ABSTRACT

OFFICIAL TITLE

PERSPECTIVES OF IMPROVEMENT OF THE ACTIVITY OF THE CONSTITUTIONAL COURT OF UKRAINE IN THE CONDITIONS OF MODERN SOCIAL TRANSFORMATIONS

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The article deals with the basic directions of activity of the Constitutional Court of Ukraine as a result of the implementation of the constitutional reform in Ukraine, amendments to the Basic Law, the adoption of a new law on the Constitutional Court of Ukraine, year 2017. The rules of the Constitutional Court of Ukraine, year 2018, corresponding personnel changes, etc. The positive dynamics and efficiency of the body of constitutional jurisdiction in Ukraine is marked, especially in the context of the review of constitutional complaints, protection of the rights of man and of the citizen, which were violated, by legal norms. Despite some problems, the activity of the Constitutional Court of Ukraine in General demonstrates the formation of the system of constitutional justice in the European model. It also emphasized that the issues of improvement of its legal status, improving the efficiency of operation and trust, are designed to be the center of attention of the relevant government institutions, scholars and the public European model.

Attention is paid to achieve the main goals that stand today before the Constitutional Court of Ukraine: the development of technology activities the great Chamber, Senate, boards and services of each judge to ensure the timely, fair, effective cases, optimization of acceptance and consideration of constitutional complaint, the establishment of the Court as an integral part of the judicial system, the structural element of the judiciary, a body that provides specific direction of litigation and is one of the most public authorities.

The necessary prerequisites to achieve these goals are the permanent analysis and generalization of their own practice of the Constitutional Court, the regular holding of scientific-theoretical and scientific-practical conferences, symposia, round tables with domestic and foreign leading scientists. The question of constitutional proceedings are being discussed, the extension of the proceedings in the Court’s activities are information and communication technologies, taking into account the practice and implementation of the positions and decisions of international courts, etc.

References

PROBLEM OF EURO-ATLANTIC INTEGRATION IN THE MODERN CONSTITUTIONAL PROCESS OF UKRAINE

p. 12-16

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The article is devoted to analysis of origins of the Euro-Atlantic course formation in Ukraine, stages of its realization, directed on our state enter EU and North Atlantic Treaty Organization. The central line of the paper is to investigate the formation of the legislative national base of Euro-Atlantic integration of our state, including fixation of the Euro-Atlantic course in the Constitution of Ukraine for gaining membership in the European Union and North Atlantic Treaty Organization by our country. The special attention is paid to the place and role of the Frame document “Partnership for peace” (1994), Charter of special partnership between Ukraine and North Atlantic Treaty Organization (1997), Declaration about addition of the Charter on special partnership (2009). One of main stages of this process is a declaration in 2003 about the striving of Ukraine as a participant of “Partnership for peace” for gaining membership in NATO and creation of the Commission Ukraine-NATO. Activation of the dialogue between Ukraine and the Alliance and realization of reforms by our country gave heads of states and governments of NATO reasons in 2008 at the meeting of the Northern-Atlantic council of NATO to accept a decision that Ukraine will become a member of NATO in future. Braking factors of the process of Euro-Atlantic integration of Ukraine in 2009–2019 are indicated in the article. After 2014 Ukraine activated steps, directed on preparing to entering NATO by realization of annual National programs of cooperation NATO-Ukraine that provide realization of concrete arrangements of the legal, political, economic, protective, defending, military and resource character for attaining correspondence to criteria, norms, principles of NATO and EU in the socio-political sphere, especially prevention and counteraction to corruption, implementation of principles, realization of NATO programs for integration, transparency, accountability, introduction of honesty and decrease of corruption risks in the activity of defending institutions.

One of important links of realizing the Euro-Atlantic integration course of Ukraine is the improvement of the legislative base, especially acceptance of a series of anti-corruption laws and creation of correspondent bodies. A special importance in strengthening the Euro-Atlantic course belongs to introduction of changes in the Constitution of Ukraine about irreversibility and stability of Ukraine’s strivings as to entering EU and NATO in 2019. The paper analyzes problem questions of Ukraine’s integration to EU and NATO and also formulates conclusions.

Keywords: constitutional process, Constitution, legislation, Euro-Atlantic course, NATO, integration

References

8. Deklaratsiya pro dopovnennia Kharti do osobyh partnerstvo mizh Orhanizatsiiyu Pivnichno-Atlan-
The problem of determining the position of the prosecutor’s office in the system of distribution of state power in Ukraine was one of the constant topics of discussion, on which various concepts and long-standing scientific and theoretical disputes were raised. The Revolution of Dignity in 2014 stimulated the development of the current stage of the constitutional process and the introduction of amendments to the Constitution in the area of justice, which paved the way to reform of the prosecutor’s office in Ukraine. Article 131 of the Constitution of Ukraine, which regulates the constitutional and legal status of the prosecutor’s office, enshrined a new normalization of the bodies of the prosecutor’s office, their place in the system of public authorities. Constitutional changes resulted in the exclusion of Section 7 of the Constitution of Ukraine «Prosecutor’s Office» from the Basic Law, and Article 131 took its new place in Section 8 of the Constitution of Ukraine «Justice». Further development and clarification of the constitutional and legal status of prosecutorial authorities is acquired in the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on Priority Measures for the Reform of the Prosecutor’s Office» of September 19, 2019. The Law introduces a new structure of the prosecutor’s office, clarifies the law of the Prosecutor of Ukraine, the maximum number of employees of the prosecution bodies is determined, the requirements regarding the attestation of employees of the prosecution bodies are specified.

DOI: 10.15587/2523-4153.2019.179942

TRANSFORMATION OF THE CONSTITUTIONAL-LEGAL STATUS OF THE PROSECUTOR’S OFFICE IN UKRAINE AND FOREIGN EXPERIENCE

p. 17-23

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The article is devoted to the analysis of the transformation of the constitutional and legal status of the prosecutor’s office in independent Ukraine, from its Soviet model with broad control and supervisory powers to the prosecutor’s office of a democratic, rule of law state, its place in the modern system of public authorities. In the article, the analysis of modern reform processes in the system of the national prosecutor’s office is combined with the coverage of models in the latest world constitutional and legal practice to different branches of power, and from that place the role and importance of the prosecutor’s office in the system of state power. In scientific constitutionalism, there are several options for attributing a prosecutor’s office to a particular branch of state power, or even defining it as a separate body of state power. The option of attribution of the prosecutor’s office to the executive power system has been successfully implemented in the states making practice of the USA, Denmark, France, the Netherlands, Germany, Austria, Poland, and Sweden. The model of including the prosecutor’s office in the legislative branch has the right to life, but it has not become widespread. Contrary to this model, the prosecution’s attribution to the judiciary became a reality in Spain, Bulgaria, Croatia and other countries. In the Constitution of these states, the provisions on prosecutorial authorities and the regulation of their activities are contained in the sections of the judiciary. In addition to these basic options for determining the constitutional status of the prosecutor’s office, there are others that are less common.

References
DOIs: 10.15587/2523-4153.2019.179517

CONCEPT AND TYPES OF TERMS IN PROCEDURES FOR RESOLVING ELECTION DISPUTES

p. 23–26

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In the article, the author established the nature and types of terms for resolving electoral disputes. It is concluded that it is advisable to establish the essence of the term as a legal category; it is used in the consideration and resolution of administrative disputes, including election disputes. It is substantiated that the term must be understood as a certain time period, determined by the calendar date or event, with the onset of which the person arises or terminates the right to act in a certain way. The terms in consideration and resolution of electoral cases are classified according to a number of criteria – the method of protecting violated right, time of application of the right to appeal a management decision, with the onset of which the person arises or terminates the right to act. The terms are considered and classified by the substantive rules of administrative law. Attention is drawn to the fact that maintaining the norm on defining the terms of appeal to the administrative court as a guarantee of the protection of electoral rights in the structure of the Code of Administrative Procedure of Ukraine is a compulsory measure of legal regulation, they should be eliminated as part of law-making activities to develop and adopt the Electoral Code of Ukraine. It is emphasized that classifying the term of appeal to the administrative court as a guarantee of ensuring the implementation of the right to appeal a management decision or event, with the onset of which the person arises or terminates the right to act, is reasonable to apply the category of “reasonableness” to the determination of their duration, used in the Code of Administrative Procedure of Ukraine to determine the period during which a court must consider the matter or carry out other procedural actions.

Keywords: elections, electoral process, electoral rights, electoral disputes, Electoral Code of Ukraine, harmonization of legislation, term of circulation

References
10. Akdivar and Others v. Turkey (1996). European court of human rights. 30.08.1996. Available at: https://www.refworld.org/cases,ECHR,3ae6b7224.html

DOIs: 10.15587/2523-4153.2019.179915

LEGAL REGULATION TO OBOBIGANNY TO CORRECT RISIS PID HOUR RECEIVING ELECTRONIC SERVICES

p. 27–31

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The scientific article is devoted to the legal regulation of the prevention of corruption in the provision of electronic services. In Ukraine, today the legal basis for preventing corruption in the provision of electronic services needs to be improved. After all, in the Law of Ukraine “On Administrative Services”, the characterization of the mechanism of the procedure for providing electronic services for the prevention of corruption contains only formal aspects and is reflective of other normative legal acts, which, in turn, leads to its own and quite opposite interpretation of the norms by the entities public administration. Regarding the directions of improving the legal basis for the prevention of corruption in the provision of electronic ser-
Services are: drafting and adoption of the Law of Ukraine “On Administrative Procedures”; the amount of payment for types of electronic services should be determined solely by law, not by-laws; to develop and adopt the Law of Ukraine “On Administrative Fee”, which should unify the name of the fee for administrative services; it is necessary to define common administrative fees for all types of electronic services. The expediency of the immediate adoption of the bill No. 4267-1 of 23.03.2016 as the Law of Ukraine “On Amendments to the Law of Ukraine” On Administrative Services “is substantiated. and will prevent corruption in the provision of electronic services in general. It is established that the existence of corrupt and well-established mechanisms in the domestic system of administrative management, which has traditionally been established, makes the problem of establishing electronic provision of electronic services beyond what is purely technical and informational. Optimization of public administration through the transition to e-government is associated with the need to adapt the old conditions and the usual patterns of relations between the authorities and the subjects of appeals to the new conditions, in other words, with socio-institutional adaptation. Such a transition is a lengthy process, complicated by conflict and even struggle, which manifests itself in both the legal and political fields.

**Keywords:** service, e-service, corruption prevention, directions, legal act, legal regulation

**References**


14. Pro zatverdzhennia vymoh do pidhotovky tekhnomohichnoi kartky administratyvnoi posluhy: Postanova Kabinetu Ministriv Ukrainy vid 30 сихня 2013 roku No. 44. Available at: https://zakon.rada.gov.ua/laws/show/44-2013-%D0%BF

15. Pro zatverdzhennia Prymornoho polozhennia pro tsentr nadannia administratyvnykh posluh: Postanova Kabinetu Ministriv Ukrainy vid 20 liutoho 2013 roku No. 118. Available at: https://zakon.rada.gov.ua/laws/show/118-2013-%D0%BF


17. Deiaki pytannia vedeninia obluku dokhodiv, yaki nadkhodiad yak plata za nadannia administratyvnykh posluh: postanova Kabinetu Ministriv Ukrainy vid 7 серпня 2013 roku No. 600. Available at: https://zakon.rada.gov.ua/rada/show/600-2013-%D0%BF


**DOI:** 10.15587/2523-4153.2019.180309

“KOPA” LAW AND ITS APPLICATION IN UKRAINIAN COMMUNITY JUSTICE (XIV–XVIII CENT.)

p. 32–38

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The article is devoted to “kopa” customary law, which was applied by community courts in Ukrainian lands in the XIV–XVIII centuries. Interpretations of the concept of “kopa” law in the scientific literature are covered. “Kopa” law was a subsystem of material and procedural norms of customary law. It was characteristic of the Ukrainian and Belarussian peoples. In addition, “kopa” law was sometimes referred to as the community court, which enforced the relevant rules. The structure of “kopa” law and the origin of its elements are revealed. The basis of “kopa” law was legal customs, inherited from ancient communities. New customary rules were also formed as a result of the legalization of religious norms and the influence of litigation practices of community courts. Among the courts, operating in the Ukrainian lands in the XIV–XVIII centuries, “kopa” courts were one of the most fully applicable rules of customary law.

The material norms of “kopa” law on the basis of the analysis of community courts decisions are covered. The norms of land tenure, civil offenses, crimes, complicity, recidivism, necessary defense, punishments and release from them are analyzed. Criminal responsibility in “kopa” law had the primary purpose of protecting a person, his/her life, health and property. Among criminal cases, “kopa” courts most often dealt with cases of murder, theft, witchcraft, arson, sacrilege, etc. This range of categories of criminal cases allows us to determine what actions “kopa” law considered criminal. For committing crimes, “kopa” law provided property, corporal punishments and the death penalty. In “kopa” law death penalty was realized mainly through hanging. As for witches, sorcerers and arsonists burning at the stake was used.

**Keywords:** “kopa” law, customary law, community court, legal liability, punishment

**References**

10. Tsentralnyi derzhavnyi istoriichnyi arkiv Ukrainy u m. Kyievi, f. 25 (Lutskyi hrodskyi sud), op. 1, spr. 10 (Aktova knyha sichen – 30 hrudnia 1568 r.), 431 ark.
17. Tsentralnyi derzhavnyi istoriichnyi arkiv Ukrainy u m. Kyievi, f. 28 (Volodymyrs’kyi hrods’kyi sud), op. 1, spr. 40 (Aktova knyha sichen – 31 hrudnia 1608 r.), 533 ark.