff and members of group.

It is a problem in foreign countries. For example, in England and Wales by an obstacle for prevalence of the use of representative proceedings became narrow interpretation of such formulation «if a few persons have the same personal interest in case». Courts set the identity of action requirements of members of group only.

In the USA a conflict of interests of plaintiff can be with interests of group of persons, if: 1) a representative plaintiff is related to the defendant by the relations of submission, domestic relations, is in material or other dependence on him; 2) representative plaintiff straight or mediated interested in a receipt other, except the part of general reimbursement of losses of participants of group, fees from the successful trial of case; 3) the losses of representative plaintiff and requirements of other members of group do not answer case character; 4) a representative plaintiff scienter knew about offence of defendant as a result of feasance of actions that allow to him to purchase status of plaintiff and to declare group action in a court.

In the article established, that needs further scientific development of question of establishment of analogicalness of interests of representative plaintiff and members of group, that are an obligatory condition for the decision of action as group.

Valentina Hoshovska
Svitlana Onishchuk

THE INTERACTION OF CHURCH AND STATE IN THE SPHERE OF PROTECTION AND PRESERVATION OF CULTURAL HERITAGE

Today, the church's influence on the cultural development of the country, its participation in the revival and preservation of historical heritage is extremely ambiguous. There are numerous problems of organizational, legal, financial, ideological, scientific nature. There is no theoretical and methodological foundations for the study, preservation and use of that part of the national historical and cultural heritage, which appeared and still operates in the Ukrainian lands under the direct or indirect influence of the church. We are talking not only about religious and architectural ensembles of the past centuries, the temples, icons, literary, historical, philosophical works of religious content, the best examples of proposedchicago art, church utensils and a second-hand things that have cultural value, cultural heritage and personal funds of the ukrainian church leaders and theologians, church painting and sculpture, but also religious themes in ukrainian fine arts, music and culture, national and folk rituals, customs, traditions.

The current standards for the preservation and protection standards, which are represented religious heritage and sacred places, are insufficient for the conservation and management requirements. General principles for the preservation and protection standards are often created without the active participation of religious communities. That is why traditional churches and religious organizations, as part of civil society, should provide ongoing expertise of draft normative legal acts as a mechanism of social control that prevent the adoption of incompetent management decisions in any field or inadequate execution of the decisions taken. It plays a special role in building a state of law, a fair legal system, effective legal mechanisms for the enforcement of the rights and freedoms.

Taking into account the fact that many countries is a specific policy in relation to religious objects, developed in coordination with national or local authorities and experts, it is important to draw some lessons from this policy and to establish links between the different approaches that will be common to all, when we speak about the protection of religious heritage.

The issue of restitution of cultural property to their countries of origin is one of the most important issues discussed in the UNESCO intergovernmental Committee for the return of cultural property to their countries of origin or restitution in case of illicit appropriation.

In September 2013 the Law of Ukraine ratified the framework Convention of the Council of Europe on the value of cultural heritage for society. The Convention contains provisions on access to cultural heritage, democratic participation, social analysis and discussion of the opportunities and challenges associated with cultural property. However, in the future a serious problem in Ukraine is the looting, destruction and the illegal trade in stolen cultural property. In addition, as noted by I. Onishchuk, in 2013, was the attempt of the adoption by the Verkhovna Rada of Ukraine of the draft law, which designed the system of legalization «black excavations» and legitimized the illegal turnover of archaeological objects and collections, formed illegally Relevant today, especially in the context of the events taking place in the East, is the accession of Ukraine to the International Committee of the Blue Shield. Blue Shield is a network of non-governmental organizations designed to ensure the protection of cultural property in the event of armed conflict and natural disasters. The international Committee of the Blue Shield, founded in 1996 in Paris of five international non-governmental organizations working in the field of culture. In peacetime, in the absence of criminal attacks on objects of cultural heritage are also subject to constant danger. One of the biggest challenges arise theft of cultural objects, including sacred objects, archaeological sites, and the so-called «black archaeolog».

Oleksandr Ignatenko

BRINGING PERPETRATORS TO ADMINISTRATIVE RESPONSIBILITY IN THE AREA OF BEAUTIFICATION OF HUMAN SETTLEMENTS

Control in the area of beautification of human settlements shall be subject to the Law of Ukraine «On the beautification of human settlements «.

One aspect of control is available legal tools for its implementation, which does not provide imperfection bring the perpetrators of businesses and individuals to administrative responsibility for violation of legislation in the area of beautification of human settlements.

The purpose of the article is identification the shortcomings of the existing tools bring the perpetrators to administrative responsibility in the area of beautification of human settlements by analyzing the practice of judicial proceedings in this area.

Eefficiency of the control system in the area of beautification of human settlements is the perfect instrument of bringing to justice those guilty of violating the law in this area.

Code of Ukraine on Administrative Offences and Article 38 of the Law of Ukraine «On Local Government in Ukraine» include the cases of administrative offenses executive bodies of village, town and city councils or for their creation of administrative commissions of the executive bodies of village, town and city councils. In article 152 of the Code they have the right to impose administrative penalties for those responsible to a fine.

In cases of administrative offense executive bodies of village, town and city councils make decisions, and administrative commission - resolutions.

Resolution (decision) on administrative violation may be appealed by the person it made, as well as victims of the executive committee of the relevant council or borough, town or district court in the

manner prescribed by the Administrative Code of Ukraine, with features established by the Code of Ukraine on Administrative Offences.

To establish legal gaps that prevent proper functioning system of control in the area of beautification of human settlements should be analyzed and ordered the court for violation of legislation in this area.

Particular attention should be paid to the repealed resolutions of administrative commissions and decisions of executive bodies of village, town and city councils abuse legislation on the area of beautification of human settlements and the reasons for their withdrawal.

Analysis of the application of Article 152 of the Code of Ukraine on Administrative Offences should be carried out in 2010, when it was abolished as a measure of prevention administrative penalty and left only the application of penalties.

Thus, in the Unified State Register of judgments from 2011 to 2013, there are over 6000 resolutions and decisions of the court to initiate legal entities and individuals legislation in the area of beautification of human settlements.

Analysis of application of legislation on administrative cases for violation of legislation in the area of beautification of human settlements shows that the bodies authorized to draw up reports and consider cases on administrative violations in the manufacture of these cases can be a significant number of violations concerning the requirements that apply to protocols and regulations on administrative violations, and the procedure of administrative cases. High rates of cancellation of administrative regulations related to both the poor quality of the presented material and errors bodies that deal with cases of administrative violations in the area of beautification of human settlements.

The main reasons for the appeal and the grounds for denial of involvement in the administration can be divided in the following areas:

- Missing or improperly framed evidence base;
- Prosecution of innocent officers;
- Errors in the protocols on administrative offenses.

Analysis of cases were summarized showed that in protocols on administrative offenses, and in the decisions of administrative commissions often do not fully describe the objective characteristics of the offense.

Thus, to improve control system in the area of beautification of human settlements should be improved Code of Ukraine on Administrative Offences in terms of gathering evidence, question witnesses and presence, expertise, to develop and approve Methodology bring to responsibility for violation of legislation in this area. This Methodology should include examples of forms of protocols and regulations on administrative offenses, as well as recommendations for collection of evidence.

Nina Kamenskaya

PUBLIC ADMINISTRATION: LOGICAL-METHODOLOGICAL ANALYSIS OF THE DEFINITION

Through the conditions of overestimations of relationships among the State and an individual in terms of democratization and humanization the theory of a public administration gained a wide popularity in society. At the same time, discussion on the contents of this conception has been continuing longer enough. Besides, a definition of «public administration» in the native legislation is not in use. The same situation is even in the homeland of this term – The European Union.

Relied on the analysis of the wide spectrum of the thematic professional sources it’s advisable to pick out two conceptual approaches towards the interpretation of a content of Public Administration as an organizational-legislative formation: the so-called «broad» and «narrow».

Proponents of a «broad» concept under the public administration generally offer to understand the system of organs of executive authorities, local self-government, as well as other subjects which are authorized by a legislature in order to ensure execution of legislative acts in the public interest and are endowed with prerogatives of public power. In turn, supporters of the other, the «narrow» theory believe that the term «public administration» is a symbiosis: a maximum of system of executive authorities and local self-government.

There may be isolated cases of imperfections of theoretical views on the phenomenon of this legal reality. Among these examples draw attention the following:

- Interpretation of the concept of «public administration» in the pages of the same scientific works simultaneously as a «broad» as well as in the «narrow» senses, indicating ambiguity and vagueness of the position of professionals;

- Interpretation of «public administration» beyond the bounds of the concepts generally accepted in legal science.

In particular, the public administration is determined as a new subject of local administration: the system of territorial formations of executive institutions of state executive bodies locally and appropriate institutions of local self-governances, their officials, elected by communities, endowed with the right to deal with the problems of local importance independently or through the bodies set up by them, within Constitution and the laws of Ukraine. The position seems to be insufficiently well-reasoned for two reasons. Firstly, do not take into account a number of central bodies of executive power, which heads the system of institutions of public administration: the Cabinet of Ministers of Ukraine, ministries, services, agencies, inspections. Second, beyond of scientific research remained functional aspect of public administration: the implementation (realization) of public power. Besides, the proposed treatment is conceptually untested not only for native but also for the European law. In European countries by appropriate term is accepted to denote the entire system of public institutions and their activities.

The executive bodies include: The Cabinet of Ministers of Ukraine, ministries, other bodies of central executive power (Services, agencies of inspection) and their subordinate bodies at the level of the administrative-territorial units. In its turn, the local self-governance is realizing by the territorial community directly or through the village, settlement, city, district, provincial councils and their executive bodies.

Functions of public administration are carried out in an appropriate scale by the executive authorities and local self-government as well. The stated activity directly concerns not only to the local executive bodies, but also the subjects of power endowed with representative powers on the local areas.

Therefore, it would be logical if composition of representative, as well as executive bodies of local self-governments at the same time will be applied to public administration. Especially in the process of solving local issues all the actions of the specified subjects are addressed within the competence to represent the interests of local communities.

Let’s pay attention to another side of the question under consideration: the need for delineation of the executive authorities and local self-government with other subjects (enterprises, institutions, organizations – governmental and non-governmental. – N. K.), which are endowed with certain powers in the field of public administration. Public administration, as a legal category, has two dimensions: functional and organizational structural. In its turn, enterprises, institutions, organizations, that perform one or the other functions in the field of public administration correspond to only a functional criterion.

Taking into account these considerations, the position of the supporters of the theory of the «narrow» understanding of public administration as the systems of executive authorities and local self-government, which, according to law, within their competences carrying out management of public affairs, seems pretty well-reasoned and persuasive.

Olena Koptieva

HUMAN SECURITY AS AN INTERNATIONAL LAW CONCEPT

It has been almost 70 years since the creation of the United Nations system and the beginning of the new era for the international law. The world has significantly changed, but new threats still continue to arise. Thus, there remains the need to search for new effective mechanisms to maintain peace and security in the modern world and to ensure that states comply with their international legal obligations. In this connection new legal and interdisciplinary concepts arise, some of which win wide international support, while others gradually lose it.

One of the most important and interesting modern concepts is the concept of human security. For a long time it attracted attention of experts mainly in the sphere of international relations (S. Neil Macfarlane, Yuen Foong Khong, M. Vorotnyuk, O. Sushka), economy (Mahbub-ul-Haq, Amartya Sen, Y. Nikolaev), and political sciences (Gary King), and only recently received attention from international lawyers, among which Barbara Von Tigerstrom, Gerd Oberleitner, Edward Newman, Bertrand Ramcharan. Thus the aim of the article is to analyze the reasons for the rise of the human security concept, its evolution and prospects for development.

From the international law perspective the human security concept is considered in the context of human rights protection, and is closely connected to such concepts as sustainable development, responsibility to protect, humanitarian intervention etc.

Recently the understanding of the security notion has gradually changed, which might be explained by the acknowledgement of the value of each person's life and increased attention to human rights and freedoms. Security is no longer seen as state security, but also as safety of each and every individual. It is widely accepted that although weapons continue to pose a significant threat to the international community, its main concern should be human life and dignity.

Human security concept appeared not so long ago. In 1941 President F. D. Roosevelt delivered a famous *Four Freedoms* speech, in which he expressed hope that world peace and security would be based on four fundamental freedoms in the future – freedom of speech and expression, freedom of religion, freedom from fear and freedom from want. Under freedom from fear he meant reduction of various types of armaments in order that no state could commit an act of aggression against another state. Under freedom from want he understood conclusion of such economic agreements, which would guarantee proper living standards for all people everywhere in the world.

The idea was reflected in the Preamble to the Universal Declaration of Human Rights. It was proclaimed that the highest aspiration of the common people is the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want.

In 1994 the concept of human security appeared in the Human Development Report. It was stated that the concept of security has for a long time been viewed as a need to avoid conflict between states and defence country borders, but for most people it presupposes to feel safe in their everyday life, not only in case of a disaster, and to be sure that their daily needs will be fulfilled, such as employment, health care, clean environment etc.

Since that time and for almost twenty years there has been no universally recognized definition of the human security. Finally on September 10, 2012 the General Assembly adopted Resolution 66/290, in which human security is defined as «an approach to assist Member States in identifying and addressing widespread and cross-cutting challenges to the survival, livelihood and dignity of their people». It includes freedom from fear, freedom from want and provides for the appropriate preventive measures to enhance the protection of rights of individuals and communities.

It was noted that human security does not entail the threat or the use of force or coercive measures, and is distinct from the responsibility to protect and its implementation. It must be implemented in accordance with the Charter of the United Nations, with full respect for the sovereignty of States, territorial integrity and non-interference in domestic matters of the states.

The given definition provided answers to a number of important questions that had been at the centre of the debates on the concept of human security. There were clearly outlined the limits of its application in order to avoid any abuse and interference in the domestic affairs. It was stated that human security must be guaranteed independently by each state, and the role of the international community is to assist and establish cooperation for its support.

Human security concept has perspectives for the development in the future and is essential to the achievement of the stability in the modern world.

Daryna Kusherets

CIVIL PROTECTION'S AND CIVIL STORAGE'S MECHANISMS OF PROPERTY RIGHTS IN THE FIELD OF CONTRACT LAW

The property is a real social phenomenon that occurred in all social formations. Society has formed a certain conventions for its protection in the form of three legal competences, ownership, possession and use. Trespass at least one of them as a violation or denial creates grounds for protection, self-defense or judicial protection of property rights in the field of contract law.

The mechanism of protection of property rights and related interests in the field of contract law is a system of legal elements which are fixed by law or contract and are intended to ensure the integrity and the integrity of the property and property rights, both at the stage of execution and fulfillment of contractual obligations knitted. Their use is only possible solely on the basis of volitional subjects discretionary contractual relations, aimed at prevention, stopping threats to the violation of property rights

and interests of precision, quality and timely execution of contracts guaranteed kinds of means to ensure contractual obligations.

Means of protection of property rights and related interests in the contractual relationship is primarily characterized by their commitment, which is characteristic for each of the parties. The shape of this commitment is the action, but not mechanical, logical and legal manner. Such actions are manifested in the form of observation, analysis and control of each of the parties, both during the conclusion and execution of contracts. As for the means of protection of property rights and related property interests in a broad sense, we can talk about general subjects of legal action contractual relations, aimed at controlling and assumptions not retreat from the order execution and performance of contracts.

By the mechanism of protection of property rights in contract law include the stimulants, the essence of which is to establish by law or contract term contractual obligations. The guarantee of this mechanism serves the right to protection of property rights, where the basis for such protection are the rights and interests of the parties to the contract.

Important role in terms of the mechanism of protection of property and property rights of natural and legal persons in the field of contract law at the stage of enforcement of contracts is the quality of their performance. Poor quality of the goods, works or services is always difficult contractual relationship, as it leads to violation of terms of contractual obligations, and usually damages the counterparty.

In the methods of protection of property rights in the field of contract law should be understood not only all the list of pre-defined and fixed in the substantive law of opportunities (ch. 2, Art. 16, Civil Code of Ukraine), but the provisions of civil law contracts, acting as statutory grounds to protection in terms of substantive law and procedural implementation of specific actions that are used by a person in violation of treaty obligations. Ways to protect property rights in the field of contract law form a symbiosis as substantive and procedural law and strictly private law, which is formed due to agreements based on «business traditions, the requirements of reasonableness and fairness» (Art. 627 CC of Ukraine).

Weed always linked with the question: «by what means possible to apply method of judicial protection or self-defense, which would have made it possible to achieve a legal result, which hopes to face?»

Under the mechanism of protection of property rights in the field of contract law is necessary to understand the legal procedures to implement the law, which provides substantive and procedural law of Ukraine. In this case, such a mechanism is structured, as all its elements interact create and provide full system of contract law effective protection. Based on this concept of the mechanism of protection, we can talk not only about the division of such a mechanism on the ways and means of protection, since these concepts are in fact a continuation of each other, and share the remedies and their substantive and procedural parts.

When a material part of the legal protection refers to the legal grounds entitling the parties to the contract and apply to the court for immediate protection and restoration of their rights and interests. Process as part of the remedy regulates the procedures apply to the courts and the process of the proceedings directly in court. On the procedural mechanism of protection of property rights in the field of contract law affects Institute jurisdiction of cases governed by subjective warehouse parties.

Mariana Likhter

THE CATEGORY OF «WELFARE» IN ENVIRONMENTAL LAW

Environmental Law as an industry currently operates a significant conceptual and categorical apparatus, but sufficient normative definition of terms is missing. This is largely due to the specifics of the industry, because it provides the legal norms regulating the social relations in the interaction between man and nature. Hence, borrowing concepts and categories of natural, humanitarian and other sciences. The question of whether the inclusion in the legal acts definitions of certain terms are actually natural debatable. However, there is no doubt the need for legislative determination of key categories and concepts in the field of environmental law. In turn, given the indisputable importance Institute subjective environmental rights, special importance is the question of the legal definitions in this field.

Analysis of the current legal framework has shown no legal definition of well-being. In the process of law-making legislators and other public bodies use the term without opening it. Under these conditions to solve the issue in the article are of considerable interest encyclopedic scientific heritage, which revealed some aspects of the category of «well-being».

First of all, it should be emphasized that the generic category of «well-being» is specified in generic terms, which, in turn, used by different sciences. In dictionaries of the Ukrainian language «welfare» is defined as a calm, serene, secure life; well-being and happiness. Among the synonyms «well-being» isolated good, good, abundance, prosperity. Economic terminological dictionary defines prosperity as a measure of the degree of security people good things of life, livelihood. Welfare characterizes the lives of people. Dictionary definition specifies economist «welfare» as the degree (completeness) availability of country specific social groups, families, individuals vital means of physical, social, cultural and spiritual benefits. In the category of «well-being» dominated by economic elements, but it is revealed in legal science, and practice of lawmaking.

The importance of ensuring the well-being was still V. I. Vernadsky in his doctrine of the noosphere. Thus, the primary step to right living is to increase welfare. The interests and welfare of all planetary state is a real challenge. Since welfare – multifaceted category, you can reasonably assume that it is the environmental well-being as well, because benefits associated with a healthy environment is vital, therefore – the most important.

Regarding another synonym for well-being - happiness, the etymological and explanatory dictionaries of the Ukrainian language define it as a state of complete satisfaction with life. According to Aristotle, happiness - is, among other things, prosperity and peaceful life.

As for the origin of the word «welfare», the etymological dictionary of the Ukrainian language does not reveal it. In this regard, the interest of general philosophical understanding of the category of «well-being». Instead, the latter is not in philosophical dictionaries.

Among synonyms of well-being called good. Encyclopedic Dictionary of Philosophy defines good as a positive object of interest or desire, connects it with the concept of value. Benefit - generic designation highest values of human existence; it means the ability to meet critical human needs and interests. In a more narrow sense of moral good concept coincides with the concept of good, which means, first, value the notion that expresses the positive value of something in its relation to a particular standard, and secondly, the very standard. It should be noted that compliance with standards is one of the indicators of welfare in environmental relationships. Dictionary of Ukrainian language «good» determines how good luck; income, benefits, gifts of nature; all what you need in life. This definition can also be applied to understanding environmental well-being, because it requires a person in the first place.

In summary, we propose understood by the legal category of «well-being» publicly guaranteed, legally defined sustainable prosperity of the population, some social groups, families, individuals vital (important) tangible and intangible benefits. Providing «welfare» includes following entities established standards and other regulatory requirements. Accordingly, in the well-being of environmental law is guaranteed by the state, determined by environmental law and other rules of sustainable prosperity of the population, some social groups, families, individuals vital tangible and intangible environmental benefits.

Given the frequent use of the term «welfare» in the law-making and law practice (particularly in the field of environmental law), it is necessary to legislate its definition. This definition is expedient to fit in Art. 1 of the Law of Ukraine «On ensuring sanitary and epidemiological welfare» as sanitary and epidemiological well-being is part of the environmental well-being, and the latter species is the concept of well-being category. This issue needs further development towards harmonization of these terms and their definitions deeper study that will be conducted in these studies.

Oleksandr Meschia

THE GENESIS OF INTERNATIONAL ORGANIZATIONS AS AN INSTITUTIONALIZED MECHANISM OF INTERNATIONAL CO-OPERATION

In the modern world the role of international organizations is extraordinary, because they are the most important form of realization of international cooperation and multilateral diplomacy. The future of mankind significantly depends on the state of international order. In turn, it largely depends on the activity (or inactivity) international organizations.

Extraordinary importance of international organizations in today's world can be illustrated by a few examples. Only through effective activities of the World Health Organization it has become possible to localize and fight the spread of the Ebola virus in Africa. It has become possible to overcome the global food crisis only by the effective coordination of the World Food and Agriculture Organization. Without effective assistance of the United Nations it would not be possible to overcome the consequences of

armed conflict in Guinea, Guinea-Bissau and Sierra Leone. It has become possible to achieve peace in Southern Sudan, Kosovo, Liberia, Western Sahara and elsewhere due to effective actions of the United Nations. The growing importance of international organizations necessitates to research them as a form of international cooperation.

The term «International Organization» is most often used in the sense of «intergovernmental organization». According to the ECOSOC Resolution 288 (X) of 27 February 1950 «any international organization which was created not under the international agreement should be seen as a non-governmental organization». The international nature of the organization does not depend on whether such organization is open or closed, general or specialized, universal or regional. However, an international organization must meet certain minimum criteria, namely:

- to have a separate international legal personality (usually determined by international agreement);
- Member-States should be represented on the level of central governments or bodies of central government;
- have a permanent secretariat (to be distinct from the permanent conference or an appendage of another organization or national government).

International intergovernmental organizations emerged only in the late nineteenth century. Meanwhile, international relations, conducted through bilateral relations of states have a long history. Consular establishments aimed at protection of commercial interests arose in the days of ancient Greece, and diplomatic missions, designed to represent the states, acquired their modern characteristics in the XV century. These institutions gave rise to a more complex international institutions of the nineteenth century.

International conferences convened ad hoc to discuss specific issues and completing the work as soon as an agreement was reached. They became the basis for the formation of permanent international organizations with permanent bodies. Westphalian peace treaty was signed in 1648 as a result of this international conference, as well as the decision of the Vienna Congress of 1815 and the Treaty of Versailles 1919.

Public international unions formed in the nineteenth century, especially in its second half, had more importance for the formation of modern international organizations. Public international unions that emerged at this time were international administrative unions – institutions operating relatively continuously and engaged in non-political technical activities.

In 1919, with the signing of the Treaty of Versailles was made the first attempt to create a political organization of open and universal character – League of Nations. The culmination of international organizations was the creation of the United Nations and its specialized agencies. The United Nations were established on October 24, 1945 by fifty-one states that have committed themselves to preserve peace through international cooperation and collective security. Today, the UN has become a unique platform for international cooperation, its universal character actually mobilizes the international community of states to address the issues of global scale.

Volodymyr Moroz

IMPROVING THE CONTENT OF REQUIREMENTS FOR PUBLISHING THE RESULTS OF SCIENTIFIC DEGREE THESES AS A DIRECTION OF PUBLIC ADMINISTRATIONAL INFLUENCE ON THE QUALITY OF TRAINING PEDAGOGICAL STAFF

Researching the problem of state-managerial influence on the process of training the scientific and pedagogical staff, despite a very specific subject of scientific inquiry, is not a simple and unambiguous direction within the science of public administration. This is due to the fact that the issue of state regulation of labor potential of the qualitative component of the teaching staff, in accordance with the general competence of its manifestation, is the simultaneous positioning in several directions at once of state-management science. Within this publication, we will focus only on certain matters and opportunities for increased institutional rules for publication of the thesis for a doctor's degree and PhD.

Thematic focus of this publication was due to the content analysis of the views of scientists who were presented within the public discussion of the Order of Minister of Education and Science of Ukraine «On the publication of the results of theses for the degree of doctor and candidate of sciences». The rules of the project were proposed for discussion of a legal regulatory document are not perfect, and therefore the content can be improved by taking into account such proposals.

Firstly, legal documents, the content of which is associated with institutionalization process of scientific and pedagogical staff must be considered at the level of the constituent elements of the legal mechanism of public administration efficiency operation and development of higher education. It should be recognized that the current system of rules and regulations with regard to its imperfection in ensuring processes of state regulation of labor potential of teaching and research staff need to refine and adjust. One of the areas of the correction may be the improvement of the requirements that are applicable to the publication of the thesis for a doctor's degree and a PhD degree. However, it should be understood that the legal mechanism of public administration, without the simultaneous use of the potential economic, motivational, organizational and policy mechanisms can not provide the expected result of changes on the quality of the existing system of scientific and pedagogical staff and develop their employment opportunities.

Secondly, the proposed for discussion project of an order «On the publication of the results of theses for the degree of doctor and candidate of sciences», despite its appearance's perfect timing and relevance of content, is not perfect, and therefore needs to be clarified. In our opinion:

1) the articles that were published within sourcebook of materials of a scientific conference in another state (for example, in Russia, Belarus, Kazakhstan, etc.) should not be equated to foreign publications. It is clear that the status of the publication, which is located in the scientific periodical issues of other states, is higher than the status of articles published in the materials to scientific conferences, symposia, seminars, conducted in other countries. Perhaps we can talk about establishing a certain value, such as a foreign publication can be equated to three publications that were published on the results of scientific communication activities outside Ukraine;

2) the inability (inappropriate) removal from the text of the project resolution of the Ministry of Education and Science of Ukraine «On the publication of the results of theses for the degree of doctor and candidate of sciences» of a rule on the possibility of counting as foreign publications those scientific works which have been published in the materials to conferences, symposia or seminars conducted in other states should extend its action, including the requirements and publications made within the scientific degree of candidate of sciences;

3) publication may be considered as posted in foreign scientific edition only upon presentation of the main text of one of the official languages of the European Union. However, the legislator should avoid practices forming the recommended list of foreign scientific publications may be found to correspond to a particular scientific field. Recall that discuss is relevant to issues was initiated in late 2012 in MES.

Thirdly, the improvement of the content of the project «On the publication of the results of theses for the degree of doctor and candidate of sciences» is just one of the areas of state-managerial influence on the quality of training of the teaching staff. By the terms of improvement of quality of labor potential components of the teaching staff should include the provision of an effective system of state and public control over the implementation of each of the participants in the educational process of institutional requirements (compliance with legal acts, implementation of labor contracts, etc.). In the context of the affected subject, we should also pay attention to the decisive place and role of university authorities in the quality assurance of process of scientific and pedagogical staff and improve the efficiency of their employment potential.

The above proposals, given the complexity and diversity of the contents of displayed problems, do not exhaust the issue of improving rules on the publication of the thesis for a doctor's degree and Ph.D., and only provide a framework for the deployment of scientific debate.

Viktor Muraviov

METHODS AND MECHANIZMS OF DISPUTE SETTLEMENTS WITHIN THE EU ASSOCIATION AGREEMENTS

The article is devoted to the complex analysis of mechanisms of dispute settlements within the framework of EU association with the third countries and generalization of ways and legal procedures which are used to this effect.

Association agreements take particular place in the forms of international legal cooperation of the European Union with third countries taking into account the creation of free trade areas (FTA) and close cooperation in the political and economic spheres.

Association agreements concluded by the European Union in cooperation with Member States and third countries provide the cooperation between the parties. Under the Association agreements the important bodies and procedures are established to resolve disputes between the parties. Disputes are corresponded to the interpretation and implementation of Association agreements.

It should be noted that there is no single model of dispute settlement mechanism for all Association agreements. Such mechanisms are different. Certain disputes are resolved by political means, others due to judicial and quasi-judicial procedures. However, there is the basic model within certain region. Each of these moles may have unimportant differences that do not affect its essence.

The main tool of dispute resolution is arbitration. The provisions relating to the stages of arbitration include the appointment of arbitrators, the implementation of technical assistance, the rules of Arbitrators, the model rules of procedure, Code of Conduct .

Within the framework of the Association Agreement between the EU and Ukraine there is one of the most developed mechanisms to resolve disputes concerning the functioning of the association including the creation of a free trade area.

Some Association Agreement chapters are devoted to the methods of dispute settlement resolution. Under the AA there are advice, arbitration, mediation, dispute resolution in the Council of the Association, mutual consent.

In resolving disputes due to the arbitration the parties have to choose between the Authority of the WTO dispute resolution and arbitration, established by the AA. Simultaneous using of both mechanisms is prohibited.

In general, the legal mechanisms for resolving disputes are based on different models. Depending on what elements of these mechanisms predominate – Dispute Resolution Councils association or cooperation or in arbitrations, courts, the vast majority of them can be attributed to the political or quasi-judicial models. There are also hybrid models that combine political and quasi-judicial elements.

The implementation of AA if they are not related to the functioning of a free trade area may require mutual consultations concerning the interpretation, implementation or conscientious implementation of the Agreement. In the event of disputes on these issues the Association Council involved may be. In case of a dispute Ukraine or EU refer to the other party and to the Council a request to resolve the dispute.

On the first stage the parties may resort to the advice of the Council and other bodies as provided by Articles 461, 465, 466 AA to reach a compromise. Before the resolution the dispute should be discussed at each Council meeting. The dispute is considered resolved when the Council declares that the dispute no longer exists, or when the Council adoptes mandatory decision concerning the dispute (Art. 475).

However, even before the beginning of the procedure of dispute resolution states may resort to sanctions in case of non-compliance by the other party of its obligations under the Agreement. Thus, if one party considers that the other party violate its obligations, it should provide a formal notification within 3 months under Art. 477, the other party has the right to take action in response. These measures have the least impact on the functioning of the Agreement and may not include termination of any rights relating to the functioning of a free trade area (Section IV). The party implementing such measures have to immediately notify the Council of Association and relevant issues should be subject to consultation or dispute resolution.

It is difficult to notice clear trends and perspectives in the development of such mechanisms. The choice of model depends on the will of the parties during the negotiations in respect of the association agreement signature.

Natalia Mushak

UKRAINE AND THE EUROPEAN UNION: BILATERAL COOPERATION IN SPHERE OF FREE MOVEMENT OF PERSONS

The article is devoted to the analysis of bilateral cooperation between Ukraine and the European Union in the sphere of free movement of persons. The article researches the core Association Agreement provisions between Ukraine and the European Union in respect of providing the freedom of free movement of the Ukrainian citizens within the EU member states' territory.

Under conditions of deepening economic integration the EU principles of fundamental freedoms of the internal market are applied to EU member states and third countries. However, the possibility for third countries to use the freedom of the internal market depends on the EU close cooperation with a third

country. The highest opportunities for the use of the internal market freedoms are provided to countries having an association agreement with the European Union. According to the Ukraine-EU Association Agreement there will be the prospect for Ukraine to be involved in the EU internal market and its citizens have the possibility of simplified border crossing Union and residence on its territory.

Taking into consideration the signing of the Association Agreement with the European Union and its Member States, Ukraine is able to integrate into the EU internal market and Ukrainian citizens have right to take advantages from freedom of movement within the territory of the Member States as third-country nationals respectively.

The Association Agreement includes provisions on the status of the citizens of Ukraine in the EU (article 17). It underlines that the workers of Ukraine do not use the full freedom of movement of persons within the EU. Ukraine should regulate access to jobs for its citizens on the EU market based on bilateral agreements with each Member State of the Union. At the same time, AA provides that relevant to the citizens of Ukraine legally employed in the territory of the Union, should exclude discrimination based on national origin with respect of working conditions, wages, or dismissal, compared with EU citizens. Thus, Ukraine is given the same status as citizens of the Union.

It should be noted that the provisions of the conditions are applied only to citizens of Ukraine and EU member states working in another Party to the Agreement on the legal basis. There are no any provisions under the Association Agreement regulating free movement of workers.

Social benefits or pensions without contributions pursuant to AA are not mentioned. Such issues under Article 18 AA are regulated by bilateral agreements signed by Ukraine with the EU Member States in the field of social security.

Analyzing bilateral agreements, it should be noted that such agreements: a) govern social security of the Ukrainian citizens legally living and working in each of these countries; b) set forth the rights of citizens of Ukraine to receive disability benefits; assistance to compensate for damage in case of employment injury, occupational disease, unemployment benefits, as well as in connection with motherhood, childbirth, maternity etc.

Among the EU legislative acts, providing the dissemination of freedoms of the internal market of the EU to third countries, a particular importance has Council Directive 2003/109 on the conditions of entry and residence of third country nationals for employment as well as the establishment and implementation of economic activities entered into force on January 1, 2004. The Directive defines the range of persons who may be admitted to the territory of the Member States for economic activity. These include workers, self-employed, seasonal workers, cross-border workers, intra assignees, trainees. The Directive contains the definition of each of these categories of persons, as set forth by other acts of the European Union legislation, the Court of Justice decisions and international agreements of the Union.

Therefore, fundamental freedoms of EU common market including freedom of movement of persons shall extend to Ukraine. The limits of such freedoms are defined by the Association Agreement provisions.

Oleg Muza

THE ADMINISTRATIVE LEGAL MECHANISM TO DEFENSE THE RIGHTS, FREEDOMS AND INTERESTS OF THE PHYSICAL AND JURIDICAL PERSONS IN UKRAINE

In the article the theoretical questions of essence of administrative legal mechanism to defence the rights, freedoms and interests of physical and juridical persons in Ukraine are considered. The normative, institutional, administrative procedural and administrative law enforcement levels to defence the rights, freedoms and interests of private persons in the sphere of administrative legal relations are determined.

The administrative law as branch of law is provides for the mainly imperative character of adjusting of relations between physical and juridical persons from one side and by the subjects of imperious plenary powers from other. In this sense, the rights, freedoms, and interests of physical and juridical persons are not until remains as the certain legal phenomenon which is under the sphere of administrative legal guard. The human-centrism going near determination of essence of the subject of administrative law is stipulated the change of looks to setting of administrative law. However, it is necessary to establish that in a practical plane in Ukraine the real «approaching» of public administration did not take place to the necessities of physical and juridical persons. And until now it is necessary to perfect at legislative level

the legal adjusting of activity of public administration that the volume of jurisdiction of subjects of imperious plenary powers did not result in narrowing of volume of rights and freedoms of physical and juridical persons.

The administrative legal mechanism to defence the rights, freedoms and interests of physical and juridical persons takes place on maintenance and by a structure from the administrative mechanism of the legal adjusting, together with that has the certain features as separate legal phenomenon of administrative law.

Administrative legal mechanism to defence the rights and freedoms of human and citizen is lies in such category of administrative law as «administrative legal status». In particular, it follows to distinguish administrative legal status of human and citizen (physical persons) and administrative legal status of juridical persons.

Together with that, without regard to existence of general structure of elements which form the administrative legal mechanism to providing the rights and freedoms of human and citizen, it costs to select the underlying structure of administrative legal mechanism to defence the rights, freedoms and interests of physical and juridical persons namely on normative, institutional, administrative procedural and administrative law enforcement levels, that provide to non-power subjects of administrative law the unique principles in realization by them of rights, freedoms and interests, and also laying-on of the proper duties on the subjects of imperious plenary powers.

The normative level of administrative legal mechanism to defence the rights, freedoms and interests of physical and juridical persons includes for itself the legal norms of administrative law, which provide participating of non-power subjects in relations of the administrative character.

The institutional level of administrative legal mechanism to defence the rights, freedoms and interests of physical and juridical persons includes for itself the system of public and local self-government authorities, on which a task and functions is providing in realization and assistance to the physical and legal persons of them of rights, freedoms and interests in the administrative legal relations.

The administrative procedural level of the administrative legal mechanism to defence the rights, freedoms and interests of physical and juridical persons includes for itself the aggregate of administrative procedures for help of which there is realization of rights, freedoms and interests of non-power subjects of administrative law.

The administrative law enforcement level of administrative legal mechanism to defence the rights, freedoms and interests of physical and juridical persons includes for itself the aggregate of administrative and administrative judicial procedures for help of which there is realization of rights, freedoms and interests of non-power subjects.

Thus, certain essence of administrative legal mechanism to defence the rights, freedoms and interests of physical and juridical persons testifies to existence of the autonomy system of facilities and methods of defence of private persons in the sphere of administrative legal relations. However, much it means them independent or not connected with the general elements of legal mechanism of providing of rights and freedoms of human and citizen, but conversely, it testifies about complication of such theoretical constructions as a mechanism of the legal adjusting.

Nina Nyzhnyk
Sergiy Mosov

PUBLIC ADMINISTRATION IN UKRAINE: COORDINATION FUNCTION

The article shows that according to and resulting from legislation adopted by the Verkhovna Rada of Ukraine our country had established an extensive system of public administration with its relevant authorities. Thus it is stressed that within the market economy there appeared procedural mechanisms for implementation of organizing and regulatory impacts. The article also draws attention to the fact that coordinating function for business activities by the government is now of different nature as its implementation required that government bodies worked hard and continuously on interaction of different ownership businesses to coordinate their activities in order to serve the interests of the Ukrainian society and building, by organizational means, negative feedback in the public administration system defining measure of responsibility for outstanding assignment and missed targets.

At the same time it’s established that the coordination function is considered to be an independent management function and is regarded as the basis of management as to achieve harmony of individual

businesses efforts, either of the same or of different forms of ownership, to implement the common goals of society is the main task of the public administration.

It is proved that the need for synchronization of individual actions of businesses is the result of existence of differences in their understanding of how, for example, social goals can be achieved or how to combine harmoniously their own and social goals. In these circumstances the main task of public administration is to eliminate differences in approach, time of activities, interests or efforts and coordination of social goals and individual goals of businesses.

A graphical model of the coordination function implementation is developed that allows finding connections between coordinating process and its features.

It is shown that coordination as organization of interaction is performed in the best way when businesses clearly understand how their activity contributes to the fulfillment of the main objectives in the public interest. This requires knowledge and understanding of public purpose not only by all branches of government but also by each of the businesses.

The essence of implementation of coordinating impacts resulting from actions by public authorities, which is to ensure implementation of the time-matched activities among all businesses participating in specific tasks aimed at meeting the needs of society. These tasks include, for example: providing people with high-quality affordable food; ensuring high standard of living and medical care; improvement of the environmental situation in the country; providing people with jobs and so on. Consistency of efforts by businesses in time is definition by the public authorities exercising public administration what these businesses have to ensure within one or another period of time to solve the existing tasks.

It is highlighted that organization of businesses interaction is not a one-time act and requires constant work of public administration bodies until a definite problem is solved.

It is reported that continuous maintenance of businesses interaction requires that government authorities possessed not only the methods knowledge but also the art of management. Therefore, development and mastering effective methods of organization and interaction support shall be considered the most important task of the government officials at all levels.

As a result of the research there is focus on the fact that the coordination function is an independent management function and shall be seen as the foundation of the government as individual businesses efforts (of the same or different ownership) to achieve harmony aimed at implementation of the society common goals is the main task of public administration.

Igor Onishchuk

MONITORING EXPERTISE OF THE CONCEPTS OF NORMATIVE-LEGAL ACTS

The effectiveness of a particular regulatory act depends on various factors – both internal, which are derived from the normative legal act, and external, resulting from conditions, which will be implemented by legislative act. The most important of all these factors is the quality of the concept of normative legal act, because the erroneous concept may not only lead to the expected result of normative-legal regulation of specific social relations, but most entail negative consequences, unlike, for example, from the shortcomings of the text of the normative-legal act.

In a well-defined concept of normative-legal act will always be taken into account not only the law, but the conditions in which they will be applied.

The concept of a normative legal act is a document that must be defined: the main idea, the purpose and object of legal regulation, the circle of persons covered by the scope of the draft normative legal act; the site of the future legal instrument in the system of the current legislation, as well as the value that will be legal act for the legal system; General characteristics and assessment of legal regulation of these relations, the shortcomings of the legal regulation and the ways to address these weaknesses; socio-economic, political, legal and other implications of the implementation of the future law.

The legislation, except for the adoption of the law by the legislative body (the actual legislative activity), includes work on the bill before its introduction in the legislature, is to develop a concept for the future of the law, as well as in the writing of the project and completion of the approval procedures of this project. It is not enough to keep the definition of the concept of law simply to «main idea» of the law or «document», which contains provisions related to the concept of law, because the main idea of the law can only be a part of the concept, and the document may only be a presentation of the concept of law.

At this stage, there are problems that hinder the development of quality concepts of normative legal acts in Ukraine. In particular, such problems, the solution of which is relevant, include the lack of participants in the legislative process adequate understanding of the role and importance of the concept of law in legislation; the vagueness of the concept «the concept of a normative legal act»; identification of experts of the concept of normative legal act with the idea of a normative legal act, with justification of the concept of normative legal act or with any document (program, an explanatory note and so on); the lack of scientific literature is clear about the content of the concept, as well as its structural elements (including mandatory); insufficient development of rules that must be applied when developing the concept of a normative legal act in order to ensure its proper quality; lack of adequate research on relationship to other rules of legal technique with the concept of the concept of normative-legal act. It should be noted that these problems are the prerequisites for the emergence not only of laws with false concepts, and laws that do not meet the public interest adopted as a result of lobbying.

For a reconciliation of the basic conceptual proposals of projects of normative-legal acts of uniform questions is very useful is the development of a single basic concept for a group of interrelated projects of normative-legal acts, which, undoubtedly, will contribute to building a modern system of law, between its elements interact. How to ensure the scientific nature of the concept of this or that bill? First of all, it is a practical use of the results of research, careful consideration of the proposals of scientists, the preparation of a number of concepts by scientists themselves, their research teams, the assessment of such concepts by means of carrying out various kinds of expertise (legal, criminological, financial, and other) other scientists who did not participate in their development, finally, the competitions for the creation of concepts bills among scientists and scientific institutions.

Quality regulatory act depends primarily on its concept and therefore, along with the legal, linguistic and other existing types of examinations bills should also be monitoring the examination of concepts, which formed a conclusion about conformity of the concept of the draft rules of legal technique, as well as the feasibility of its adoption as law and the availability of alternatives.

Andrii Redko

SYSTEM OF TRAINING AND PROFESSIONAL DEVELOPMENT OF EXECUTIVE PERSONNEL OF ADMINISTRATIVE ELITE OF WESTERN REGIONS OF THE UKRAINIAN SOVIET SOCIALISTIC REPUBLIC IN 1950-1980 OF THE XX CENTURY

The system of education and skill upgrade of administrative elite executive staff in western regions of the Ukrainian Soviet Socialistic Republic in the 50-80’s of the XXth cen.

Important scientific and practical task of the study of history of law and state of Ukraine is the research of the system of education and skill upgrade of administrative elite executive staff in western regions of the Ukrainian Soviet Socialistic Republic in the 50-80’s of the 20th century. However, a comprehensive study of this issue has not been held yet. There are only some works, in which certain aspects of this topic have been considered. Researchers, who paid attention to these problem, are O. D. Horbula, G. V. Boriak, Y. I Shapoval, O. .Hlevnyuk. Taking into consideration the information above, it is necessary to pay a special attention to the analysis of the system of education and skill upgrade of administrative elite executive staff of the Ukrainian Soviet Socialistic Republic in the western Ukrainian regional context. This article is dedicated to the resolution of this task.

The system of formation of the USSR administrative elite executive staff included the selection system and the system of education and skill upgrade of nomenclature employees. These systems complement each other. They were formed during a specific historical period.

In the 40’s - 80’s of the XXth century the problem of the establishment of the effective system of education and refresher course for the URSR administrative elite executive staff was being resolved. The main directions, meaning, forms and methods of the improvement of the system of education were determined in the decree of the Central Committee of the CPSU (b) from the 2nd August 1946 «About the education and refresher course for the Communist party and Soviet executive staff.» According to this decree, in the Soviet Union a single system of Communist Party educational institutions, was established, which included Academy of Social Sciences, High Communist Party School and Part-time High Communist Party School of the Central Committee of the CPSU (b), and also a wide network of two-year Communist Party and Soviet schools, opened in the republican, provincial and regional centers. This system had to solve three major tasks: education of the Communist Party and Soviet regional-republican

executive staff; the research staff; refresher course for the executives of Communist Party and Soviet units of regional and republican chain.

The problems of the improvement of the system of education and refresher course for Communist Party and Soviet personnel were represented in the decrees of XIX - XXIV Congresses of Communist Party of the USSR, in the resolutions of CC CPSU «About the measures of further improvement of the work of the Academy of Social Sciences of the CC CPSU» (1954), «About the measures of further improvement of the education of Communist Party and Soviet executive staff»(1956).» About the organization of the refresher courses for Communist Party and Soviet executive staff»(1966).,» About the measures of improvement of the education and refresher course for the Board of Working Deputies «(1967), «About the organization of permanent refresher courses for Communist Party and Soviet employees in the republics and regions» (1967)., «About the measures of the improvement of the course system of the refresher course for Communist Party and Soviet executive staff» (1971) and others.

So, in the 50's and 80's of the XXth century in the USSR there was a system of high communist party institutions. Its main task was to prepare and improve the level of qualification of executive staff in the Ukrainian Soviet Socialistic Republic, including the main executive staff and reserve staff for administrative elite in western regions of the Ukrainian Soviet Socialistic Republic . Comprehensive analysis of this system, consideration of its advantages and disadvantages, is aimed to make contribution to the efficiency of the state administration in modern Ukraine. This approach opens new prospects for further development in this field.

Aykhan Rustamzade

THE PROBLEMS OF IMPROVING THE PROCEDURE OF FORMATION OF THE JUDICIAL COUNCIL IN THE REPUBLIC OF AZERBAIJAN

The Judicial Council in Azerbaijan Republic consists of 15 members. The law establishes the range of subjects that are within the authority of Council members. Moreover, the main criteria, during the process of the board's composition, is the fact that the members of the board should consist mainly of judges.

In accordance with Article 93 of the Law of Azerbaijan Republic «On Courts and Judges», a judge can not be: a person incapable or partial incapability of whom is recognized by the court; persons unable to perform the powers of a judge due to physical and mental disability, medical report confirmed; condemned in the past for their crimes; removed from the position of a judge for actions incompatible with the post.

We believe that as the activities of the Board as a collegial body covers the whole organization of the judicial system and in the performance of tasks whose goal is to ensure the independence of judges, the participation of all members of the Council within the consideration of each question is appropriate.

In accordance with the objectives of the provisions of the Council, including the independence of judges, it is suggested that the courts consider the matters impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect. This means, as the members of the Council shall exercise their powers in a collegiate form, there is a need for their participation in the consideration of all questions.

Due to the legislation of the Azerbaijan Republic, the formation of the Council, provided for nomination by the President of the Republic, despite the fact that the Board includes a person appointed by the head of the relevant executive authority and executive authority itself.

Here, as the appropriate body executive authorities provided the Ministry of Justice of the Republic of Azerbaijan and the Council headed by the Minister of Justice. However, in general, the chairmanship of the Minister of Justice in the Judicial Council is not within the spirit of the principle of separation of powers.

The powers of the judge begin from the moment of taking the oath, and then signing of the text of the oath. Consequently, the document is kept in the personal file of the judge.

The majority of members of the Judicial Council is composed of judges. Members of the Council are judges assumed their duties shall take an oath, but it does not provide for the formation of the majority of all members of the judiciary. So, to start activities of the Council, must be swearing by all the members of the Council, which creates the need for inclusion in the text of the oath law. Definitely it can be noted that the members of the Board of the performance of their duties are based on the laws, however,

swearing an oath at the beginning of the execution of their powers is acceptable from a moral point of view, and a significant factor index of responsibility.

After obtaining of independence, special attention should be given to reforms in all spheres of society. For effective implementation of reforms in the Republic of Azerbaijan and Ukraine in terms of geographical space, maximization of the international experience in this sphere should be done. Since the construction of a legal state with a democratic structure clearly establishes the priorities of these areas, when the country's planned reforms, it is worth to look around and examine the experience of other countries, what they have done, what was not done and why. Especially it is necessary to note that in the field of justice reform, the main objective is to achieve the independence of the judiciary. If we consider that the independence of courts creates a need for an integrated approach, in that case the question of comparative analysis is updating.

Mykola Sambor

ADMINISTRATIVE DELICTI RELATIONSHIP: SOME VIEWS ON THE CONCEPT AND CONTENT

In the article theoretical understanding of concepts and doctrines content administrative delicti relations. The peculiarity of the national science of administrative law is a combination of functional (semantic) and formal dogmatic approaches to the study of administrative relationships. These relations are characterized as embodied in the legal form of public-management relations, and the characteristics and submitted content management, and legal form relationships. Administrative and legal relations defined as regulated public administrative law matters arising in the implementation of power-public activities of the executive branch, executive and administrative activities of other state agencies and local governments.

Undoubtedly, administrative legal cover administrative delicti relationship, but the ratio of these concepts, we think possible as the ratio of general and special. At the same administrative delicti relationship has its own characteristics, which demarcates the specified type of relationship from other relationships governed by administrative law.

The specifics of administrative delicti relations is that they are immanent, that is inherent administrative delikt as they occur directly and objectively related to the fact committing an administrative offense. Thus, based on administrative delicti relations is an administrative delicti and related subjective and objective factors for its occurrence (commitment) and eliminate the negative impact of administrative delicti.

Administrative delicti relations - a legal term responsibility for administrative violations. These include not only the legal scope of the law to a person who has committed an administrative offense, but also activity which precedes and enforcement related to the detection and termination delicti. This approach essentially indicates that administrative delicti relations - is not nothing but a settled rules of law relations associated with the use of legal liability to the offender. Instead must emphasize that the administrative delicti relationships, in our view, covering relationships that go beyond the relations connected with the use of administrative responsibility. The fact that administrative liability could be applicable it is usually only in cases where there is a prohibitive rate that determines the act that is prohibited by the commission, and shall determine the type and extent of recovery that can be applied to individual which is still committed such acts.

In our view, it makes sense and it would be quite justified that the administrative delicti relationship should cover all, without exception, the relations connected with the facts of administrative offenses, regardless of the manner in which they (the facts of the crime) are installed. At the same time, in this article we did not intend to examine the contents of the administrative offense. In order to link administrative delicti relations only with administrative responsibility, in our view, would mean significantly narrow the content of administrative delicti relationship, because the main substantive element of this type of relationship is an administrative offense and administrative responsibility is not the purpose of such a relationship - it is only one of the essential elements related to the restoration of disturbed in consequence of an administrative offense the rights, freedoms and interests of man and citizen, the state of law and order in society, as well as the creation of certain unfavorable conditions for the offender to last suffered just punishment, and not had the desire to further commit such acts.

In summary, we consider it appropriate that the administrative delicti relationship – is regulated by rules of administrative delicti law relationship arising in connection with the commission, installation (documentation) administrative offenses between entities where one party is mandatory The authorities and aimed at the termination of the negative (harmful) factors offense restore law and order, applied to violators of State coercion, including in the form of administrative responsibility. This definition of administrative delicti relationship reflects its features subjects, such as mandatory party relations is an authority, an empowered with state functions, whether these are direct or delegated authority. There are legal and carried out rights and duties of the parties of the relationship in the manner prescribed manner and within the rule of law, namely administrative delicti laws. The content of this relationship covers relations since the offense until the removal of its adverse effects and recovery of subjective rights, freedoms and interests of covering with the application and experienced by violator measures of state coercion that find expression in the corresponding administrative penalties and other measures of material and moral influence that can be applied to the offender, and the measures taken by the competent authorities and their officials in part to address the causes and conditions that facilitate the commission of administrative offenses.

We believe that it determines the characteristics of legal content, and only the latter forms a subjective realization of its composition. This also applies to administrative delicti relations. And the meaning of this type of relationship is an administrative offense, which is characterized by its structure, object, subject, objective and subjective side, and a related related items.

In our view, the correct and uniform understanding of the concept of administrative delicti offense will regulate the powers and procedure of the authorities, who take part in the proceedings relating to the establishment of the facts of administrative offenses, determine the rights of other members of these relationships and determine the order establishing the fact of offense in strict accordance with the current legislation of Ukraine. At the same time, we consider it necessary to establish the rights and obligations of the parties were equal, consistent with the rule of law and legality. Also, in our opinion, the foregoing is possible when a country can change justice those authorized to specified categories of cases where their «inner conviction» will be guided by the rule of law, principles of equality, justice and equity.

Serhij Serdyuk

ORGANIZATIONAL AND LEGAL ASPECTS OF GOVERNMENT CONTROL OF TURNOVER THE EARTH OF STATE OWNERSHIP

Land relations are one of the key elements of the economy, which cause economic and social interests of the market, such as the lack of information on the land market, state and society. During the development of market relations, the need for state regulation of the land increases. This is necessary to compensate for the imbalance between supply and demand of land, as well as to ensure the rational and efficient allocation of land between land users and to reduce land speculation.

The purpose of this work – to analyze the organizational and legal framework of state regulation of state-owned lands.

State regulation of land relations is an objective necessity, which is due to the special role of multifunctional land and its indispensability. State regulation of land relations are aimed at organizing the rational use of land and its protection by establishing certain rules and norms of ownership, use and management of land resources of the country.

State regulation of land relations has the following objectives: ensuring state and public needs and development priorities; environmental protection and use of natural resources; security and defense; rational use of land.

There are two types of state regulation of land relations regulation by the state as a sovereign with a territorial rule in respect of all land regardless of ownership - are used methods of power and subordination, in the form of laws and other regulations to be met; economic regulation – public bodies act as undertakings, ie provide land to individuals and legal entities, keep records, evaluation, land protection, etc.

State regulation of land is divided into general (carried out by government general and special jurisdiction and applies to all categories of land, and all actors of land relations) and branch (implemented by ministries and committees and public services, based on the principle of subordination of enterprises and organizations, which have been granted land possession and use).

Regulation of land relations is revealed through the functions, each of which – an isolated activity for a specific purpose and exercise. Function of regulating land relations differ actors for their implementation, the place and importance in the regulatory and legal consequences. State regulation of land relations are determined by the Constitution of Ukraine, the safety relay and other regulations in accordance with the economic, social requirements for the organization of land use and protection.

Legislation governing land relations, have been identified and are reflected in the experience accumulated regulatory framework. In Ukraine today adopted Civil and Land Codes of Ukraine, more than 70 laws that regulate relations in the field of land use and protection, and are the base for the formation of the land market. In addition, a number of regulations and departmental normative legal acts aimed at the regulation of land relations and the completion of land reform. However, to date, there are gaps in the regulatory framework of state settlement ability to land turnover, including the treatment of state owned lands.

Conceptual approaches to the state regulation of turnover of state owned lands are to ensure control over land use management, status and role of government to regulate land relations, the development of a mechanism for implementing organizational and legal standards for the treatment of state owned lands and their consolidation in land laws.

State regulation of the turnover of state owned lands today provides performance of state authorities and local self-government has not only organizational, legal, and financial, economic, personnel, information, scientific, technical and other measures aimed at providing free access to land all interested persons unimpeded acquisition of land rights, the creation of the necessary infrastructure, legal protection not only the subjects of rights to land, but all the land market participants.

However, we can say that today is not enough to develop an organizational mechanism of state regulation of state-owned lands. It is therefore imperative to develop a set of measures of state regulation of state-owned lands, under which will be determined by the goals and objectives of the authorities. It is necessary to assess the impact of the current ownership structure and the process of land transfer to the state's economy. This set of measures should be directed to the implementation of public policies and efficient use of available land and the powerful potential of the country.

Oleksii Shatylo

THE NATIONAL ENERGY POLICY FORMATION MECHANISMS: THE FRENCH REPUBLIC EXPERIENCE

The stability ensuring of the energy sector functioning is an actual and one of the primary tasks of public building in each country. Established objective is particularly acute for Ukraine, because the unbalance of its energy entails for the state not only difficult economic but also political implications. In connection with the foregoing, it is appropriate to generalize the approaches to the formation of national energy policy in France, because it is similar to Ukraine not only by the geographical and demographic characteristics, but also by the energy balance structure, the leading role in which belongs to nuclear power.

The French legislative field in state regulation of energy and energy efficiency consists of a number of legal acts that are combined in the Action Plan for the French Energy Efficiency prepared under Directive 2006/32 / EU. Thus, according to the National Plan, it is recommended to achieve in 2020 the following indicators for France: the share of energy from renewable sources relative to the total energy balance of the country should constitute 23% (while in 2005 the figure was 9,6%); heat efficiency of domestic buildings by 2020 should increase to 38%; the biodiesel share in the motor fuels consumption should achieve 10% by 2020 etc.

The president of France initiated the roundtable on the environment problem in 2007 that preceded the appearance of the above mentioned Action Plan. The roundtable participators were the representatives of the central and regional government as well as civil society in order to identify the action courses on environmental issues and sustainable development. The measures that were proposed on the basis of the roundtable were supposed to be implemented at the national level. Thus, it was established six working groups: to operate climate change and energy demand management, to conserve the natural resources and biological diversity, to promote eco-friendly environment, to promote the sustainable forms of production and consumption, to design environmental democracy and to promote competitive ecological forms of development. The results of these groups were represented by the number of government programs,

«Energy efficiency and carbon», «Modernization of cities and buildings», «Planning of urban environment, national and regional governance», «Mobility and transporting».

The main objectives of the energy policy in France are set out in the Law 2005-781 of 13 July 2005: providing energy independence and energy supplies; ensuring competitive energy prices; protecting environmental and public health; ensuring social and territorial equality in access to energy. It should be emphasized that producers certification and standardization system in providing energy efficiency allows energy and economic policies coordination. So, the new standards in construction are introduced, particularly for the systems improvement of new and existing buildings thermoregulation. In transport sector the government contributes the end users to buy cars with better environmental and energy performances, in particular for this purpose was created the classification system, consisting of seven categories (from A-green to G-red) graduated by the level of CO_2 emissions. In industry the certification system of water-heating equipment is introduced by setting minimum requirements without compliance with which goods cannot be represented on the market. There are also proposed the new mechanisms of cooperation between industrial consumers and energy distribution companies, according to which providers or other specialized companies or organizations after the agreement with the consumer may evaluate energy efficiency of the company, thus, suggest the ways of its improvement. Another stimulating instrument is providing «White certificates» for the energy distribution companies that have achieved the greatest gains in the case of energy efficiency.

In addition to this, the tax levers applied in France are directed to improve energy efficiency. So, when buying a new equipment and machinery that increases energy efficiency indicators, a tax credit for its value is given in the amounts from 25% to 50%. It is also introduced a surcharge on vehicle registration, the amount of which depends on the volume of CO_2 emissions.

The key authority in the development and implementation of French national energy policy is the Ministry of Ecology, Sustainable Development and Energy. An important role in coordinating security efforts, particularly in the energy sector, plays the Defense and National Security Council of France, composition of which is formed according to the agenda of the submitted questions for consideration. There are some other institutions which operate in France and are involved in the development and implementation of public energy policy, in particular, the Energy Regulatory Commission, which aims to de-monopolization of energy markets; Agency for Environment and Energy Efficiency – introducing a common energy policy and environmental protection; Atomic Energy Commission, which function is ensuring the development of nuclear energy research etc.

The generalized experience of France can become the basis for a new energy policy developing in Ukraine, which would consider the national economic interests of the country as well as the necessity ofthe environment protecting.

Dmytro Sirosh

LEGAL APPLICATION PROBLEMS OF FREE JUDICIAL ASSISTANCE IN UKRAINE

One of measures, able to create terms for realization of rights, freedoms and legal interests of person in the state, which acknowledges a man, his life and health, honour and dignity, inviolability and safety, by a higher social value, is an institute of legal aid. Exactly the state is accountable for legal defense of person, helpless to pay a grant it of legal aid, in fact the last is a favor (actions the result of which is consumed in the process of their grant), that, usually, has payment character. Even a free judicial assistance is such only in relation to a person who it is given to, legal services of performer must be paid (due to the money of the State budget of Ukraine, local budgets and other sources). Therefore a question of financing of free judicial assistance in the state is very important, and judging on enhanceable attention it lately to this institute, – by foreground task.

Make actual research of this direction of government activity yet and that financing of free judicial assistance did not become the independent article of scientific search, although him legal adjusting, mechanism, mobilization of resources, source, and others like that present both theoretical and practical interest.

By the object of the legal monitoring of this research certain relations from financing of free judicial assistance. The tendency of gradual decision of basic problem of this process – sufficiency and timeliness of payment of services and compensation of charges subjects which render a free judicial assistance is marked. The question of differentiating of charges for financing of free judicial assistance

also is already decided: in charges, foreseen for Ministry of justice of Ukraine, it is selected and the Coordinating Center from the grant of free judicial assistance, and free second judicial assistance, and forming and functioning of the system of free judicial assistance. Up-diffused charges on realization of justice by county general and local administrative courts.

At the same time, it is selected among problem questions: 1) absence of selection of charges for free judicial assistance in decisions about local budgets; 2) the improper financing of free primary free judicial assistance is from the State budget; 3) anomaly of indemnification of charges for free judicial assistance in the civil and administrative legal proceeding due to the money of State judicial administration; 4) failure to observe of financial discipline of advocates which render the free second judicial assistance; 5) normatively legal to adjustment secured of charges for free judicial assistance; 6) the not sufficient providing of access is to public information of the Coordinating Center from the grant of legal aid and his territorial separations; 7) inconsistency normatively legal positions which regulate the grant of free primary judicial assistance the specialized establishments, with the separate orders of tax legislation in the aspect of assistance development of their activity.

The problems of financing of free judicial assistance are classified on conceptual, normatively legal and organizational. All of them are predefined objective and subjective factors.

To the ways, overcoming of the outlined negative phenomena is attributed: changes and adding are to the laws, to regulatory normatively legal acts (in particular, to Laws of Ukraine «On the state budget», «About a free judicial assistance», «About the maximum size of indemnification of charges for legal help in civil and administrative cases», Internal Revenue Code of Ukraine et al); making of new approaches in preparation of local budgets, in relation to indemnification of judicial charges for judicial assistance and release from their payment; accumulation of all questions, related to the grant of free judicial assistance in the Coordinating Center; determination of budgetary facilities a main manager on its realization is Ministries of justice of Ukraine; returning to practice of marking in Law on the State budget on the cy of the protected charges; increase of control after activity of subjects of grant of free judicial assistance.

Ruslan Skrynkovskyy
Liliya Sytar

FUNDAMENTAL PRINCIPLES OF ENTERPRISE FORMATION AND ITS PROSPECTS

The development of the state depends on the efficient operation and development entities. This is due to the fact that enterprises established specific economic benefits (goods, services and technology) are becoming fundamental principle of national wealth. Thus, there is need to establish the fundamental principles of the enterprise.

Given the particular research results in scientific papers, to determine the level of integrated enterprise should consider the following three keys of performance indicators with relevant components, such as:

1. The level of potential OFP staff:

a) availability of professional staff (total number, qualification of employees to their work performed, age structure, availability of human resources and reserves);

b) material and technical provision (financial security, availability of a sufficient number of actual computers with appropriate software and experimental base of the appropriate class, made organizational and technical level);

c) research and information security (having our own ideas and scientific and technological development, competency, awareness of national and international experience, etc.);

d) optimality of PFD (competence and strategic principles of development, criteria for selecting areas of specialization, professions, principles of minimizing losses).

2. The level of competitiveness of the entity:

a) the efficiency of the (activity) of the company (financial and economic efficiency, industrial and technological efficiency, commercial efficiency);

b) competitiveness of enterprise;

c) focus on the market in which the company operates.

3. The level of investment attractiveness includes such structural units relevant to these criteria:

a) power loss – is characterized by the financial condition of the enterprise (return operation, business activity, liquidity, financial stability, market value of shares – applies only to joint of stock companies);

b) block of technological and property characteristics (availability of land and property complexes, the presence of buildings, availability of equipment and facilities, availability of technology);

c) unit production capacity (capacity utilization, the level of moral and physical aging of industrial units, the level of defect-free product and rhythmic processes);

d) block of product characteristics (the unique product is based on price, sales volume, market share, competitiveness, consumer product characteristics at different stages of the cycle, the elasticity of supply and demand at a price);

e) image-branded unit shows the amount of goodwill and the carrying value of intangible assets (availability of popular brand, the existence of a trademark's image in the market, reputation, information openness, investment transparency – internal, external);

f) block of innovation and investment (for new products, the introduction of new technological processes, the level of automation and mechanization of production processes, the presence of scientific potential, the total amount of investments – real and financial);

g) block of business relations (property relations, relationships with vendors, their reliability and diversification, relationships with consumers, their ability to pay, relations with competitors, relations with stakeholders, relations with partners, financial and credit institutions, banks, law firms, research organizations based organizations, sector organizations insurance, etc., relations with government – state, local, relations with the media, etc.);

h) block of administrative legal relations through quality of level managers at various levels of management, effectiveness and efficiency of management decisions, etc. (legal form, the system of taxation, the existence of lawsuits, the presence of open cases in all courts of the state – criminal, administrative);

i) block of logistics and regional characteristics (location of the enterprise, the system of production and transportation resources available open their transportation costs);

j) block social criteria (staff salaries, staff productivity, employee, working conditions of personnel, material and consumer services, health care, social and cultural services, housing and public services, economic incentives for workers, financial assistance and additional social guarantees; compensate for the additional costs of an individual employee contribution to its total output);

k) power characteristics of eco-economic system (level wastes, which are subject to recycling, the level of waste, which isn't recycling, waste consumption levels that are amenable to recycling, the level of waste consumption, which isn't recycling, the level of the relationship between resources, resource potential and resource).

Consequently, the development of the company based on the following its key (fundamental) characteristics – the investment attractiveness and competitiveness. A sufficient level of competitiveness of the entity in the market creates the conditions for its development, but the prospects for its further growth is not possible without a significant investment. At the same time, with limited own funds as the main economic indicators of the current implementation of the company and the achievement of its goals is to attract investment. A key component of the development and improvement of investment attractiveness is an educational and professional capacity of staff.

Kyrylo Turchynov

PROBLEMS OF LEGAL REGULATION OF THE ACTIVITY OF POLITICAL PARTIES

Nowadays, Ukraine has to end unexplored important issues relating to political parties. First of all, a significant number of registered political parties are incapable, that is, their political activity is in an inert state. The second question relates to the active position opposite some parties whose activity threatens the territorial integrity of Ukraine. The third least significant issue devoted to developments in legislation governing political parties.

According to data of the State Registration Service of Ukraine, in our country, there are more than 200 political parties. However, in the last Parliamentary elections, held in October 26.11.2014 there were only 52 parties. Thus the multi-mandate constituency attended only 29 parties, 5 percent barrier to overcome all 6 parties

This means that the majority of registered political parties did not take part in the electoral process. A similar trend is observed in all elections that took place in the independent Ukraine.

In our opinion, the key to strengthening democratic values in the country is not the number of political parties and their capacity, which will focus on the development of the rule of law and strengthen Ukraine's position in the international arena. To the political parties did not stop after their registration, while performed their functions need to strengthen state control over the activities of political parties

But the most biggest danger to a country is political parties, aimed at undermining the territorial integrity of Ukraine and is aimed at protecting the interests of neighboring countries. Current legislation prohibits activities of political parties. However, these political parties were registered and operated for a long time. We believe that all political parties that threaten the independence of Ukraine should be banned as soon as possible. However, the prohibition of political parties is rather complicated, moreover contains certain conflicts that allow a process to delay the ban of political parties. First of all, there are differences in the law of Ukraine «On Political Parties in Ukraine» and the Code of Administrative Procedure of Ukraine, these legal acts prohibit political parties process falls under the jurisdiction of the various courts. This all makes it difficult to ban political parties.

Given the above, political parties are essential to stability, strengthening and development of our country. That is why the current legislation governing political parties need not only resolve conflicts but also changes to existing legal acts that would force political parties to perform their functions and tasks which them makes protect Ukraine

We want to emphasize that legislation is not the first governing political parties in Ukraine, but the shortcomings of legal acts, most scientists and policy makers were not paying attention to. These issues were not fully investigated as lawyers in their work almost met with legal phenomena as the prohibition of the desk, which is due to the illegal activities of the party against the territorial integrity or independence of Ukraine. The need to explore, learn and pay attention to the conflict begins to emerge only now because Ukraine has not been in such a complex socio-economic, political situation. So today the state, new super complex task, including modification, improvement . That this requires careful study, analysis of existing laws and other legal active. My believe the current situation in the country makes it clear that the state needs to be updated legislation. Changes in the law is the first edge to the strengthening of democratic principles and values of the state. It is also key to the development of our country. Without the necessary changes to build a democratic, constitutional state is very difficult.

Given the above, the political parties is essential to stability, strengthening and development of our country. That is why the current legislation governing political parties need not only resolve conflicts, but also changes to existing legal acts that would force political parties to perform their functions and tasks, directing them to protect Ukraine.