LAW OF UKRAINIAN SSR IN PERIOD OF SLOWING THE PACE OF SOCIAL DEVELOPMENT AND STAGNATION (1965–1985)

V. HONCHARENKO
Doctor of Legal Sciences, Professor,
Member of the National Academy
of Legal Sciences of Ukraine,
Head of Chair of History of State and Law
of Ukraine and Foreign Countries
(National University
«Yaroslav Mudryi Law Academy of Ukraine»)

Law reflects and consolidates features of the social system of a particular State formation and determined period of development. Laws and other normative acts to some extent reflected the respective processes occurring in the economic, political, and social spheres of the USSR and Ukrainian SSR through the period here considered. One may clearly trace the contradictory processes in the development of Soviet society, the leading role of the Communist Party of the Soviet Union, the severe centralism, and the administrative command style of administering society.

Legislation was based on the principles of the priority of the entire State over the individual, the essence of which was as follows: the State — is everything; the individual is nothing. A citizen being without rights and his lack of legal defense — these are the most characteristic peculiarities of Soviet legislation.

Despite the fact that the powers of the USSR in the domain of legislation were precisely indicated by the USSR Law «On Relegating to the Jurisdiction of the Union Republics Legislation on the Organization of Courts of the Union Republics and Adoption of Civil, Criminal, and Procedure Codes», adopted by the USSR Supreme Soviet on 11 February 1957, thereafter legislation of the Ukrainian SSR and other union republics basically developed under the direct influence of all-union normative acts. When all-union laws were adopted, the legislators of the union republics were expressly instructed of the need to make changes and additions in respective legislation of the republic. This shows the existence of centralist positions in law-making materially limited the rights of union republics in the domain of law-making. If one adds that numerous all-union laws and other normative acts in all branches of law operated directly on the territory of the republics, virtually nothing remained of the rights of union republics in law-making activity.

In the period here considered, the codification of Soviet legislation continued, beginning at the end of the 1950s, at the all-union and republic levels in a series of branches of law. There were drafted and published during the general ordering of

© V. Honcharenko, 2013

Soviet legislation: Fundamental Principles of Legislation of the USSR and Union Republics, republic codes in conformity with all-union legislation, chronological collections of legislation, and systematic collections of legislation of the republics in force.

The result of improving the legislation was the issuance of the Digest of Laws of the USSR and digests of laws of the union republics.

In Ukraine the publication of the Digest of Laws of the Ukrainian SSR was effectuated on the basis of the Decrees of the Central Committee of the Communist Party of Ukraine, Presidium of the Ukrainian SSR Supreme Soviet, and the Ukrainian SSR Council of Ministers of 28 September 1976, «On the Preparation and Publication of the Digest of Laws of the Ukrainian SSR»; of 4 August 1978 «Questions of the Digest of Laws of the Ukrainian SSR»; and decrees of the Presidium of the Ukrainian SSR Supreme Soviet and Ukrainian Council of Ministers of 5 September 1983, «On the Plan for the Preparation of Legislative Acts of the Ukrainian SSR and Decrees of the Government of the Ukrainian SSR for 1983 to 1985». The tasks set out in the said documents for the improvement of legislation, codification thereof, formation of consolidated acts and acts which would fill gaps in existing legislation of the Ukrainian SSR, determination of the range of normative acts contained in the Digest, the periods and sequence for preparing and issuing the sections thereof were the primary orientators when creating the Digest of Laws of the Ukrainian SSR. The Digest of Laws of the Ukrainian SSR was issued as an official publication of the Presidium of the Ukrainian SSR Supreme Soviet. This meant that it is a source of official publication of legislation just as, for example, the Відомості Верховної Ради УРСР and the Зібрання постанов уряду УРСР and that one may refer to it when deciding cases in State agencies. The Digest of Laws of the Ukrainian SSR was created as a collection of acts. However, it differed significantly from other collections of legislation in force, including the systematic and chronological collections published by the Ukrainian SSR Ministry of Justice. These collections were the result of purely systematization work, the incorporation of legislation. Their publication, however, in essence played a role in the «inventorying» of normative acts and became an important step towards the higher stage of the systematization of legislation — the preparation and publication of the Digest of Laws of the Ukrainian SSR.[1]

Administrative law regulated social relations in the domain of State administration. During the period here considered, the publication of laws and other normative acts for individual branches and spheres of administrative relations was effectuated, as well as acts determining the structure and administrative activity of individual categories of agencies of State administration. Among these acts should be named the General Statute on Ministries of the USSR (1967) and the Statute on individual ministries and departments that contained administrative legal norms. These norms also were found in new legislation on local soviets, which determined the organization of executive and administrative organs of the soviets. A rather large number of norms of administrative law were contained in legislation on protection of public health, public education, land, forest, and water codes of the Ukrainian SSR, and also the Charter of Railways of the USSR of 6 April 1964, the Veterinary Statute of the USSR of 22 December 19677, the Air Code of the USSR of 26 December 1961,

[1] *Відомості* Верховної Ради УРСР (1976), no. 423, item 381; (1978), no. 35, item 505; (1983), no. 38, item 766; Звід законів Української РСР [Code of Laws of the Ukrainian SSR] (Kyiv, 1982–1986).

the Customs Code of the USSR of 5 May 1964, the Merchant Shipping Code of the USSR of 17 September 1968. Norms of administrative law comprised the basic content of the enumerated acts, around which norms of civil, labor, financial, and other branches of law were combined.[1]

Administrative legislation provided administrative responsibility for a violation of legislation concerning the protection of the soil, subsoil, water resources, fish stocks, forests and forest plantings, fauna, flora, monuments of nature, resort localities, and the atmosphere. Administrative responsibility was established also for a violation of labor legislation, rules on the protection of labor and safety, evasion of socially-useful labor and for an anti-social, parasitic way of life, wasteful use of electricity and thermal power, cattle-damage to crops in collective farms and State farms, violation of legislation of combatting weeds, violation of rules for the use of means of transport (motor vehicle, water), illegal manufacture and use of radio transmission equipment, violation of rules for the protection of cable lines and remote communication and radio relay lines and installations, violation of trade rules, petty speculation, violation of rules for building, preservation, and maintenance of the housing fund, buildings, and installations, violation of sanitary rules, theft and spoilage of library books, petty hooliganism, malicious failure to obey legal instructions and or requirements of police personnel and people's guards when they perform their duties for the protection of public order, violation of fire safety rules, military registration rules, public order rules, and others.

With a view to ordering legislation on administrative responsibility, on 13 October 1980, for the first time in the history of Soviet law, the Fundamental Principles of Legislation of the USSR and Union Republics on Administrative Responsibility were adopted, which became the base for the codification of all legislation on administrative responsibility.[2] Provisions were formulated therein on administrative responsibility, the group of agencies and persons was determined that were empowered to impose administrative sanctions, and the procedure for the consideration and deciding of administration cases was established. For the first time in Soviet legislation a definition was given of an administrative violation or offense, which was considered to be a unlawful, guilty (intentional or negligent) action (or failure to act) infringing the State or public order, socialist ownership, rights and freedoms of citizens, or established procedure of administration, for which administrative responsibility was provided by legislation. As a general rule, it was established that persons who are sixteen years of old at the moment of the commission of a violation are subject to administrative responsibility. The principle was preserved in accordance with which measures of influence were, as a rule, applied to persons from sixteen to eighteen years of age as provided by republic statutes on commissions for cases of minors. The Fundamental Principles consolidated and clarified the complex system of administrative sanctions (warning, fine, and others). Confiscation, deprivation of drivers' and hunters' rights, and correctional tasks might be established only by legislative acts of the USSR and union republics, and administrative arrest — only by legislation of the USSR. The Fundamental Principles consolidated the provision under which on one might be subjected to compulsory influence in connection with an administrative violation other than on the basis of and in the procedure established by legisla-

[1] See *История* государства и права Украинской ССР [History of State and Law of the Ukrainian SSR] (Kyiv, 1976), p. 752.
[2] *Ведомости* Верховного Совета СССР (1980), no. 44, item 909.

tion. The Code of the Ukrainian SSR on Administrative Violations was adopted on 7 December 1984 on the basis of the Fundamental Principles.[1]

In the period here considered one of the characteristic peculiarities of civil law was to ensure the comprehensive strengthening of State and social ownership and the consolidation of individual ownership of a consumer character. The 1977 Constitution of the USSR emphasized that property in the ownership or use of citizens should not serve to receive non-labor revenues or be used to the detriment of the interests of society. The Constitution declared the expansion of civil-law guarantees or protection of private property rights of citizens. The 1978 Constitution of the Ukrainian SSR (Article 57) provided that citizens of the Ukrainian SSR have the right to judicial defense against infringements on their honor and dignity.[2] The sphere of civil-law regulation was expanded thereby because until then this was subject to defense in a criminal law proceeding.

In accordance with the USSR Constitution, changes and additions were made by Edict of the Presidium of the USSR Supreme Soviet on 30 October 1981 to the 1961 Fundamental Principles of Civil Legislation of the USSR and Union Republics. In time the changes and additions were made to the civil legislation of the Ukrainian SSR.

Special significance in civil legislation was accorded to the regulation of relations of obligation, the essence of which was to ensure the strictest planning and contractual discipline and enhance the role of direct contracts with a view to stimulating the economic initiative of enterprises. The Statute on the Socialist State Production Enterprise, confirmed by the USSR Council of Ministers in 1965, was directed towards this. Enhancing the requirements for the contract of delivery was reflected in the Statute on Deliveries of Production-Technical Designation and the Statute on Deliveries of Consumer Goods, confirmed by Decree of the USSR Council of Ministers on 10 February 1981.

Housing legislation was codified in the early 1980s. In 1981 the Fundamental Principles of Housing Legislation of the USSR and Union Republics were adopted, and in 1983, the housing codes of the union republics. In the Ukrainian SSR this Code was adopted on 30 June 1983.[3] Housing legislation determined the procedure for providing a dwelling premise to citizens, the grounds for improving housing conditions (provision of dwelling space per family member not lower than the level established for a particular locality, failure to a dwelling premise to conform to sanitary and technical requirements, and so on). Categories of citizens which had the right to receive housing in and out of priority were provided for in legislation. Questions of preserving the housing fund and the operation and repair thereof were given attention in legislation. The Housing Code of the Ukrainian SSR provided for the responsibility of officials and citizens for the improper use of the housing fund and other violations of housing legislation.

Soviet family legislation on marriage and the family declared the strengthening of the family, defense of interests of the mother and child, and the health of the young generation. These and other tasks were mentioned in the Fundamental Principles of Legislation of the USSR and Union Republics on Marriage and the Family, adopted

[1] *Ведомости* Верховного Совета УРСР (1984), Annex to no. 51, item 1122.
[2] V. D. Honcharenko (ed.), Історія конституційного законодавства України [History of Constitutional Legislation] (Kharkov, 2007), p. 135.
[3] *Ведомости* Верховного Совета УССР (1983), Annex to no. 28, item 55.

27 June 1968, and the Code on Marriage and the Family of the Ukrainian SSR issued in accordance therewith on 20 June 1969.[1] Attention was given to strengthening the family in the 1978 Constitution of the Ukrainian SSR. Marriage and family legislation deemed to be legal only a marriage concluded in ZAGS agencies. Only such a marriage gave rise to the rights and duties of spouses. A religious rite of marriage had not legal force. Proceeding from the purpose of marriage, legislation precisely defined the conditions for entry into marriage (mutual consent, marriageable age, not being in another marriage, dispositive legal capacity, absence of close kinship), and also the procedure for concluding a marriage (common written application, filing of documents certifying identity, expiry of the respective period after filing the application with a view to verifying the seriousness of the intentions of those intending to marry, solemnity of conclusion of marriage, and so on). The Code of Marriage and Family of the Ukrainian SSR provided that the marriage of citizens of the Ukrainian SSR with foreign persons, and also the marriage of foreign persons between themselves in the Ukrainian SSR, should be concluded on the general grounds.

The Code of Marriage and Family of the Ukrainian SSR permitted the termination of marriage by divorce, providing for the dissolution of a marriage in a judicial proceeding. At the same time, in instances provided in legislation, dissolution of a marriage was permitted in ZAGS agencies.

The Code of Marriage and Family of the Ukrainian SSR determined also the personal and property rights of spouses. The jointness of property was affirmed that was acquired by the spouses during marriage. They have equal rights of possession, use, and disposition of this property. The spouses also enjoyed equal rights to property if one of the spouses engaged in keeping house, watched after the children, or for other important reasons had no autonomous earnings.

The Code of Marriage and Family of the Ukrainian SSR also determined the basic duties of the parents to nurture the children, personal and property rights of parents and children, and the procedure for adoption and for trusteeship and guardianship.

In the period here considered, labor relations were regulated primarily by the Fundamental Principles of Legislation of the USSR and Union Republics on Labor adopted 15 July 1970.[2] They not only contained general principles which were the point of departure for subsequent legislation of the USSR and union republics, but also norms directly regulating a certain group of labor relations. Questions of the labor of workers and employees not provided for by the Fundamental Principles might be regulated by legislation of the USSR and union republics within the limits of their competence. In accordance with the Fundamental Principles, the Supreme Soviet of the Ukrainian SSR adopted on 10 December 1971 the Code of Laws on Labor of the Ukrainian SSR, introduced into operation from 1 June 1972.[3]

The Ukrainian SSR Code of Laws on Labor contained norms determining the tasks and general provisions of labor legislation, and also norms on the collective contract concluded by trade union agencies in the name of the collective of workers and employees with the administration of the enterprise or organization; the labor contract between workers and the enterprise or organization; work time; leaves; norming of labor; earnings; guarantees and compensations for employees elected to elective

[1] *Відомості* Верховної Ради УРСР (1969), no. 26, item 204.
[2] *Основы* законодательства Союза ССР и союзных республик [Fundamental Principles of Legislation of the USSR and Union Republics] (Moscow, 1987), pp. 301–343.
[3] *Ведомости* Верховного Совета УССР (1971), no. 50, item 375.

posts; in the event of transfer to a job in another locality; when referred for raising qualifications and in other instances; guarantees when placing material responsibility of workers and employees for harm caused to the enterprise or organization; labor discipline; protection of labor; women's labor; labor of youth; privileges for workers and employees combing work and study; labor disputes; trade unions and the participation of workers and employees in the management of production; State social insurance; supervision and control over compliance with labor legislation.

The 1978 Constitution of the Ukrainian SSR provided for the basic rights and duties of workers and employees. It determines the meaning of the right to work, including the right to choice of vocation, nature of occupation, and work in accordance with calling, abilities, vocational training, education, and taking social requirements into account. The right was consolidated of workers and employees to leisure, health protection, healthy and safe labor conditions, joining a trade union, participation in the management of production, material provision for old age, illness, and loss of labor capacity or breadwinner. The 1978 Constitution of the Ukrainian SSR relegated to the duties of citizens the duty of each citizen of the Ukrainian SSR able to work to do so in good faith in the domain of socially-useful activity elected by him and to adhere to labor discipline.[1]

To be sure, the requirement of compliance with labor discipline is not reprehensible, although discipline in and of itself does not ensure labor productivity and without the respective material and organizational conditions is transformed into an empty ritual. However, under conditions of the dominance of the administrative command system of management, the resolution of this task was effectuated to a significant extent by compulsory measures. The Decrees of the Central Committee of the Communist Party of the Soviet Union, USSR Council of Ministers, and All-Union Central Trade Union Council «On Intensifying Work to Strengthen Socialist Labor Discipline» and «On Additional Measures to Strengthen Labor Discipline» (1983), and also the Edict of the Presidium of the USSR Supreme Soviet of 12 August 1983 on making changes in labor legislation, testify to this. These acts strengthened the struggle against shirkers and other malicious violators of labor discipline. Measures of punishment also applied to them, such as a reduction of regular leave by the number of days of idleness, transfer to other lower-paid work for a certain period, and so on. Responsibility was raised of workers and employees for harm caused through their fault to the enterprise when they performed their employment duties, including for issuing defective products. With a view to defending the interests of enterprises, preventing departures from work, and reducing the fluctuations in personnel it was provided that workers and employees in the event of terminating the labor contract at own wish without justifiable reasons must warn the administration about this in writing two months in advance, and for justifiable reasons — one month in advance.

Within the period here considered many legal acts were adopted regulating the protection and rational use of the land, subsoil thereof, waters, and other objects of nature.

Special attention was devoted to the protection of land. On 13 December 1969 the USSR Supreme Soviet adopted the Fundamental Principles of Land Legislation of the USSR and Union Republics. On the basis of this all-union act the Land Code

[1] Honcharenko (ed.), Історія конституційного законодавства України [History of Constitutional Legislation] (Kharkov, 2007), p. 136.

of the Ukrainian SSR was adopted on 8 July 1970,[1] which entered into force from 1 January 1972. The Land Code consists of eleven sections: general provisions (right of use, procedure for granting land for use, rights and duties of land users, protection of lands and raising soil fertility, grounds for termination of the right of land use, removal of land for State and social needs, use of land plots for survey work, compensation of losses of land users caused by withdrawal of land or temporary occupation of land plots, State control over use of land, competence of local agencies of State power and administration in the sphere of regulation of land relations); lands of agricultural designation (land use of collective farms, collective farm household, agricultural enterprises, institutions, and organizations, workers and employees living in a rural locality); lands of population centers (cities, settlements of the city type, and rural population centers); lands of industry, transport, resorts, preserves, and other non-agricultural designation; lands of the State forest fund; lands of the State water fund; lands of the State reserve; State land cadaster, State land tenure; resolution of land disputes; responsibility for violation of land legislation.

Land legislation established the exclusive right of ownership of the State to land irrespective of in whose use it was. The monopoly right of ownership of the State to land conditioned the absence of a real master of the land and led to the worsened quality of this public wealth.

In December 1970 the USSR Supreme Soviet confirmed the Fundamental Principles of Water Legislation of the USSR and Union Republics, which entered into force from 1 September 1971.[2] On 9 June 1972 the Water Code of the Ukrainian SSR was adopted, which entered into force from 1 November 1972.[3] Water legislation was called upon to ensure the rational use of waters for the needs of the population and the national economy, protection of waters against pollution and depletion, the prevention and liquidation of the harmful influence of waters, improvement of the state of water objects, and the strengthening of legality in the sphere of water use. Water legislation determined the competence of the USSR and union republics in the domain of the regulation of water relations, forms of participation of social organizations and citizens in effectuating measures for the protection of water resources, established State control over the use and protection of waters, and criminal and administrative responsibility for a violation of water legislation.

State ownership of waters comprised the basis of water relations in the Ukrainian SSR, which made them, just as land, virtually masterless and led to catastrophic ecological consequences for water objects.

On 9 July 1975 the USSR Supreme Soviet confirmed the Fundamental Principles of the USSR and Union Republics on the Subsoil.[4] They provided measures for the protection of the subsoil, ensuring work safety when using the subsoil, and also the protection of the rights of enterprises in this field. The law established responsibility for a violation of subsoil legislation.

In 1977 the USSR Supreme Soviet adopted the Fundamental Principles of Forestry Legislation of the USSR and Union Republics.[5] They should have served to raise the productivity of forests, improvement of their regeneration and intensifica-

[1] *Відомості* Верховної Ради УРСР (1970), no. 29, item 205.
[2] *Ведомости* Верховного Совета СССР (1970), no. 50, item 566.
[3] *Відомості* Верховної Ради УРСР (1972), no. 24, item 200
[4] *Ведомости* Верховного Совета СССР (1975), no. 29, item 435.
[5] *Ведомости* Верховного Совета СССР (1977), no. 25, item 388.

tion of protection, ensuring the rational use of forest resources and further strengthening of the economy. Forest legislation provided for the responsibility of officials and citizens for illegal felling and damage to trees and bushes and failure to comply with fire safety rules in forests, destruction of forest fauna, and so on.

On 25 June 1960 the USSR Supreme Soviet adopted the Laws on the Protection of the Atmosphere and on the Protection and Use of Fauna.

All the aforesaid legislative acts were part of a unified system of nature-protection legislation called upon to protect the land and its subsoil, waters, and forests, fauna, and the atmosphere.

In the period here considered, the trend intensified in the country, noted in the early 1960s, to strengthen criminal-law compulsion as a method of administering society. The tasks of criminal legislation, as before, had to a great extent a repressive character. This was expressed, for example, in the adoption on 23 July 1966 by the Presidium of the USSR Supreme Soviet of the Edict «On Criminal Responsibility of Foreigners and Stateless Persons for a Malicious Violation of the Rules for Movement on the Territory of the USSR».[1] Changes in and additions to the Criminal Code of the Ukrainian SSR were made in this connection.

The most significant and important changes in Soviet criminal legislation were made by the Law of the USSR «On Making Changes in and Additions to the Fundamental Principles of Criminal Legislation of the USSR and Union Republics», adopted 11 July 1969.[2] This Law introduced Articles 231 and 441 to the Fundamental Principles concerning an especially dangerous recidivist and not applying conditional-early release, and changed Articles 23, 44, 45, and 47 concerning the rules for determining the type of correctional-labor institution for persons sentenced to deprivation of freedom, conditional-early release from punishment, cancellation of a record of conviction, and the like. Respective changes and additions were made to the Criminal Code of the Ukrainian SSR.

By Edict of the Presidium of the USSR Supreme Soviet of 12 June 1970, «On the Conditional Release from Deprivation of Freedom with Obligatory Enlistment of the Convicted Person for Labor», a new institute was introduced to Soviet criminal law — criminal sentence to deprivation of freedom with obligatory enlistment of the convicted person for labor, and the grounds and conditions for the application thereof to a convicted person were determined. The Edict of the Presidium of the USSR Supreme Soviet of 18 May 1972, «On Making Additions to and Changes in the Fundamental Principles of Criminal Legislation of the USSR and Union Republics» introduced the concept of a crime which caused especially grave consequences (Article 23). The Fundamental Principles were augmented by Article 7, which gave a definition of the concept of a grave crime and cited a detailed list of the types thereof.[3]

Material changes and additions to criminal legislation of the USSR and Ukrainian SSR were made by edicts of the Presidium of the USSR Supreme Soviet of 8 February and 15 February 1977. These legislative acts introduced the serving of punishment in colony-settlements for persons who committed a crime through negligence, expanded the group of convicted persons to whom conditional-early release might

[1] *Сборник* документов по истории уголовного законодательства СССР и РСФСР (1953–1991 гг.) [Collection of Documents on the History of Criminal Legislation of the USSR and RSFSR (1953–1991)] (Kazan, 1992), p. 9.
[2] *Ведомости* Верховного Совета СССР (1969), no. 29, item 249.
[3] *Ведомости* Верховного Совета СССР (1972), no. 22, item 176.

be applied, and replacement of the unserved punishment by a milder punishment. The Fundamental Principles were augmented by Articles 232 and 442 concerning conditional sentence to deprivation of freedom with obligatory enlistment for labor and conditional release from places of deprivation of freedom with obligatory enlistment for labor. A new institute was introduced into criminal legislation — deferral of execution of a judgment relation to minors. Later, in 1982, the possibility of applying deferral of execution of a judgment to deprivation of freedom was extended to persons who had reached majority. The rape of youth, which included girls up to fourteen years of age, was introduced as rape under an especially aggravating circumstance by Edict of the Presidium of the USSR Supreme Soviet of 28 April 1980. Respective changes and additions were made in the Criminal Code of the Ukrainian SSR.

In connection with the adoption of the 1977 USSR Constitution and the need to bring criminal legislation into conformity with it, the Edict of the Presidium of the USSR Supreme Soviet of 13 August 1981, «On Making Additions to and Changes in the Fundamental Principles of Criminal Legislation of the USSR and Union Republics» made changes and additions, chiefly of a terminological character.

The Edict of the Presidium of the USSR Supreme Soviet of 5 June1981, «On Intensifying Responsibility for Hooliganism» increased criminal responsibility for this act and established shorter periods for investigation and judicial consideration of cases on hooliganism. Stricter responsibility for hooliganism, especially connected with the use or attempt to use a weapon, was established.

With a view to reducing the use of punishment in the form of deprivation of freedom and intensifying the struggle against recidivist crime, respective changes and additions were made by edicts of the Presidium of the USSR Supreme Soviet of 26 July and 15 October 1982 in the Fundamental Principles of Criminal Legislation and other legislative acts of the USSR, the essence of which basically was to increase the term of correctional tasks up to two years, increase the amount of a fine, introduce new rules concerning the possibility of vacating a conditional sentence in the event of a violation during the probation period of the promise by exemplary behavior and a good faith attitude towards labor to prove one's reform, and also a change of the conditions under which punishment was assigned under Article 36 of the Fundamental Principles of Criminal Legislation in instances of the commission of a new crime by the conditionally convicted person released from places of deprivation of freedom with obligatory enlistment for labor, and also a convicted person to whom deferral of execution of a judgment was applied, and so on. Significant changes and additions were made in this connection to the Criminal Code of the Ukrainian SSR.

The Edict of the Presidium of the USSR Supreme Soviet of 3 December 1982 was directed toward intensifying the struggle against the misappropriation of State and social property, in accordance with which persons who committed the petty theft of State or social property, together with being brought to administrative or criminal responsibility or the application to them of measures of social influence by the administration, by agreement with the trade union committee might be deprived wholly or partially of the bonuses and awards for yearly work results of enterprises or institutions, preferential passes to houses of leisure or sanatoriums, and their priority to receive dwelling space might be moved back.

By Edict of the Presidium of the USSR Supreme Soviet of 2 April 1985, «On Making Changes in and Additions to the Fundamental Principles of Criminal Legislation of the USSR and Union Republics and the Fundamental Principles of

Correctional-Labor Legislation of the USSR and Union Republics», the serving of punishment was introduced in the type of deprivation of freedom in correctional-labor colony-settlements for persons who committed unintentional crimes, and certain provisions on conditional-early release were changed.

Deprivation of freedom was the criminal punishment most widespread in the Criminal Code of Ukraine, being regarded as a universal means of achieving the purpose of criminal punishment and as a panacea against the absolute majority of crimes. However, this approach led to overcrowding of the correctional-labor institutions which for a reason of an objective nature did not fully ensure the functions of reform and re-education placed on them.[1] In many instances the persons in correctional-labor institutions acquired an anti-social orientation.

On 11 July 1969 the USSR Supreme Soviet adopted the Fundamental Principles of Correctional-Labor Legislation of the USSR and Union Republics. On the basis thereof in the Ukrainian SSR on 23 December 1970 the Correctional-Labor Code of the Ukrainian SSR was confirmed and introduced into force from 1 June 1971.[2] This legislation had the task of ensuring the execution of criminal punishment.

The Correctional-Labor Code of the Ukrainian SSR had the following sections: correctional-labor legislation of the USSR and Ukrainian SSR; general provisions of the execution of punishment in the form of deprivation of freedom, exile, banishment, and correctional tasks without deprivation of freedom; procedure and conditions for the execution of punishment in the form of deprivation of freedom, exile, banishment, and correctional tasks without deprivation of freedom; grounds for relieving from punishment, assistance to persons released from places of confinement; observation and supervision over persons released from serving punishment; participation of the general public in the re-education of convicted persons.

By Edict of the Presidium of the USSR Supreme Soviet of 8 February 1977, a new section was included in the Fundamental Principles of Correctional-Labor Legislation — the procedure and conditions for execution of a conditional conviction to deprivation of freedom with obligatory enlistment of the convicted person for labor. The Edict of the Presidium of the USSR Supreme Soviet of 15 March 1983 confirmed the Statute on the Procedure and Conditions for the Execution of Criminal Punishments Not Connected with Measures of Correctional-Labor Influence on Convicted Persons. This act determines the procedure and conditions for the execution of punishments in the form of deprivation of the right to hold certain posts or to engage in a certain activity, fine, social condemnation, confiscation of property, and deprivation of a military or special title.

In the Ukrainian SSR legislation on a civil proceeding consisted of the Fundamental Principles of Civil Procedure of the USSR and Union Republics adopted on 8 December 1961 and the Code of Civil Procedure of the Ukrainian SSR adopted in accordance with them in July 1963.

The Code of Civil Procedure of the Ukrainian SSR established general provisions of civil procedure: contained norms on persons taking part in a case and their rights and duties; proceedings in courts of first instance, cassational, and supervisory instances; determined the execution of judicial decisions; civil procedural rights of foreign citizens and stateless persons; contained norms on suits against foreign States;

[1] *V. K. Hryshchuk*, Кодифікація кримінального законадавства України: проблеми історії і методології [Codification of Criminal Legislation of Ukraine: Problems of History and Methodology] (Lviv, 1972), p. 156.
[2] *Ведомости* Верховного Совета УССР (1971), no. 1, item 6.

judicial assignments and decisions of foreign courts; determined the procedure for the consideration of cases in connection with international treaties and agreements.

The task of a civil proceeding consisted of the correct and expeditious consideration and deciding of civil cases with a view to defending the social and State system of the USSR, socialist system of the economy and socialist ownership, and the defense of political, labor, housing, and other personal rights and interests of citizens protected by a law. Thus, the defense of the interests not of citizens, but of the State, was placed in the forefront.

The Code of Civil Procedure of the Ukrainian SSR noted that the administration of justice in civil cases is effectuated only by a court and on the principles of equality before the law of all citizens irrespective of their material, property, and employment position, sex, nationality, racial affiliation, and profession of faith.

In the period here considered legislation on the criminal proceeding comprised the Fundamental Principles of Criminal Procedure of the USSR and Union Republics, adopted 25 December 1958, and the Code of Criminal Procedure of the Ukrainian SSR, confirmed 28 December 1960.

The Code of Criminal Procedure of the Ukrainian SSR contained norms on: conducting a criminal case, inquiry, and preliminary investigation; proceedings in a court of first instance; proceedings in cassational and supervisory instances; execution of judgments, decisions, and decrees of a court; and the application of compulsory measures of a medical character.

The tasks of Soviet criminal proceedings were proclaimed to be the expeditious and full eliciting of crimes, location of the guilty persons and ensuring the correct application of laws to that every person who committed crimes is sentenced to a just punishment and every innocent person is not brought to criminal responsibility and conviction.

On 11 July 1969 the Statute on Preliminary Confinement under Guard was confirmed.[1] Preliminary confinement under guard was permitted as an exceptional measure only when grounds existed to suppose that an accused would hide from the investigation or become an obstacle to the establishment of truth when investigating the crime, would continue criminal activity, or may evade the execution of a judgment.

The participation of a defender in a criminal proceeding was expanded by edicts of the Presidium of the USSR Supreme Soviet of 11 July 1969 and 3 February 1970. A defender was permitted to participate in a case from the moment of announcing to the accused that the preliminary investigation was completed and the presentation to him of all materials of the file of the case for familiarization; however, by decree of a procurator, a defender might be admitted to participate in the case from the moment of presentation of the accusation.

The basic principles of procedural law were consolidated in the 1978 Constitution of the Ukrainian SSR. These were the effectuation of the administration of justice only by a court on the principles of equality of all citizens before the law; participation in a court of first instance by people's assessors; collegiality of the consideration of civil and criminal cases in all courts; independence of judges and people's assessors and their subordination only to law; glasnost of a judicial consideration; right of persons taking part in a case to speak in court in their native language, and also to take

[1] *Ведомости* Верховного Совета СССР (1969), no. 29, item 248.

part in the case through an interpreter; and the right of an accused to a defense. The principle of participation of social organizations and labor collectives in proceedings in civil and criminal cases also received constitutional consolidation.

Many of the enumerated democratic principles far from always were realized in practice. Criminal procedure legislation did not ensure proper legal guarantees of the rights of a person. Insufficient exactingness of judges for the quality of investigation led to instances being encountered when the investigators by various means extorted an acknowledgement of guilt. Arrest was widely used as a measure or prevention, even in instances when there was no legal necessity for this. The periods for an investigation and, respectively the periods of sojourn under guard before trial established by a law often were violated.[1] The failure to make provision for the rights of an accused was intensified by the fact that Soviet criminal procedure legislation in the period here considered did not provide for the obligatory participation of an advokat in the preliminary investigation (although in many civilized countries this was a normal phenomenon). The refusal to give a person under investigation the right to use the services of an advokat at the stage of preliminary investigation was the legacy of the Stalin-Beria «justice» which seriously impinged upon the guarantees of the rights of citizens, including in the Ukrainian SSR.

Honcharenko V. Law of Ukrainian SSR in Period of Slowing the Pace of Social Development and Stagnation (1965–1985)

Abstract. The article deals with the law of Ukrainian SSR in period of slowing the pace of social development and stagnation. It is noted that the laws and other regulatory acts in varying degrees reflects relevant processes that have taken place in economic, political and social spheres of the USSR and the Ukrainian SSR at the period.

Key words: legislation, Code of Laws of the Ukrainian SSR, Fundamental Principles of Legislation of the USSR.

Гончаренко В. Д. Право УРСР у період уповільнення темпів суспільного розвитку і застою (1965–1985)

Анотація. Стаття присвячена праву УРСР у період уповільнення темпів суспільного розвитку і застою. Відзначено, що закони та інші нормативні акти тією чи іншою мірою відображали відповідні процеси, що відбувалися в економічній, політичній та громадській сферах СРСР і УРСР в даний період.

Ключові слова: законодавство, Звід законів УРСР, Основи законодавства Союзу РСР.

Гончаренко В. Д. Право УССР в период замедления темпов общественного развития и застоя (1965–1985)

Аннотация. Статья посвящена праву УССР в период замедления темпов общественного развития и застоя. Отмечено, что законы и другие нормативные акты в той или иной степени отображали соответствующие процессы, происходившие в экономической, политической и общественной сферах СССР и УССР в данный период.

Ключевые слова: законодательство, Свод законов УССР, Основы законодательства Союза ССР.

[1] V. V. Zhuravlev (ed.), На пороге кризиса: нарастание застойных явлений в партии и обществе [On the Threshold of Crisis: Growth of Stagnation Phenomena in the Party and Society] (Moscow, 1990), p. 170.