ABSTRACTS

Komar P. *Concept and system of constitutional legislation of Ukraine: approaches, problems, directions of solution. – P. 3.*

This paper analyses several approaches to interpretation of term ‘legislation’. Based on that, such definition as ‘constitutional legislation’ is formed, as well as systematical approach to the structure of constitutional legislation and necessity in establishing hierarchy of laws and regulations in special act are argued.

It is presented that recent legal science defines ‘legislation’ in different ways, which is partially determined by vague definition of legislation ‘content’ per se. In this regard several main approaches may be applied. First, ‘broad’ approach which considers legislation as acts of lawgiver and regulatory acts by various regulatory bodies. Second, ‘narrow’ approach which includes only laws by themselves. In rare instances, legislation can be defined by researches as complex of sources of law.

It is argued that presence of various interpretations and definitions cannot be allowed due to possible problems in practice, while applying the law. Therefore, it must be scientifically determined which of interpretations is fitting best and thus enshrine it in law.

By analyzing Constitution of Ukraine, laws and codes, rulings of Constitutional Court of Ukraine it is proven that constitutional legislation shall be interpreted as a system of interconnected effective legal acts and international treaties of Ukraine, where Constitution has supreme legal power among them.

Subsequent gradation of legal acts within the system of constitutional legislation based on their legal power was proposed.

Drafts of legal acts to the Parliament of Ukraine, which were not passed eventually, were analyzed, as well as their advantages and disadvantages.

It is argued that respective law shall be adopted in order to set the structure of system of legal acts of Ukraine. In such structure not only legal acts of government and legislative bodies (parliament, president, government) including international treaties, but also institutional and local acts as well as precedent-setting acts of Constitutional Court of Ukraine and European Court of Human Rights shall taken into consideration.

Serebryakova Y. *The implementation of the conclusions of the Supreme Court of Ukraine in the administrative, economic and civil proceedings: problematic aspects. – P. 11.*

The article deals with topical problems of implementation of the conclusions of the Supreme Court of Ukraine in the administrative, economic and civil proceedings. Relevance of the topic a condition to the arrangement of conditions for formation

equal court practice to application in such legal relations of material and procedural law. Analyze the practice of the Supreme Court of Ukraine on the legal position of certain categories of cases, marked by its inconsistency. Positions of scientists are studied in relation to obligatoryness for the courts of more subzero instance of conclusions Supreme to the court of Ukraine in relation to application of norms material and procedural law in such legal relations. Because a plenum of the Supreme court of Ukraine is a collective organ, on a plenum made decision most judges, drawn conclusion, what only positions of plenum of the Supreme court of Ukraine will be able to provide forming identical judicial practice.

On the basis of analysis of judicial practice and the doctrine approach the studied question is offered to fasten in a legislation a rule that conclusions about application in the similar legal relationships of the norms of material and judicial right, expounded in the decisions of plenum of the Supreme court of Ukraine are obligatory for the courts at the acceptance of court decisions.

Krestyannikova O. O. *Some aspects of the characteristics of state audit. – P. 19.*

In article on the basis of the analysis of theoretical and methodological approaches of the bases of the classification of financial control are differentiated such thing as a «form control», «control», «control method». It is determined that the concept of species appropriate to define separate areas of financial control, which allow you to define the specifics of the control subjects. The forms of financial control permit from the legal point of view to outline the permissible boundaries of control actions, which are directed to perform the functions of financial control. In the generalized kind a control form in the article is examined as external expression of the carried out actions; that allows from the legal point of view, to define the settled limits of control plenary powers, which are on the whole directed on implementation of functions of state financial control. The choice of form of control a supervisory subject takes place scope, which are outlined his plenary powers or straight foreseen in a legal norm. The proper forms of financial control must be straight certain normatively legal by acts which regulate activity of the proper supervisory subject. The author of the forms of financial control considers the following: checking, inspection, audit.

Under the form of state financial control refers to the outward expression of the practical implementation of government action aimed at the realization of specific tasks and functions in the process of applying the selected control methods. It is proved that the forms of financial control should be directly fixed normative-legal acts, which regulate the activity of the control subjects. Based on a critical analysis of the current legislation of Ukraine and scientific approaches argued that the state audit is an independent form of financial control.

Chervinchuk A. *Initiation of the case of an administrative offense recorded in automatic mode. – P. 27.*

This article analyzes the legal basis and the procedure of administrative violation proceedings in cases of violations in the field of road safety recorded automatically. Attention is drawn to determine the name of the first stage of the procedure and its stages. In particular are the following: Official obtain information on administrative offense; clarify (research) of the case; procedural design the study.

Special attention is paid to the process of detection of the offense, as the reason for instituting proceedings on administrative offense. It is noted that the formation of complex automatic foto- video- fixation ordered set of data about the event recorded in the control that contains the elements of an offense in the area of road safety, in itself is not a cause for proceedings in cases of administrative offenses. Only when conscious perception and preliminary legal assessment of the circumstances of recorded road conditions can claim the discovery of an authorized police officer signs an administrative offense.

Also, pay attention to the shortcomings of current legislation in matters of establishing National Police employee authorized to consider cases on administrative offenses recorded automatically on the stage infringement proceedings the person who imported the vehicle into the customs territory of Ukraine.

Mamutov V. K., Dzhumageldiyeva G. D., Eremeeva N. V. *Direction of transformation economic and law mechanism of regional planning. – P. 35.*

The article is devoted to analysis of direction of transformation economic and law mechanism of regional planning of sustainable development under the updating of the regional legal framework. The directions of convergence between economic and environmental mechanisms during the implementation of regional planning have been defined. The directions for the formation of legal preconditions that aim at preventing the aforementioned distortion during the long-term regional planning of sustainable development under the updating of the regional legal framework have been defined. The authors have substantiated the importance of the symbiotic relationship between object-subject characteristics of region for the formation of the sustainable regional development policy as well as determination of competences of the regional authorities. The authors have advocated the idea about content integration of the social-economic and regional environmental programs with the territory planning schemes on the regional level. The paper provides concluding remarks as well as the ways how to improve the legislation. It includes the determination of position of environmental automated information system in the state environmental monitoring system, legalization of the regional level of the system, ensuring interlevel interaction and particularization of the subject for its formation.

Pavluchenko Yu., Symonyan A. *Annulment of the license for violation of the rules for the implementation of economic activities in medical practice. – P. 47.*

The article is devoted to the investigation of the application of license cancellation for violation of the rules of economic activity in medical practice. In the course of the study, the license cancellation as an administrative and economic sanction and the result of lawful actions or events was delineated and it is justified that such a distinction should be made depending on the grounds for the decision to annul the license. The grounds for using the cancellation of the license as an administrative and economic sanction for violating the rules for the implementation of economic activities in medical practice are specified, namely: a) failure to comply with the prescribed time limits for violations of the Licensing Conditions for the conduct of economic activities in medical practice; b) repeated violation of the license conditions for the implementation of economic activities in medical practice; c) revealing the unreliability of the data in the documents submitted by the business entity together with the application for obtaining a license; A short characteristic of these bases is given. A conclusion was drawn on the timing of the application of a license cancellation for violating the rules for the implementation of economic activities in medical practice. It is also proposed to supplement the list of these grounds with a gross violation of the Licensing Conditions for the conduct of business activities in medical practice, formulating a definition of such a violation as a violation that entails or may endanger the life, health of citizens of any severity in the process of providing medical assistance. It is noted that in order to implement this proposal, it is necessary to formalize the legal definition of a gross violation of the license conditions for the implementation of economic activities in medical practice and to fix in the law the grounds for annulling a license for violating the rules for the implementation of economic activities in medical practice.

Atamanchuk I. V. *Legal support of state regulation of product quality in the economic-industrial sphere by standardization. – P. 56.*

The article investigates the modern legal provision of state regulation of product quality in the economic-industrial sphere through standardization. The state policy of Ukraine in the field of quality management is aimed at supporting the efforts of enterprises and organizations in meeting the needs of consumers. Product makers should work to improve the quality and competitiveness of products. The fundamentals of state quality management are implemented through the implementation of quality management methods. To ensure state quality management, appropriate legal conditions must be created.

On the way of Ukraine to the European market is a legitimate activation of law-making activity aimed at legislative regulation of quality product issues and harmoniza-

tion of the current regulatory framework with international requirements. In recent years Ukraine has established a broad legislative and methodological framework for regulating food quality and safety that is in line with modern medical research. One of the indicators of product quality is its compliance with the established requirements, and the form of state quality assurance of products is to develop and establish standards with appropriate legal consolidation. In Ukraine, the formation of new legislation is taking into account the current political and economic course, market transformations, and international requirements. The transition of Ukraine to the European model of standardization entails the emergence of problematic issues of inconsistency and imperfection of the existing legal regulation, the lack of application in national standards of the principles of unification, interchangeability and compatibility.

The article examines the laws regulating standardization in Ukraine, examines the main powers of the national standardization organization. The main unresolved problem in the field of legal standardization as a form of state regulation of product quality in the economic-industrial sphere is the lack of a single clear approach to the legislative definition of the concepts of «quality» and «standard». Such a situation reduces the effectiveness of an orderly transition to a new standardization system and complicates the formation of regulatory and legal regulation of these processes. The article analyzes ways of improving legislation to regulate what technical, technological and compound characteristics should have products.

By generalizing the definition of the concepts of «quality» and «standards», the main economic and legal views on these categories are analyzed. The category is considered the quality as the conformity of production to the requirements set in normative documents and developed for a particular type (category) of products. Attention was paid to the analysis of the correlation of quality and standards. It was concluded that standardization acts as the main form of legal provision of state regulation of product quality in the economic and industrial sphere. The standard is proposed to be defined as a normative (normative-technical) document based on a consensus, approved by the authorized organization, which establishes rules, guidelines or characteristics of the processes of activity or its results.

In addition to the issues studied in this article, there is a need for solving and analyzing other issues related to the standardization process. In future studies, attention should be paid to the problems of controlling the compliance of national standards with legislation.

Slobodyanyuk M. V. *Consideration of Applications for the Protection of Economic Competition. – P. 65.*

The article is devoted to the study of legal aspects of the consideration by the Antimonopoly Committee of Ukraine (herein after – AMCU) of statements regarding

violation of law at the protection of economic competition. The state of the legislation, which contains provisions on consideration of the above-mentioned statements by the AMCU bodies, is characterized, and attention was paid to the problematic issues arising in the practice of the bodies of the Antimonopoly Committee in relation to the consideration of such applications.

It is specified that the consideration of an application about protection of economic competition is a set of consistent and interrelated measures performed by the AMCU authorities in a certain order to clarify the circumstances set out in this statement and to decide on the existence of a violation of the applicant's rights as a result of acts or inactions identified as Violation of the legislation on the protection of economic competition.

The question of the stages of consideration of applications for the protection of economic competition has been finalized and the division of these stages into obligatory and optional ones is proposed. It is argued that the rule is fixed, according to which the stage of preliminary consideration of the application, as well as the abandonment of the application without movement, the abandonment of the application without consideration, refusal to hear the case should be completed by the adoption of a procedural document – the corresponding instruction of the head of the territorial office, state commissioner of the Antimonopoly Committee.

The provision of the right to the AMCU authorities upon the receipt of the said applications of individuals to justify the applicant's identity has been substantiated. It is proposed to determine the legal consequences in the case of filing an application, which contains false information about the applicant’s identity. The proposals for consolidating the exhaustive list of grounds for refusal by the AMCU bodies in adopting a statement on the violation of the legislation regarding the protection of economic competition are substantiated. It is proposed to clarify the provisions regarding the procedural actions of the bodies of the Antimonopoly Committee in case of receipt of an application that is not subject to the relevant body of the Antimonopoly Committee.

The introduction of appropriate amendments to the legislation that regulates the consideration of applications for violations of legislation on the protection of economic competition is also motivated in this article.

Turchenko O. G. *Regarding the Implementation of Sustainable («Green») Procurement*: *foreign experience*. *– P. 73.*

The sustainable development idea is the idea of balanced social development and the capacity of nature. Economic and social development and environmental protection are the interdependent and complementary components of sustainable development.

Accordingly, there is a need for development of the environmental business system that would facilitate the achievement of certain economic indicators in terms of providing the environmental safety.

As the analysis of recent research and publications confirms, the current environmental legal doctrine is characterized by the absence of established and generally accepted scientific approaches for determining the legal nature of environmental rights in general, and the environmental entrepreneurship, in particular. In addition, there is a lack of systematic scientific research on implementing sustainable «green» procurement.

It is proved in the article that the introduction of the sustainable («green») procurement system will provide the achievement of smart, sustainable and inclusive growth, intended to protect the environment, promote sustainable development and ensure the most effective use of state and local budgets simultaneously.

It is argued that the implementation of sustainable procurement process should be based on such objectives as detection of the main opportunities and obstacles for improvement of environmental indicators, including the implementation of resources and energy efficient technologies, business practices; promotion of public-private dialogue and business-to-business dialogue at national and international levels concerning the benefits of sustainable production, in particular the growing importance of environmental markets.

The directions of reforming the public procurement system are pointed out: determination of the criteria of state order formation for environmental products, including natural and cost indicators, and improvement of the competitive selection procedure for the state order executors and determination of their rights, duties and responsibility; giving the priority in the evaluation of proposals for the implementation of sustainable («green») procurement to life cycle assessment.

Pisareva E. A. *Legal regulation of obtaining academic degrees in universities of Ukrainian provinces of the Russian Empire in the XIX century. – P. 81.*

The article deals with the principles of legal regulation and the peculiarities of the order of obtaining academic degrees in universities of Ukrainian provinces of the Russian Empire in the XIX century.

The process of training scientific staff has been changing and unified with each new legislative act, but the universities themselves have had a significant impact on the independence of the implementation of scientific and educational activities, which was provided for by the existing university statutes.

In the second half of the XIX century a clear two-level hierarchy of academic degrees developed: a master and a doctor. For proper degree applicants had to pass appropriate tests and defend a thesis, writing terms of which were short-lived according

to the prescribed amount of research work. Of course, normative guidance from the Ministry of Education on the content of the thesis on the subject of his «loyalty» also provide an opportunity to talk about the negative aspects of the process of obtaining degree.

It should be noted as positive that the defense of the dissertation took place publicly, without pre-closed listening, at the faculty. There was no separate clearly defined composition of the dissertation commission, although at least two opponents were required. The discussion of the student's dissertation speech – the debate – was also open, and all those who were present could join him. After open voting faculty members for the award corresponding academic degree applicants, Dean announced the decision and provided the results of the voting for the approval of the University Council.

Receiving a negative response to a dissertation does not deprive the applicant of the possibility of protecting this work at another university.

Thus, the procedure for awarding academic degrees in universities Ukrainian provinces of the Russian Empire of the XIX century was almost devoid of bureaucratic influence from the government, although the universities are public institutions, and in addition, already at that time had established a two-tier academic hierarchy: master – doctor meets the modern international standards of education and science.

Movchan R. A., Neznaiko S. V. *The subjective side of the crime under the article 270-1 of the Criminal code of Ukraine. – P. 92.*

The article is devoted to the characterization of the subjective side of the offense under art. 270-1 of the Criminal Code of Ukraine.

Analyzed the established science of criminal law approaches to the understanding of the subjective aspect of crimes and consequences derived from mixed wine. As a result, found that an offense under p. 1 (p. 2) art. 270-1 of the Criminal Code of Ukraine belongs to the crimes with a complex form of guilt in which the ratio of wine to the derivatives consequences can be characterized as intent and negligence. Concerning prohibitions p. 3 art. 270-1 Criminal Code of Ukraine, this tort refers to crimes with a combined form of guilt because the relationship guilty to «inflicting material damage on a large scale» may be intentional and reckless, while the attitude to «death or other serious consequences» – just careless.

It was found that for a crime under p. 1 art. 270-1 of the Criminal Code of Ukraine does not matter ratio (intentional or reckless) the perpetrator to the consequent endangering the life or health of people or damage to property on a large scale, provided that the relevant act which has only qualified for art 270-1 of the Criminal Code of Ukraine. Consequences in the form of «death or other serious consequences»

is based on attitudes of wine, there are two options for training: in the event that it is careless committed should receive criminal legal assessment only p. 3 art. 270-1 of the Criminal Code of Ukraine; if it is determined that the perpetrator provided or deliberately and wanted to prevent the onset of such effects, that act must qualify for multiple offenses p. 1 art. 270-1 of the Criminal Code of Ukraine and the relevant articles of intentional crimes against life and health of the person.

Found that the reckless destruction or damage to critical infrastructure (including housing facilities) were characterized by the degree of public danger sufficient to classify such acts to the criminal offenses that, according to the thesis, evidence of inappropriate criminalization of reckless destruction or damage to objects life support.

Determined that the motive and purpose are optional aspects of the subjective characteristics of the crime, but their installation has an important role in determining the mental attitude of the perpetrator to the offense, and in some cases affects his qualifications.

The results of the study conclusions concerning the main characteristics of the subjective side deals with the points and qualified formulations crime and its impact on the right of crime under art. 270-1 of the Criminal Code of Ukraine.

Amelicheva L. P. *Directions of improvement of labour legislation on questions of agricultural worker labour safety in the conditions of swift development of bio-technologies and the economy «greening». – P. 105.*

In the article a study of problem questions of the implementation of the modern paradigm of decent work and concept of creation of «green» workplaces in the conditions of globalization in many countries, including Ukraine, is the key to success of the economy renewal based on the stable development principles.

Basic legislative acts that regulate safety of labour in anagrarian sector in the conditions of swift development of biotechnologies and the economy «greening» are examined in the article.

The article concludes about that taking into account the eurointegration development vector of Ukraine in general and in the agrarian sector in particular it is important to develop domestic normative-legal acts for labour protection in agriculture, harmonized with such EU Directives as No. 2000/54/EU of 18.09.2000 On protection of workers exposed to biological agents at work, No. 2004/37/EU of 29.04.2004 On protection of workers exposed to carcinogens or mutagens at work, No. 98/24/EU of 07.04.1998 On safety and protection of workers exposed to chemical substances at work, etc.

In the basis of undertaken research of the some others directions of improvement of labour legislation on questions of agricultural worker labour safety in the conditions of swift development of biotechnologies and the economy «greening».

Avetisyan M. R. *On choosing legal forms of economic activity. – P. 113.*

This article examines matters of choosing legal forms of economic activity. It's defined that initiallyfor choosing legal form of economic activity, it's necessary to determineframe of reference for requirements to legal forms of economic activity in which legislation allows or obligate to act.

Reasoned, that provisions of Economic code of Ukraine doesn't determine single point of view related to choosinglegal forms of economic activity by the entity of particular legal form of concluding its economic activity. Simultaneously, two formulations are stated: «in any legal forms, determined by law, on entrepreneur discretion», «in legal forms of economic activities not restricted by law».

Proved that it's advisable to specify approach to choosing legal form of economic activity, that shall essentially combine public and private interests, and be the result of free choice of potential economic activity actor, taking to account demands to choosing legal form of economic activity, but only among forms stated by law.

Suggested to amend provisions of part 1 of article 135 of Economic code of Ukraine, change formulation «in legal forms of economic activity, not restricted by law» to following «in other legal forms of economic activity stated by law».

Concluded classification of requirements for choosing legal forms of economic activity on following groups: 1) requirements related to limitations to founders/ participants of legal entity; 2) requirements related to capacity of concluding particular type of economic activity in specific legal form and other, defined by law.

Herbych O. V. *Legal basis of economic activity in the field of cinematography. – P. 122.*

The article examines the current state of the legal basis of economic activity in the field of cinematography in Ukraine. Both positive and negative moments in the hierarchy of normative and legal documents of the cinematic industry are considered, which today influence the activity of business entities. Attention is drawn to the large number of terms that need to be clarified and inconsistencies between the different dates of adoption of normative and legal acts among themselves.

The study also highlights the need to support Ukrainian films at festivals of all categories, where a national product can compete adequately and fight for victory and recognition around the world. Also, the article focuses on issues of liability to foreign contractors who had economic contracts in the field of cinematography with national entities, and suffered as a result of Russian aggression and the resulting legislative decisions were not in their favor.

As a local act, the study examines the internal rules of the cinema, which have many contradictory positions and concepts that are not regulated in a sufficient way and can lead to conflicts with consumers. For example, specification requires the right

of the cinema to enforce liability, including in the form of redress, to the visitor in the event of use of multiple 3D glasses, if they were found to be defective after such use; The revision also requires the right of the cinema to ban, the introduction of large-sized items into the cinema hall and the requirements for the presence of a large bag or package in the viewer, place them in a special storage space or wardrobe, since there is no obligation for the cinema to preserve such things

Positive recommendations have been made that will improve the state of cinema law, both at the level of laws and at the level of by-laws, in particular regarding the possibility of conducting economic activity in the field of cinematography, without profit; Specification of the body having the right to be the subject of the author's property rights to the film, if produced by the state budget. To specify the mechanism of resolving differences in determining the index of the film; Providing definition of the concept of «cinema spectacular» institution.

Based on the research, the main directions of improvement of the cinema system in Ukraine were substantiated.

Buga V. V. *Introduction of the institute of private executors. – P. 128.*

The article is devoted to general provisions on private enforcement in connection with the introduction of the draft Laws of Ukraine «On the bodies and persons engaged in the enforcement of judgments and decisions of other authorities» and «On enforcement proceedings». At present in Ukraine there are significant changes in the legal sphere, first of all, it concerns the judicial system in general and the stage of implementation of judicial decisions as an important and significant elements of the trial. It is no secret condition in which the justice system in Ukraine and enforcement. The problems caused a number of problems that eventually lead to very low values of actual enforcement. That is, there is an urgent need to reform the system of execution of court decisions and legislation relating to enforcement proceedings. Enforcement of judgments and decisions of other authorities in Ukraine is carried out exclusively state performers of the State executive service, which has existed since 1999 and replaced the old system of bailiffs. Since its inception, it has evolved, conducted reorganization, but in fact nothing has changed, efficiency remained low. Reform of the executive service, which we promise lately, it seems, is about to be finished. To this made many steps, and the day of the lawyer, 8 October, the draft Law of Ukraine «On bodies and persons engaged in the enforcement of judgments and decisions of other authorities» and «On Enforcement Proceedings» were adopted in the first reading. However, there are many disputes and comments to these bills. According to Article 1 of the Law of Ukraine «On the bodies and persons engaged in the enforcement of judgments and decisions of other authorities» enforcement of judgments and other bodies (officials) (hereinafter – making) relies on public and private enforcement service

performers. The study demonstrates the need for further development in the area of enforcement of judgments and decisions of other bodies, while appropriate seems introduction of a mixed system of enforcement that will create healthy competition between public and private contractors, will save the state monopoly on the issue of enforcement of judgments and decisions of other authorities. Private performer will depend on their performance, after all, will depend on his income. The necessary legislative changes should be done immediately because the system of enforcement is in terrible condition, which in turn causes low levels of trust in the judicial system as a whole. Introduction of the institute of private executors should be done in several stages, with a gradual reduction in the number of bailiffs and increasing number of private enforcement, with constant monitoring of the number of the latter, so as not to provoke a collapse in this area of activity.

Kostenko Y. A. *New in the tax administration of Ukraine. – P. 135.*

The article analyzes bills aimed at tax reform in Ukraine. On the basis of the study, the main trends in relation to future changes in the system of income and indirect taxation have been identified (introduction of a tax on the withdrawn capital instead of corporate income tax with the reformation of a taxable object with a gradual reduction of the rate to 10 %, a reduction in the VAT rate to 15 % with the introduction of the Public Registry of applications for Budgetary compensation). Tax administration (transition to a new structure of fiscal bodies, «demilitarization» of tax control – liquidation of the tax police and the creation of a new law enforcement agency (Financial Investigation Service) with submission to the Ministry of Finance, the introduction of the institute of tax advisers and the electronic cabinet of the taxpayer – on-line access of taxpayers to management Personal account (accounting of payments, advances, overpayments, credits, tax debt).

Clarified that it is expected to transition to the new system appeals by taxpayers of decisions of regulatory bodies – the second level of appeals moved to the Ministry of Finance of Ukraine (the latter has the right to override the decisions of regulatory authorities). In particular, the responsibility of the Ministry of Finance transferred functions of analysis and forecast of tax; the block of information support of the databases, except for the registries (as a result – the impossibility of the distortion of tax information); accounting policy for payers and plan of their audits.