ABSTRACT&REFERENCES

DOI: 10.15587/2523-4153.2019.180113

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

p. 4-11

Mykhailo Kostytskiy, Doctor of Law, Professor, Academician of the National Academy of Legal Sciences of Ukraine, Corresponding Member of the National Academy of Pedagogical Sciences of Ukraine, Honored Lawyer of Ukraine, Department of Philosophy of Law and Legal Logic, National Academy of Internal Affairs, Solomianska sq., 1, Kyiv, Ukraine, 03035
E-mail: nkkiev1966@gmail.com
ORCID: *http://orcid.org/0000-0002-2093-2513*

Nataliya Kaminska, Doctor of Law, Professor, Department of Constitutional Law and Human Rights, National Academy of Internal Affairs, Solomianska sq., 1, Kyiv, Ukraine, 03035
E-mail: na-pro@ukr.net
ORCID: *http://orcid.org/0000-0002-7239-8893*

Nataliia Kushakova-Kostytska, PhD, Senior Researcher, Honored Lawyer of Ukraine, Department of Philosophy of Law and Legal Logic, National Academy of Internal Affairs, Solomianska sq., 1, Kyiv, Ukraine, 03035
ORCID: *http://orcid.org/0000-0002-1116-4751*

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.

Keywords: *Constitution of Ukraine, Constitutional Court of Ukraine, activities, constitutional complaint, decision, human rights, rule of law*

References

1. Holovatyi, S. P. (2011). Verkhovenstvo prava (pravovladdia): yak yoho tlumachyt Venetsiiska komisiia. Pravo Ukrainy, 10, 154–167.

2. Barabash, Yu. H., Dakhova, I. I., Yevsieiev, O. P., Kolisnyk, V. P. (2012). Konstytutsiina yurysdyktsiia. Kharkiv, 168.

3. Selivanov, A. O., Stryzhak, A. A. (2010). Pytannia teorii konstytutsiinoho pravosuddia v Ukrainy. Kyiv: Lohos, 276.

4. Selivanov, A. O. (2006). Verkhovenstvo prava v Konstytutsiinomu pravosuddi: analiz konstytutsiinoi yurysdyktsii. Kyiv, Kharkiv: Akademiia pravovykh nauk Ukrainy, 400.

5. Kostytskyi, M. V. (2011). Dokazuvannia v konstytutsiinomu sudovomu protsesi. Visnyk Konstytutsiinoho Sudu Ukrainy, 4-5, 158–163.

6. Shaptala, N. K. (2018). Dokazuvannia v konstytutsiinomu sudovomu protsesi: filosofsko-pravovi zasady. Kyiv: Lohos, 388.

7. Shevchuk, S. S. (2002). Osnovy konstytutsiinoi yurysprudentsii. Kharkiv: Konsum, 296.

8. Hultai, M. M., Anishchuk, N. V., Afanasieva, M. V., Bakaianova, N. M. et. al.; Krusian, A. R., Yezerov, A. A. (Eds.) (2018). Zakhyst prav i svobod liudyny ta hromadianyna Konstytutsiinym Sudom Ukrainy. Problemy suchasnoi konstytutsionalistyky. Kyiv: Yurinkom Inter, 438–456.

9. Chystokolianyi, Ya. V. (2018). Osnovni problemy pravozakhysnoi diialnosti Konstytutsiinoho Sudu Ukrainy. Aktualni problemy vitchyznianoi yurysprudentsii, 4. Available at: http://apnl.dnu.in.ua/4_2018/10.pdf

10. Problemy implementatsii zmin do Konstytutsii Ukrainy shchodo pravosuddia ta statusu Konstytutsiinoho Sudu Ukrainy (2017). Proekt vykonano za pidtrymky Nimetskoho Fondu mizhnarodnoho pravovoho spivrobitnytstva ta Proektu Rady Yevropy «Pidtrymka vprovadzhennia sudovoi reformy v Ukraini». Kyiv, 188. Available at: http://razumkov.org.ua/uploads/article/2017_Sud_reform.pdf

11. Kampo, V. M. (2011). Konstytutsiinyi Sud Ukrainy yak subiekt ta obiekt modernizatsii sudovoi vlady. Konstytutsiini aspekty sudovoi reformy v Ukraini. Lviv: FOP Kundelskyi H. L., 33–42.

12. Khotynska-Nor, O. Z. (2017). Teoretyko-pravovi ta prakseolohichni zasady sudovoi reformy v Ukraini. Kyiv, 36.

13. Slidenko, I. D. (2017). Instytut konstytutsiinoho kontroliu: metodolohichni aspekty doslidzhennia. Filosofski ta metodolohichni problemy prava, 2, 24–36. Available at: http://nbuv.gov.ua/UJRN/Fmpp_2017_2_4

14. Korniienko, P. S. (2017). Konstytutsiinyi kontrol u systemi konstytutsiinoi pravozakhysnoi diialnosti v Ukraini. Sudova apeliatsiia, 3 (48), 14–21.

15. Bohdanova, S. D. (2019). Zakhyst ta harantii prava i svobody liudyny ta hromadianyna v aspekti vzaiemodii Verkhovnoi Rady Ukrainy ta Konstytutsiinoho Sudu Ukrainy. Konstytutsiino-pravove budivnytstvo na zlami epokh: poshuky optymalnykh modelei. Uzhhorod, 193–197. Available at: https://dspace.uzhnu.edu.ua/jspui/bitstream/lib/24388/1/Менджул%20КОНСТИТУЦІЙНІ%20ГАРАНТІЇ%2049.pdf

16. Vodianikov, O. (2017). Vidchyniaiuchy dveri Konstytutsiinoho Sudu: konstytutsiina skarha yak nova mozhlyvist zakhystu konstytutsiinykh prav. Available at: https://ukr.lb.ua/blog/oleksandr_vodennikov/371421_vidchinyayuchi_dveri_konstitutsiynogo.html

17. Konstytutsiia Ukrainy No. 254k/96VR (1996). 28.06.1996. Available at: https://zakon.rada.gov.ua/laws/show/254к/96-вр

18. Pro Konstytutsiinyi Sud Ukrainy (2017). Zakon Ukrainy No. 2136-VIII. 13.07.2017. Vidomosti Verkhovnoi Rady, 35, 376.

19. Konstytutsiinyi Sud Ukrainy (1996). Zakon Ukrainy No. 422/96-VR. 16.10.1996. Vidomosti Verkhovnoi Rady Ukrainy, 49, 272.

20. Rehlament Konstytutsiinoho Sudu Ukrainy: ukhvalenyi na spetsialnomu plenarnomu zasidanni Konstytutsiinoho Sudu Ukrainy Postanovoiu Konstytutsiinoho Sudu Ukrainy No. 1-ps/2018 (2018). 22.02.2018. Available at: https://zakon.rada.gov.ua/laws/show/v0001710-18#n12

21. Shchorichna informatsiina dopovid Konstytutsiinoho Sudu Ukrainy za 2018 rik. Available at: http://ccu.gov.ua/sites/default/files/docs/dopovid_2018.pdf

22. Konstytutsiinyi Sud Ukrainy. Available at: http://ccu.gov.ua/

DOI: 10.15587/2523-4153.2019.180048

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

p. 12-16

Andrii Yakovlev, PhD, Associate Professor, Deputy Chief Scientific Secretary, Kyiv Regional Center of the National Academy of Legal Sciences of Ukraine, Philipa Orlyka str., 3, Kyiv, Ukraine, 01024

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 2005 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

1. Konstytutsiya Ukrainy (2019). Kyiv, 2, 16, 23, 28.

2. Khimei, V. (2012). Ukraina v systemi mizhnarodnykh vidnosyn kintsia XX - pochatku XXI st. Naukovi zapysky z ukrainskoi istoriyi, 29.

3. Shkuratenko, O. V. (2014). Pravovi pidstavy uchasti Ukrainy v mizhnarodnykh orhanizatsiyakh. Pravova systema Ukrainy: suchasnyi stan ta perspektyvy rozvytku. Rivne, 71–81.

4. Denysov, V. N. (2019). Orhanizatsiya Pivnichnoatlantychnoho dohovoru. Entsyklopediya mizhnarodnoho prava. Vol. 3. Kyiv: Akademperiodyka, 462.

5. Herbct, Dzh. (2018). Pidtrymka SShA Ukrainy prodovzhuvatymetsia. Den, 202, 3.

6. Peklo, Ya. (2018). Polshcha ye i bude stratehichnym partnerom Ukrainy. Den, 134, 18.

7. Shults, M. (2014). Yevromaidan yak narizhnyi kamin novoi Ukrainy. Den, 221, 8.

8. Deklaratsiya pro dopovnennia Khartiyi pro osoblyve partnerstvo mizh Orhanizatsiieiu Pivnichno-Atlan-

tychnoho dohovoru ta Ukrainoiu, pidpysanoi 9 lypnia 1997 roku vid 21 serpnia 2009 r. Available at: https://zakon.rada.gov.ua/laws/show/950_021

9. Pro Kabinet Ministriv Ukrainy: Zakon Ukrainy vid 27 liutoho 2014 roku No. 794-VII. Availableat: https://zakon.rada.gov.ua/laws/show/794-18?find=1&text=%EA%EE%ED%F2%F0#w11

10. Yevroatlantychnyi kurs Ukrainy: viiskovo-politychni, pravovi, ekonomichni ta dukhovno-kulturni aspekty (2019). Natsionalna dopovid 2019 r. (proekt). Rozdil 2. Kyiv: Natsionalna akademiia nauk Ukrainy.

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

Oleksandr Bilous, Postgraduate Student, Institute of State and Law V. M. Koretsky National Academy of Sciences of Ukraine, Trokhsviatytelska str., 4, Kyiv, Ukraine, 01601
ORCID: *http://orcid.org/0000-0002-9574-4402*

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.

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

Keywords: *constitution, justice, constitutional reform, prosecutor's office, constitutional status, functions, foreign experience*

References

1. Khesse, K. (1981). Osnovy konstitucionnogo prava FRG. Moscow, 234.

2. Khemonteske, Sh. L. (1999). O dukhe zakonov. Moscow, 139–140.

3. Potebenko, M. O. (2001). Prokuratura iak garant zakonnosti. Visnik prokuraturi, 6, 3.

4. Skomorokha, V. (1998). Okremi pytannia podilu vlady i yurysdyktsiia Konstytutsiinoho Sudu Ukrainy. Pravo Ukrainy, 5, 8–17.

5. Fedorenko, V. L. (2016). Konstytutsiine pravo Ukrainy. Kyiv, 537.

6. Tatsii, V. (1999). Prokuratura v systemi podilu vlady. Visnyk prokuratury, 2, 27–28.

7. Konstitucii Gosudarstv Evropy. Vol. 1 (2001). Moscow, 77.

8. Shemshuchenko, Yu. S. (Ed.) (2001). Derzhavotvorennia i pravotvorennia v Ukraini: dosvid, problemy, perspektyvy. Kyiv, 257.

9. Konstitucii gosudarstv Evropeiskogo Soiuza (1997). Moscow, 579.

10. Pro vnesennia zmin do Konstytutsii Ukrainy (shchodo pravosuddia): Zakon Ukrainy vid 2 chervnia 2016 r. (2016). Holos Ukrainy, 118. Available at: https://zakon.rada.gov.ua/laws/show/1401-19

11. Pro prokuraturu (2015). Zakon Ukrainy No. 1697-VII vid 14 zhovtnia 2014 r. Vidomosti Verkhovnoi Rady Ukrainy, 2-3, 12. Available at: https://zakon.rada.gov.ua/laws/show/1697-18

12. Pro vnesennia zmin do deiakykh zakonodavchykh aktiv Ukrainy shchodo pershocherhovykh zakhodiv iz reformy orhaniv prokuratury (2019). Zakon Ukrainy No. 113-IX vid 25 veresnia 2019 r. Vidomosti Verkhovnoi Rady Ukrainy. 2019. Available at: https://zakon.rada.gov.ua/laws/show/113-20

DOI: 10.15587/2523-4153.2019.179517

CONCEPT AND TYPES OF TERMS IN PROCEDURES FOR RESOLVING ELECTION DISPUTES

p. 23–26

Alla Basalaeva, Postgraduate Student, Department of Administrative Law, Taras Shevchenko National University of Kyiv, Volodymyrska str., 60, Kyiv, Ukraine, 01033
E-mail: basalaevaa@ukr.net

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 suffrage; time of application of the right to appeal a management decision; stages of the election process; time criterion for their calculation; conditions of their occurrence; their substantive nature; opportunities for their recovery. Given the nature of the time limit for applying to the court as a variety of terms in the consideration and resolution of electoral disputes, it was concluded that it would be appropriate to classify them as defined 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 suffrage to the category of material terms allows us to conclude that it should be understood as a limitation period. It is noted that it becomes especially relevant to solve the problem of legislatively determining the length of time for appeal to an administrative court as a category of material terms, and accordingly to solve the question of whether it 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

1. Holosnichenko, I. P., Stakhurskyi, M. F., Zolotarova, N. I. (2005). Administratyvne pravo Ukrainy: osnovni poniattia. Kyiv: HAN, 232.

2. Kalchenko, S. V. (2015). Adaptatsiia administratyvnoho protsesualnoho zakonodavstva Ukrainy, shcho rehuliuie poriadok vyrishennia sprav pro vyborchi spory, do yevropeiskykh standartiv. Kyiv: Kyivskyi politekhnichnyi instytut, 246.

3. Smokovych, M. I. (2014). Vybory yak instytut zabezpechennia demokratii v Ukraini. Yurydychna Ukraina, 11, 37–45.

4. Smokovych, M. I. (2014). Pravove rehuliuvannia rozghliadu vyborchykh sporiv: teoretychnyi ta praktychnyi aspekty. Kyiv: Yurinkom Inter, 576.

5. Bernaziuk, Ya. O. (2018). Vydy protsesualnykh strokiv u administratyvnomu sudochynstvi. Available at: https://sud.ua/ru/news/blog/128894-vidi-protsesualnikh-strokiv-u-administrativnomu-sudochinstvi

6. Demskyi, E. F. (2008). Administratyvne protsesualne pravo Ukrainy. Kyiv: Yurinkom Inter, 496.

7. Smokovych, M. I. (2014). Pravove rehuliuvannia rozghliadu vyborchykh sporiv: teoretychnyi ta praktychnyi aspekty. Kyiv: Yurinkom Inter, 576.

8. Proekt Vyborchoho kodeksu Ukrainy (2015). Zakon Ukrainy No. 3112-1. 02.10.2015. Available at: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=56671

9. Case of Van Oosterwijck v. Belgium (1980). European court of human rights. Strasbourg, 06.11.1980. Available at: http://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001-57549&filename=001-57549.pdf

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

---

DOI: 10.15587/2523-4153.2019.179915

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

p. 27–31

Yevhen Leheza, Doctor of Law, Professor, Department of Administrative and Customs Law, University of Customs and Finance, Volodymyra Vernadskoho str., 2/4, Dnipro, Ukraine, 49000
ORCID: *http://orcid.org/0000-0001-9134-8499*

Andrii Ishkhanian, Postgraduate Student, Department of Administrative and Customs Law, University of Customs and Finance, Volodymyra Vernadskoho str., 2/4, Dnipro, Ukraine, 49000
ORCID: *http://orcid.org/0000-0001-9134-8499*

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-

vices 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

1. Tymoshchuk, V. P. (2003). Administratyvna protsedura ta administratyvni posluhy. Zarubizhnyi dosvid i propozytsiyi dlia Ukrainy. Kyiv: Fakt, 496.

2. Bukhanevych, O. M. (2016). Teoretyko-pravovi ta prakseolohichni zasady nadannia elektronnykh posluh v Ukraini. Kyiv, 455.

3. Yemelianenko, O. Tradytsiynyi ta elektronnyi uriad: kontseptualni vidminnosti. Available at: http://veche.kiev.ua/journal/811/

4. Leheza, Ye. O. (2011). Administratyvni posluhy, shcho nadaiutsia militsieiu hromadskoi bezpeky. Dnipropetrovsk, 263.

5. Kuspliak, I. S. (2012). Elektronne uriaduvannia yak instrument formuvannia prozoroi ta vidkrytoi politychnoi vlady. Odessa, 206.

6. Kontseptsiya administratyvnoi reformy v Ukraini (1998). Kyiv: Derzhavna komisiya z provedennia v Ukraini administratyvnoi reformy, 62.

7. Kontseptsiya rozvytku systemy nadannia elektronnykh posluh orhanamy vykonavchoi vlady: Rozporiadzhennia Kabinetu Ministriv Ukrainy vid 15.02.2006 No. 90-r. (2006). Ofitsiynyi visnyk Ukrainy, 7, 168–170.

8. Pro zvernennia hromadian: Zakon Ukrainy vid 2 zhovtnia 1996 r. No. 393/96-VR. Vidomosti Verkhovnoi Rady Ukrainy, 47, 256.

9. Ivashchenko, O. Yu. (2012). Oskarzhennia elektronnykh posluh u Velykiy Brytaniyi ta Ukraini (porivnialno–pravovyi analiz). Kyiv, 234.

10. Pro administratyvni posluhy: Zakon Ukrainy vid 6 veresnia 2012 roku No. 5203-VI (2013). Vidomosti Verkhovnoi Rady Ukrainy, 32, 409.

11. Onischyk, Y. V., Bukhanevych, O. M. (2015). Legal regulation of administrative services fee: theoretical and practical issues. Naukovi zapysky Instytutu zakonodavstva Verkhovnoi Rady Ukrainy, 3, 44–48.

12. Pro zatverdzhennia Poriadku vedennia Yedynoho derzhavnoho portalu administratyvnykh posluh: Postanova Kabinetu Ministriv Ukrainy vid 3 sichnia 2013 roku No. 13. Available at: https://zakon.rada.gov.ua/laws/show/13-2013-%D0%BF

13. Pro zatverdzhennia Poriadku vedennia Reiestru administratyvnykh posluh: Postanova Kabinetu Ministriv Ukrainy vid 30 sichnia 2013 roku No. 57. Available at: https://zakon4.rada.gov.ua/laws/show/57-2013-%D0%BF

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

15. Pro zatverdzhennia Prymirnoho 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

16. Pro zatverdzhennia Prymirnoho rehlamentu tsentru nadannia administratyvnykh posluh: Postanova Kabinetu Ministriv Ukrainy vid 1 serpnia roku No. 588. Available at: https://zakon.rada.gov.ua/laws/show/588-2013-%D0%BF

17. Deiaki pytannia vedennia obliku dokhodiv, yaki nadkhodiat yak plata za nadannia administratyvnykh posluh: postanova Kabinetu Ministriv Ukrainy vid 7 serpnia 2013 roku no. 600. Available at: https://zakon.rada.gov.ua/rada/show/600-2013-%D0%BF

18. Pro skhvalennia Kontseptsiyi Derzhavnoi tsilovoi prohramy stvorennia ta funktsionuvannia informatsiynoi systemy nadannia administratyvnykh posluh na period do 2017 roku: Rozporiadzhennia Kabinetu Ministriv Ukrainy vid 24 lypnia 2013 r. No. 614-r. Available at: https://zakon.rada.gov.ua/laws/show/614-2013-%D1%80

19. Pro zatverdzhennia planu zakhodiv shchodo stvorennia Yedynoho derzhavnoho portalu administratyvnykh posluh: Rozporiadzhennia Kabinetu Ministriv Ukrainy vid 11 veresnia 2013 roku No. 718-r. Available at: https://zakon3.rada.gov.ua/laws/show/718-2013-%D1%80

20. Proekt Zakonu pro vnesennia zmin ta dopovnen do Zakonu Ukrainy "Pro administratyvni posluhy" shchodo pokrashchennia umov nadannia administratyvnykh posluh: zakonoproekt VRU Ukrainy No. 4267-1 vid 23.03.2016. Available at: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58495

DOI: 10.15587/2523-4153.2019.180309

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

p. 32–38

Marian Bedrii, PhD, Associate Professor, Department of Fundamentals of Ukraine's Law, Ivan Franko National University of Lviv, Universytetska str., 1, Lviv, Ukraine, 79000
E-mail: bedriimm@gmail.com
ORCID: *http://orcid.org/0000-0003-4021-1980*

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

1. Ivanishev, N. D. (1863). O drevnih sel'skih obshchinah v Yugo-Zapadnoy Rossii. Kyiv, 76.

2. Cherkaskyi, I. (1928). Hromadskyi (kopnyi) sud na Ukraini-Rusi XVI–XVIII v.v. Pratsi komisiyi dlia vyuchuvannia istoriyi zakhidnoruskoho ta vkrainskoho prava, 4/5.

3. Arhiv Yugo-zapadnoy Rossii, izdavaemiy vremennoy komissiey dlya razbora drevnih aktov, vysochayshe uchrezhdennuyu pri Kievskom Voennom, Podol'skom i Volynskom general-gubernatore. Zaglavie chasti tomov: Arhiv Yugo-zapadnoy Rossii, izdavaemiy vremennoy komissiey dlya razbora drevnih aktov, sostoyashchey pri Kievskom, Podol'skom i Volynskom general-gubernatore Ch. 4: Vol. 1: Akty o proishozhdenii shlyahetskih rodov v yugo-zapadnoy Rossii (1867). Kyiv: Tip. E. Fedorova, LV, 460.

4. Tsentralnyi derzhavnyi istorychnyi arkhiv Ukrainy u m. Kyievi, f. 28 (Volodymyrskyi hrodskyi sud), op. 1, spr. 3 (Aktova knyha 2 sichnia – 29 hrudnia 1568 r), 191 ark.

5. Lashchenko, R. (1998). Lektsiyi po istoriyi ukrainskoho prava. Kyiv: Ukraina, 254.

6. Ivanovska, O. P., Ivanovskyi, P. O. (2014). Zvychaieve pravo v Ukraini. Etnotvorchyi aspekt. Kyiv: VPTs «Kyivskyi universytet», 383.

7. Usenko, I. B. (Ed.) (2006). Pravovyi zvychai yak dzherelo ukrainskoho prava IX–XIX st. Kyiv: Naukova dumka, 280.

8. Bedriy, M. (2014). Kopni sudy na ukrainskykh zemliakh u XIV-XVIII st.: istoryko-pravove doslidzhennia. Lviv: Halytskyi drukar, 264.

9. Kivalov, S., Muzychenko, P., Pankov, A. (Eds.) (2003). Statuty Velykoho kniazivstva Lytovskoho. Vol. 2. Statut Velykoho kniazivstva Lytovskoho 1566 roku. Odessa: Yurydychna literatura, 560.

10. Tsentralnyi derzhavnyi istorychnyi arkhiv Ukrainy u m. Kyievi, f. 25 (Lutskyi hrodskyi sud), op. 1, spr. 10 (Aktova knyha sichen – 30 hrudnia 1568 r.), 431 ark.

11. Arhiv Yugo-zapadnoy Rossii, izdavaemyy vremennoy komissiey dlya razbora drevnih aktov, vysochayshe uchrezhdennuyu pri Kievskom Voennom, Podol'skom i Volynskom general-gubernatore. Kyiv, 1859–1914. Zaglavie chasti tomov: Arhiv Yugo-zapadnoy Rossii, izdavaemyy vremennoy komissiey dlya razbora drevnih aktov, sostoyashchey pri Kievskom, Podol'skom i Volynskom general-gubernatore Ch. 6: Vol. 1: Akty ob ekonomicheskih i yuridicheskih otnosheniyah krest'yan v XVI – XVIII veke (1498–1795): Prilozhenie (1876). Kyiv: Tip. Kievskogo Gub. Upravleniya, 626.

12. Khrestomatiya z istoriyi derzhavy i prava Ukrainy (2003). Kyiv: Yurinkom Inter, 656.

13. Yakovliv, A.; Antonovych, D. (Ed.) (1993). Ukrainske pravo. Ukrainska kultura. Lektsiyi. Kyiv: Lybid, 222–236.

14. Gawroński, F. (1899). Sądy kupne vel kopne na Polesiu. B. m., 177–190.

15. Horban, M. (1925). Kopnyi sud nad vidmoiu. Chervonyi shliakh, 8, 146–159.

16. Namyslowski, W. (1935). Pozasądowe organy porządku prawnego w krajach poludniowo-slowianskich i polsko-litewskich. Księga pamiątkowa ku uczczeniu czterechsetnej rocznicy wydania pierwszego statutu litewskiego, 81–105.

17. Tsentralnyi derzhavnyi istorychnyi arkhiv Ukrainy u m. Kyievi, f. 28 (Volodymyrskyi hrodskyi sud), op. 1, spr. 40 (Aktova knyha 1 sichnia – 31 hrudnia 1608 r.), 533 ark.

18. Efimenko, A. Ya. (1905). Yuzhnaya Rus'. Vol. 1. Sankt-Peterburg, 439.

19. Shcherbitskiy, O. V. (1912). Sudy v byvshem Velikom knyazhestve Litovskom. Vil'na, 79.

20. Levits'kiy, O. (1930). Po sudah Get'manshchini. Kharkiv: Ruh, 252.

21. Shchurat, V. (1910). Uvilnennia zlochyntsia divchynoiu v Brodakh 1727 r. b. m., 8.