

## ABSTRACT&amp;REFERENCES

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GENESIS OF UKRAINIAN CITIZENSHIP  
LEGISLATION

p. 4-10

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*In this paper we'd compare Ukrainian nationality laws of 1918, 1991 and 2001 and demonstrate trajectory of Ukrainian citizenship legislation. As we know modern correct application of citizenship issues is a very important tension in frames of such triangle: person – society – state. We should note that till now there are a lot of discussions on this issue in order to determine possible strong ideological baggage, package of rights and duties and full membership in a state (features of citizenship) from everyday and personal complexity of social interaction.*

*Obviously, citizenship is a personal question of constitutional matters, therefore we emphasize that it is not only a philosophic or sociological issue, but also a legal one, mainly because of its primary essence which is purely related to legal (constitutional) matters. Therefore, we are sure that a research of citizenship concept' sources, deep analysis of its evolution and interconnection with state development deserves an additional attempt to study being one of the main modern European humanitarian standards and playing a prior role in personal self-consciousness and self-determination. That is why, the main citizenship markers we analyze in this paper are the followings: citizenship concept in the view of Nottebohm case 1955, principles of person's acquisition of citizenship by birth (jus sanguinis and jus soli), dual (multiple) citizenship, modes of its acquisition (naturalization, by marriage, by option or transfer, by investment) and its loss*

**Keywords:** citizenship, citizenship legislation, acquisition of citizenship, loss of citizenship, dual (multiple) citizenship

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**SPECIFIC CONSTITUTIONAL FRAMEWORKS FOR THE FUNCTIONING OF CIVIL SOCIETY IN UKRAINE: FREEDOM OF ENTERPRISE ACTIVITY**

p. 11-17

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*In the scientific article the actual questions of the constitutional and legal provision of individual freedom in the economic sphere are analyzed. In the course of the study the content and limits of individual freedom in economic relations were determined, the essence and structure of the right to entrepreneurial activity as a legitimate form of realization of freedom of the person was disclosed, the problem issues of the constitutionally-legal fixing of individual freedom in the economic sphere were revealed.*

*The study emphasizes the idea that the realization of individual freedom in the economic sphere is based on the combination of the phenomenon of economic independence of the state and individual freedoms as the basis of civil society. In this case, the right must determine and direct the development of civilized economic relations that promote the freedom and independence of the person. The limits of individual freedom of a person in economic relations are much broader than the amount of subjective rights that it grants to the state, since in this case the legislator finds it inappropriate or impossible to fully regulate the realm of economic freedom. The realization of individual freedom through the mechanism of a market organization in terms of the needs of civil society aims, first of all, to form the middle class as the basis for the further development of civil society.*

*The right to entrepreneurial activity, being one of the economic human rights and the form of realization of freedom in the economic sphere, is also one of the basic categories of constitutional law. The constitutional consolidation of the right to entrepreneurial activity actually institutionalized one of the central components of the entire mechanism of a market economy. The author notes that the main problems of the constitutional and legal provision of the right to entrepreneurial activity are due to the lack of a systematic approach in the Constitution of Ukraine in fixing economic order.*

*In this case, the basic constitutional and legal regulation of the right to entrepreneurship in the process of modernization*

*of the Basic Law, in our opinion, requires a change in the way of normative maintenance of freedom of business and the definition of the subjective composition of such a right*

**Keywords:** *civil society, the right to entrepreneurial activity, freedom of the person in the economic sphere, market structure, middle class*

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## LEGAL INSTRUMENTS FOR IMPROVING THE AUTHORITY OF THE COURT

p. 17-24

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*The article is devoted to the mechanism of increasing the authority of the court, one of the tools of which are called ensuring the availability of results of court activities – judicial decisions. The author's vision of the transformation of the existing concept of openness of the judiciary and the conditions for the realization of the right of every person to access judicial decisions are formulated, in particular, a number of proposals are indicated, aimed at optimizing the technical and organizational legal conditions for the functioning of the Unified State Register of Judicial Decisions.*

*The author analyzes the current normative provision of the procedure for publishing a court decision, clarifies the conflicts of legal regulation and problems of the practice of law enforcement. Two areas of relations are identified which arise in the process of providing access to court decisions. The first is external, which is to ensure everyone's right to access to a court decision. The second ones are internal, which establish the organizational framework for the formation and use of the Registry. Research in each direction allowed the author to formulate a series of proposals aimed at optimizing the mechanism for ensuring access to court decisions.*

*Since most court decisions are standard in certain categories of cases, they are of interest only to a particular territorial community living within the jurisdiction of the court, the question is whether the decentralization of the Unified State Register of Judicial Decisions is expedient by introducing the practice of publishing such decisions on the website of the courts that adopted them. The Registry should only send a decision in which in a new way interpretations of the legal norm that were relevant for the formation of a new jurisprudence, or decisions that have a significant social resonance and may be of interest to a larger audience than a territorial community within the jurisdiction of the court.*

*In addition, all decisions of the Supreme Court are necessarily included in the Register, since its decisions are of a*

*provisional nature and influence the maintenance of uniformity of judicial practice, predictability of court decisions. A number of proposals for improving technical administration of the Unified State Register of Judicial Decisions*

**Keywords:** court, judicial power, openness of the judiciary, authority of the court, public control, judicial decision, access to judicial decisions, Register of judicial decisions

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## MAIN AND ADDITIONAL FEATURES OF THE LEGAL CUSTOM IN THE CONTEXT OF THE SEARCH FOR ITS DEFINITION

p. 25-33

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*Concept and features of legal custom is an important and complex problem of contemporary juridical science. At the same time, unambiguous unified definition of legal custom can hardly be achieved due to the pluralism of legal thinking. For formulation the author's definition of the legal custom, it is necessary to distinguish its features by dividing them into the main and additional (optional), and based on the main features to construct the definition of this concept.*

*The main features of the legal custom are common to all, without exception, these customs and additional (optional) – those that are present in many legal customs, but not all. The main ones are the following: established in practice, normativity, generality, compliance with law, recognition by society and actual legal validity. Thus, legal custom is established in practice and compliant with law general rule of a conduct (or its complex), which has actual legal validity and recognition by society. Additional signs of the legal custom complement and extend the palette of this concept, but are not binding for its existence.*

*Optional (additional) features of a legal custom can be provided a little more than the main ones. This may be explained by the number and diversity of legal customs. In particular, they are: justice, rationality, ancientness, continuity, static, ethnicity, compulsory, sanction, incorporation into the system of law, provision of state coercion, unwritten form, certainty, variability, utility, consistency, anonymity and collectivity of authorship*

**Keywords:** legal custom, catalog of features, legal norm, practice, generality, recognition by society

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**«LEGISLATION» AS THE LEGAL TERM: TO THE PROBLEM OF FORMULATION OF DEFINITION**

p. 34-39

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*The concept of “legislation”, which is one of the most frequently used in the texts of current normative legal acts, is analyzed in the article. “Legislation” as a common term means the totality (plurality) of legal laws; all the obligatory rules of behavior determined by the state. “Legislation” as a legal term doesn’t have the general single concept and the legal definition. The main problem of formulating the definition of the concept of legislation is its elemental composition, namely, the question of which normative legal acts (or possibly other official sources (forms) of law, for example, normative legal contracts) are included in it?*

*It is pointed that the rules of legislative technique requires a clear and single definition the legal term. It is stated that in determining the concept of “legislation” used logical method of enumerate. The author of the article proposes an approach to the formulation of the concept of “legislation” with the help of another logical operation - determination of the concept through the genus and species differences – defining a certain generic (primary) element, which is common to both the normative legal act and the normative legal agreement (or for all sources (forms) of the positive (legal) right)*

**Keywords:** legal term, legislation, normative legal act, international contract, system of normative legal acts

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**EXPERIENCE OF THE LITHUANIAN REPUBLIC AND THE REPUBLIC OF GEORGIA ON THE PROVISION OF PUBLIC SERVICES AND THE WAYS OF THEIR IMPLEMENTATION IN THE DOMESTIC LEGISLATION**

p. 39-44

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*The article highlights the foreign experience of Lithuania and Georgia in providing public services and ways of its implementation in domestic legislation. The legal acts regulating the provision of public services in Lithuania, Georgia are disclosed. The directions of improvement of the legislation of Ukraine on the provision of public services in the light of foreign experience are offered, namely: round-the-clock convenient access for all users, especially those with disabilities or those who work or study abroad, while maintaining confidentiality; the use of various remote communication channels, which in turn leads to a reduction in the cost of such a service and to accelerates the timing of provision of various types of public services to consumers*

and, as a result, to improve the environmental situation (reducing emissions, paper costs, etc.); provision of public services in one place («single office», «one window», etc.), which allows to fully satisfy the needs of consumers

**Keywords:** «single window», «single office», electronic access, implementation, service, public service

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ADMINISTRATIVE AND LEGAL BASES FOR ASSESSING THE LEVEL OF INFORMATION SECURITY RISKS IN THE PROCESSES OF MILITARY SERVICE ACTIVITIES OF THE NATIONAL GUARD OF UKRAINE

p. 45-49

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*The article is focused on the comprehensive research of administrative and legal bases for assessing the level of information security risks in the processes of military service activities of the National Guard of Ukraine. The arsenal of methods for analyzing and assessing risks is outlined, and a scale for assessing the level of risk-situations. To construct a risk level scale, it is suggested to use the following information: generalized values of the coefficients; coefficients based on statistical data on the performance of the NGU as a whole and units as a whole; estimates and values of coefficients developed by experts. As a result of using our proposed modified methodology for analysis and risk assessment for a specific process of the SBU of the NSU, we obtain the values of individual risk factors by its types (lawful, admissible, unlawful) and the degree of admissibility (justified, unjustified, political, physical, economic), which are located in within the interval from 0 to 1, and also the value of the general (aggregate) risk factor, which is located in the range from 0 to 3, since the processes of the SBU of the NSU are simultaneously influenced by the law Wow, acceptable, illegal, justified, not justified, political, economic and physical risk factors. Attention is accented on problem questions which arise up on the modern stage of development of the state*

**Keywords:** administrative and legal bases, National Guard of Ukraine, assessment, level of risk, information security

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#### PROCEDURAL STATUS OF A DEFENDER FOR THE CRIMINAL PROCEDURE CODE OF UKRAINE: PROBLEMS OF REGULATION AND WAYS OF THEIR IMPROVEMENT

p. 49-54

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*There is considered the question of legislative regulation of the procedural status (rights and duties) of a defender in a criminal proceeding. It was determined, that according to the valid Criminal procedural code of Ukraine of 2012, proxies of a defender remain insufficiently regulated, because the separated paragraph,*

*devoted to this question is absent. Having analyzed requirements of paragraph 46 of CPC of Ukraine, it was stated, that rights of a defender are derivative from rights of a suspected, accused person, whose defense is realized. According to the author, it is conditioned by the fact that as opposite to other participants of a criminal proceeding, a defender cannot participate in it independently. At the same time such situation in any case must not influence the distinct fixation of correspondent rights and duties of a defender in the CPC of Ukraine. The determination and distinct fixation of correspondent rights and duties of a defender in the CPC of Ukraine will be a guarantee of providing the effective defense of rights, freedoms and legal interests of a suspected person by him. Having studied statements of the CPC of Ukraine, there was determined that the procedural status of a defender includes several "familiar" statuses. Especially, from one side a defender has right of a suspected person, from another one – legal barrister status. Thus, the volume of criminal procedural rights and guarantees of their realization is essentially wider in a defender than in a suspected person. It is proved also by the fact that a suspected person hasn't a right to sent a barrister inquiry that is realized by a defender for obtaining stuff, copies of documents, information, conclusions of experts, conclusions of revisions, acts of examination from state authorities, local administration, enterprises, institutions, official and physical persons. That is why rights of a barrister and suspected person cannot be identified by volume*

**Keywords:** criminal proceeding, procedural status, defender, barrister, defense side, duties, rights

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