

ABSTRACT&REFERENCES

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INTERNATIONAL LEGAL ACTIVITY OF THE INSTITUTE OF STATE AND LAW: THEORY AND PRACTICE ISSUES

p. 4-8

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The article is devoted to the analysis of the formation and development of academic research in the field of international law at the V.M.Koretsky Institute of State and Law. Organizational origins of international law started with the creation of the state and legal sector in the system of the National Academy of Sciences of Ukraine in 1949. Special attention is paid to the presentation of the role of the outstanding scholar of the international lawyer in the creation of the Institute of State and Law, organization and implementation of legal research, in particular in the field of international law and the formation of the corresponding scientific school.

The objective development of international law in the second half of the twentieth century was conditioned by the necessity of ensuring the international legal activity of Ukraine in the international arena, as one of the founding states of the United Nations. At this stage, the efforts of Koretsky and his associates were directed at the theoretical substantiation of the international legal personality of Ukraine, the study of the problems of the codification of international law, its sources, and the relation with the internal law of the states. The results of fundamental research in the field of international law favored the recognition of Ukrainian scholars' contributions to international legal science. Koretsky was recognized as one of the world's leading figures and attracted by the international community to practical international legal activities in specialized United Nations bodies. He entered history as one of the founders of the Universal Declaration of Human Rights.

The period of 50–60 years of the twentieth century in the development of Ukrainian international law was characterized by the active formation of its scientific school, the bright representatives of which were international scholars M. K. Mikhailovsky, N. M. Ulyanov, V. I. Sapozhnikov and others. Their research has created the foundation of a modern school of international law. The article analyzes their main works and theoretical positions that have become the property of international legal science.

The 70–80s of the 20th century in the development of international legal science in Ukraine were characterized by the growth of its scientific potential, personnel growth of the school, expansion of the range of research. Since 1984, the head of the department of international law and comparative law of the Institute is V. N. Denisov, who organizationally and methodologically ensured the development of the study of actual problems of international law.

With the proclamation of Ukraine's independence, the main tasks of the national science of international law are aimed at studying the problems of the implementation of the sovereignty of Ukraine. Over the past three decades, the results of research by scientists of international lawyers of the Institute have become dozens of individual and collective monographs that identified the main trends in the development of science of international law at the present stage.

Today, the scientific school of international law is represented by the doctors of jurisprudence V. N. Denisov, V. I. Akulenko, O. V. Kresin and candidates of jurisprudence O. I. Didkivska, O. S. Pereverzeva, I. M. Protsenko, K. O. Savchuk, A. V. Smoliy, M. I. Surzhinsky, L. G. Falaleyev. A special role in the article is devoted to the analysis of organizational and scientific activities of the directors of the Institute after V. M. Koretsky, academicians B. M. Babiy and Yu. S. Shemshuchenko

Keywords: international law, school of international law, Institute of State and Law, scientific researches

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FORMATION AND DEVELOPMENT OF THE DONETSK SCIENTIFIC SCHOOL OF ECONOMIC LAW AND ITS BRANCH SCIENTIFIC SCHOOL VASYL' STUS DONETSK NATIONAL UNIVERSITY

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In the article the basic stages of formation and development of the Donetsk scientific School of economic law and its branch in Vasyl' Stus Donetsk National University are presented by the leading conceptual ideas that received the justification in scientific writings of the representatives of the scientific school. Named representatives of the first generations of the Donetsk scientific School of economic law, who stood at the origins of legal concepts. Considered the way of the formation of branch of this school in the Vasyl' Stus Donetsk National University and presented by scientists and companies that contribute to the development of such a cell.

Characterized the present state of scientific achievements and the composition of the representatives of the cell specified scientific school in the Vasyl' Stus Donetsk National University. Attention was paid to the continuity of research between different generations of scientific school with regard to contemporary economic, political and legal realities.

Outlined the prospect activity branch of the Donetsk scientific School of economic law in the Vasyl' Stus Donetsk National University, associated with the achievement of the goal of strengthening the system of legal remedies, designed to ensuring equal conditions, stability and efficiency of management for all participants of economic relations, satisfaction and protection of the interests of such participants to ensure the growth of business activity subjects, ensuring consistency and coordination of business entities, their interest in entrepreneurship development and on this basis to ensure the efficiency of social production, its social orientation

Keywords: Donetsk scientific School of economic law, branch scientific School, Vasyl' Stus Donetsk National University

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GENERALTHEORETICAL RESEARCH OF COMBINED LEGAL SUBJECTIVITY

p. 14-20

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Combined legal subjectivity is the genus of legal subjectivity which subjects of law acquire as a result of legitimate filling of gaps in the structure and/or content of their legal subjectivity by the relevant parts of the legal subjectivity of other persons. According to the author, there are three groups of cases in which the subject of law is forced to attract an external legal-subjectivity resource in order to supplement the potential of its own legal subjectivity.

The first group should include situations of complete absence or limited presence in the legal subjectivity of a social actor of one or more of its structural elements, which are legal capacity, delictual capacity and active capacity. This kind of «combined legal subjectivity» is referred to by the author as «structurally-directed» and the model for its shaping is defined as «substitution». Example: involving in the legal subjectivity of minor children the active capacity and delictual capacity of their parents.

The second group consists of cases, where the subject of law is fully capable, but for the realization of private interests of the subject and/or fulfillment of certain social functions it's required the external addition to its subjectivity resource. Such legal subjectivity arises due to the combination of fragments of legal subjectivity of several persons with non-identical legal status and occurs according to

the model of «supplement». The author calls this kind as «functionally-directed». Example: using by buyers and sellers of securities of a legal subjectivity of licensed securities traders.

The third group consists of cases, when subjects of law attract an external legal subjectivity resource in order to overcome mainly geographical, temporary and other actual barriers that make it difficult for them to independently implement their own legal subjectivity. The model for shaping of this kind of «combined legal subjectivity» is the «combining» and, properly speaking, it can be conventionally referred to as «practically-directed». Example: execution of mandates of foreign courts by Ukrainian courts as well as execution of mandates of Ukrainian courts by foreign courts

Keywords: category «legal subjectivity», legal capacity, delictual capacity, active capacity, notion «combined legal subjectivity», types of combined legal subjectivity

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THEORETICAL ANALYSIS OF ESSENCE AND CONTENT OF CONSTITUTIONAL BASES OF HUMAN RIGHTS ACTIVITIES

p. 20-27

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The article reveals the essence and content of the constitutional foundations of human rights activities in Ukraine, examines the main subjects, methods and forms of this activity, in relation to the protection of fundamental human rights and freedoms.

The authors indicate that human rights activities as an object of numerous researches about their methods, mechanisms, subjects and forms have passed, on the authors opinion, their rocky way from the natural human rights acknowledgement and search for the mechanisms of the affirmation and guarantee thereof, to the human rights activities as a special constitutional legal activity, from static procedural characteristics to dynamic processual features. At the same time, human rights activities get powerful development simultaneously with the emergence of constitutionalism and the practice of normalizing human rights and freedoms in the constitutions.

We shall indicate that human rights and freedoms and affirmation, exercise and protection of them absolutely deservedly have become one of the key subjects of constitutional law-making and law-enforcement practice in 21st century. Thus, national protection of human and civil rights and freedoms is regarded as legislative and law-enforcement practice in the field of human rights which reflects specific historical and cultural traditions and the level of socio-economic development of the country.

We can conclude that human rights protection constitutes a necessary integral and inevitable component of the legal sphere, the focus of its development and one of the forms of the essence of law expression.

The effectiveness of such protection is due to the constructiveness of the interaction of the entire set of elements of the legal mechanism for the implementation of human rights protection in Ukraine.

Today, the main objective of human rights activities in Ukraine is protection and restoration of human rights and freedoms established and guaranteed by the Constitution, creation of the proper conditions ensuring human life and health protection, respect of human honor and dignity, inviolability and security by national and local authorities and their officers and by non-governmental organizations and business.

At the same time, human rights activities, despite their purposeful nature, should prevent the violation of the principle of equality of constitutional rights and freedoms

Keywords: *human rights activities, human rights, institute of civil society, legislative practice, Constitution*

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DIRECTIONS OF PERFECTION OF THE LEGISLATION OF UKRAINE IN PART OF THE ADMINISTRATIVE AND LEGAL ENSURING REALIZATION OF THE ECONOMIC FUNCTION OF THE STATE

p. 28-33

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The article analyzes the main policy documents, the subject of regulation of which is to ensure the implementation of the economic function of the state. The authors substantiate the conclusion that methods of improving administrative and legal support for the implementation of economic functions by the state should be directly related to budget deconcentration, delegation of functional powers of central executive bodies to the level of local self-government, establishment of an effective system of administrative services in the field of economics and appropriate legislative strengthening of administrative procedures.

It was emphasized, that the objectives of the European administrative-legal space are the focus on strengthening the single internal market of the European Union; minimization of administrative barriers; unifying the legal framework and enhancing the cooperation of the member states of the European Union for deeper economic interaction. The development of such characteristic features of the European administrative and legal support for the fulfillment of the economic function by the state, such as the predominance of methods of economic incentives, including tax burden reduction, deregulation, and an effective network for the provision of administrative, including consulting services, is identified. It has been substantiated, that the ways to improve the administrative and legal support for the implementation of the state's economic function consist in reducing the administrative burden of state regulation in the field of economy and improving the quality of administrative services. The successive steps on the chosen path should be the adoption of the Law of Ukraine "On Administrative Procedure", which will ensure transparency of the procedure for administrative decision of individual cases; expanding the arsenal of methods to protect the rights and freedoms of individuals in public law relations through alternative (extra-judicial) methods of handling cases; legislative consolidation of the electronic form

of treatment as a type of administrative complaint to meet the requirements of the modern information society; decentralization and privatization of state functions in the field of public service administration

Keywords: *administrative and legal support, economic function, European administrative space*

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PROCEDURAL GUARANTEES OF OBSERVANCE OF HUMAN AND CIVIL RIGHTS IN THE ACTIVITIES OF THE JUDICIAL AUTHORITY BODIES

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The article is devoted to the actual scientific problem - the protection of human rights and freedoms by the judicial authorities, their priority in this process. It provides an analysis of international legal acts, devoted to this problem. It is stressed, that the success of judicial administration in the performance of justice depends on many factors, and especially on the regularity of the procedural form of resolving disputes in court and on the universality of the nature of the "procedural order". Compliance with the procedural guarantees of the administration of justice is a prerequisite for its implementation and proper consideration of court cases. The procedural guarantees of observance of human rights in the administration of justice include: courteousness of the court, transparency, openness of court proceedings, efficiency of justice, participation of the people in its implementation, competition of the parties in court proceedings, etc.

Particular attention is paid to the specifics of guarantees of observance of human rights in criminal justice and analysis of normative and legal acts that establish the basic principles and guarantees of observance of human rights and their classification on: international legal acts, constitutional acts (constitutional or basic laws), legislative acts (first of all separate laws and codes).

There are two groups of guarantees of the observance of human rights in the administration of justice. These are procedural guarantees, which are almost completely equated with the principles of justice and procedural safeguards for the observance of human rights in the administration of justice. Both of these guarantee groups are closely interrelated and none of them can be effectively applied without the other. However, the second group of guarantees includes a more detailed list of legal rules that already apply to specific cases (order, terms, etc.) in relation to one or another type of legal proceedings.

Comparison of the procedural rights of the victim and the accused has been made, and the emphasis has been made on impossibility of limiting the procedural rights of the accused. Unlike civil, administrative and constitutional justice, a char-

acteristic feature of criminal justice is that it guarantees not only at the stage of judicial review, but also at the stages preceding it

Keywords: *rights and freedoms, judicial authorities, procedural guarantees, national and international law*

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