ABSTRACT&REFERENCES

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DEVELOPMENT OF THE NATIONAL LEGAL SYSTEM IN THE CONTEXT OF SIVIL SOCIETY

p. 4-9

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The article is devoted to the present stage of evolution of the national legal system in the context of its ability to perform certain tasks, to recreate the functions necessary in the given spatial-temporal dimensions, to ensure the necessary requirements of effective legal regulation. It is clear that a democratic legal system must effectively protect human rights and freedoms, reproduce and implement the rule of law, and ensure the "quality" of the law in national law. The legal system must implement the provision that a person has the highest social value. The quality of the European legal system is to protect universal values and cultural heritage. In particular, it should be remarkable that under the conditions of a democratic rule of law, the "person-state" relations would undergo significant changes. These relations are not intended to provide for one part of society a greater degree of freedom than for another; in this case, it is necessary to speak about state power, which ensures conditions of freedom for all members of society, all citizens of the state. Freedom is provide to the people only when the people really organize, without any interference, unions, assemblies, legislates; elect at their own will all officials of the state, who are entrust with the implementation of laws and democratic governance based on these laws. Moreover, the sovereignty of the people is form in a democratic legal system, which, in turn, normalizes the functioning of state bodies that ensure the rights and freedoms of people, in particular, their European vector of development. Additionally, today the task of optimizing the legal system, and therefore - adjusting its functions, are of great importance. In particular: the main task of the legal system is to create a well-defined, normative, stable basis for the whole complex of social relations, including for their dynamics.

In a democratic, social, legal state, which defined European choice, the sphere of legal regulation is realize, the totality of social relations, which can and must be arrange with the help of law and legal means. The main direction of legal regulation in these conditions is:

a) Consolidation and protection of new social relations;

b) Provision of favorable conditions and means of existence of individuals;

c) Realization and legal protection of vital needs, interests of people and society;

d) The prohibition of certain social relations and behavior (the establishment of commercial banks by officials, law enforcement officers by their relatives (activating NABU's activity, NACC, creating the Supreme Anti-corruption Court),

e) Stimulating the development of appropriate social relations, etc.

***Keywords**: legal system, assignment of the legal system, functions of the legal system, human rights*

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THE EXERCISE OF THE RIGHT OF FORCE IN A DEMOCRACY:

p. 10-15

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The article examines the effect of the phenomenon of the right of force in state-organized societies and societies that did not yet know the state forms. The phenomenon of the law of force was investigated by domestic lawyers for the most part in the context of the criminal activity of individuals. The most significant results in the study of this phenomenon were achieved by the representatives of the humanities of the West. In this regard, the task of studying the current conditions for the emergence and implementation of the right of force in both Ukraine and in other states looks urgent. There is postulated the hypothesis of the study, which consists in the assertion that the right of force – is the presence of any benefits to individuals over others, the exercise of the right of force will be understood as the implementation of the domination of one subject over the other (a group of subjects, their community), obtrusion of others' will to them. From this angle, socio-economic formations (tribal, tribal, slaveholding, feudalism, capitalism) are analyzed for the purpose of finding the grounds for the emergence and mechanisms for the exercise of their right to force. It is argued that during the conscious history of mankind, the factor of the power of rights played a significant role in the organization of society. This is that individuals who had certain advantages over others (initially physical, later – intellectual, economic, organizational), were able to gain a privileged position in all spheres of human activity. With the change of feudalism by capitalism, the legal right of force was replaced by the right of formal equality, which did not remove the actual inequality of individuals, which ultimately helped them again occupy the dominant positions in the socio-political, business hierarchy. This is confirmed by the data of anthropological and synergetic theories of legal thinking. On this basis, the conclusion was made that the power of law existed and exists, and this is not the atavism of the legal system, it is reproduced by the selfish nature of individual representatives of mankind, unfortunately the most active and mobile in comparison with others in achieving their goals. Examples of the force of law in modern practice of the functioning of state institutions of Ukraine, Italy and America are given. The forms and mechanisms for implementing the right of force are considered. Among the latter is the manipulation of consciousness, which is typical for developed civil societies with democracy as their political form. The above conclusions are illustrated by examples of mass media activities. In this context, attention is also drawn to the exercise of the right to force through the trade and economic mechanisms of individual international organizations and institutions. At the end of the study, the results are summarized, which are reduced to the next. Summarizing all of the above, we can draw the following conclusions. First, the right to force is a right arising from the existence of any advantage of one subject over another (physical, intellectual, economic, organizational, etc.), which, under certain conditions, the weakness of the other party (lack of appropriate qualities) can be implemented in the relationship between them. Secondly, the power of law has not disappeared from modern history, it continues to exist as in the relationships of individual individuals, individuals and states, and in the relations of individual states. Third, the existence of democracy as a political regime does not exclude the existence and exercise of the right to force. Fourthly, manipulation of consciousness as a kind of power of law is one of the main means of governance in the conditions of the existence of civil societies and democracies as a political form, which necessitates dictating the demand for improvement of the latter in order to prevent distortion of opinion of citizens in such societies. For example, by expanding the forms of people's participation in the exercise of power through the institutes of direct democracy, which is known to be widely used in one of the wealthiest and happiest countries in the world - Switzerland

Keywords: *law of force, power of law, democracy, state-legal institutes, abuse of power*

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THE SUBJECT OF LEGAL CULTURE: CONCEPTUAL PRINCIPLES OF RESEARCH

p. 15-21

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The scientific article is devoted to the analysis of the conceptual foundations of understanding the concept of the subject legal culture. It was established, that if culture combines the material and the ideal, acting as the subject (such that learns how the public person acts), and as an object (created by the external world), the whole field of culture «revolves» around the subject, which fills the world culture, develops and changes it at the same time developing personally. Therefore, a person appears the main value of culture. With the growth of the scale of human freedom, the world of culture also develops increasingly. Reasonably, that if we proceed from this understanding of the subject and culture in general, legal culture, as one of the components of general culture, is also understood as the subject – entity, that fills its own activities, developing and changing the world and changing right along with it.

It is proved that the legal culture of a particular person dialectically combines the general, special and single. It is one of the specific forms of the general culture of society, reflecting the social moral and legal ideas, political-legal ideals and principles. Special in the legal culture is caused by the person belonging to a certain social community, professional groups, and the like. The unit expresses a particular aspect of the legal culture of a person, dictated by individual characteristics, ideology, preferences, emotions. Legal culture is always implemented using a specific personality depending on it and at the same time affecting it, forming the real subject of legal culture. Proposed in the definition of the subject of legal culture include the following aspects: general (legal culture of the society), special (legal sub-culture) and individual (legal culture of the individual personality)

Keywords: *people, law, culture, legal culture, legal subject, subject of legal culture*

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LEGAL SUBJECTITY IN PRIVATE LAW: CATEGORICAL-CONCEPTUAL COGNITION IN THE CONTEXT OF GENERAL THEORY OF LAW

p. 22-29

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The features of private legal subjectity and all other private-law phenomena correspond with the peculiarities of objects and methods of branches of private law and, at the same time, with the system of principles inherent in the whole sphere of private law.

By volume and content private legal subjectity is «universal» for individuals but «special» for legal entities with minimum acceptable restrictions. The format of «exclusive legal subjectity» is produced outside of private law and peculiar to the subjectity of public origin.

Elements of private legal subjectity, marked with notions «legal capacity», "delictual capacity and «active capacity», are endowed with a dispositive mode of implementation and acquire some special content, which causes a corresponding change in their structural and functional relationship. In particular:

– in the structure of private legal subjectity dominates the «legal capacity», whose implementation is provided by the «active capacity» of subjects of private law. At the same time, the legal capacity of a legal entity, unlike the legal capacity of natural person, should not be lost under any circumstances, and that is why its presence is guaranteed by the legislation and practice of law enforcement;

– in the structure of delictual capacity of private law subject its passive side is accentuated, which is aimed mainly at compensation of damage at the expense of the offender's resources. The active side of delictual capacity of private law subject usually is weakened and is not compulsory in execution, since it, as well as private legal subjectity in general, is implemented in a dispositive format and often is being under an influence of a positive subjectivity of the participants of the relevant legal relations.

However, the loss of a special subjective connection that previously took place between the parties to private law relation can powerfully strengthen the active side of private law delictual capacity.

The notion of «private legal subjectity» denotes the kind of legal subjectity, given by an objective law to subjects who, within the limits of the current legal order, realize and protect their private interests, namely:

1) to natural persons;

2) to legal entities;

3) to associations of above persons, endowed partial legal subjectity to preserve and develop their own identity.

Keywords: *category «legal subjectity», private law, private legal subjectity phenomenon, notion «private legal subjectity»*

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OFFICIAL PROMULGATION vs "OFFICIAL PUBLICATION': PROBLEMS OF TERMINOLOGICAL DEFINITION

p. 30-36

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The effectiveness of official promulgation acts as an indicator of the democracy level in a state, necessary condition for providing the citizens' right to know their rights and duties, guaranteed by the Ukrainian Constitution. Taking it into account, the need in distinct definition of the notion of official promulgation and publication of normative-legal acts in Ukraine is urgent.

The article analyzes existent scientific approaches to defining the essence and notion of "official promulgation of normative-legal acts" by representatives of the native and foreign scientific thought.

The critical analysis deals with the point of view, according to which the term "promulgation" is a synonym of the word "publication". There is made a conclusion about its insufficient validity, in particular, because in art. 94 of the Constitution of Ukraine both terms are opposed to each other. Based on the content analysis, it was established, that the term "to publish" means "to issue in the world any text in printed form, to, publish, to print, to issue". In its turn, the term "promulgation"(Ukr. «оприлюднення») is formed, based on the word "open" (Ukr. «прилюдний»), as a synonym of the words "public", "social", "popular" (Ukr. «публічний», «привселюдний», «гласний»). So, at using the term "promulgation of a normative-legal act", from our point of view, it is understood as not only publishing its full text. The conducted analysis of key theoretical and practical problems of correlations of the notions "promulgation" and "publication" excludes a possibility of identifying these notions and gives reasons for a conclusion about expedience of using just the term "official promulgation" (Ukr. «офіційне оприлюднення»), that is a wider notion that just includes "publication" in its content.

Based on the conducted analysis, there is also offered the author definition of "official promulgation of normative-legal acts" that may be formulated as a specific juridical technology, realized by the way and order, provided by the legislation, intended for informing subjects of social relations as to the content of normative-legal acts, accepted by authorized bodies that is an obligatory condition of their effectiveness

Keywords: *presumption of knowing a law, official promulgation of normative-legal acts, official publication of normative-legal acts*

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PLACE OF WORKPLACE LAW IN THE NATIONAL LEGAL SYSTEM

p. 36-40

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The article proposes a system of law to be regarded as a set of elements of law that complement each other, interact and form a unity with a number of specific features. The author argues that in the system of law the emphasis is on the structure of law, the separation among its elements of the branch of sub branch, institutions, norms of law, and in the legal system, although the law is the main element, but not a single element, it is precisely because of this, to find out the phenomenon of service the right to determine its role in the legal system. The article proposes in the aspect of the field of structural law of the law to consider it as a set of branches, sub-sectors, institutes and norms of law. The author analyzes scientific approaches to the understanding of the service law as an industry, sub branch, institute of administrative law, distinguishes the features of the service law and proves that it has signs in the subregion of administrative law. It is proposed to consider the system of law in the aspect of the division of the right to public and private, material and procedural, regulatory and security, and analyze their definitions, characteristics, specifics of each of them. On the basis of a detailed analysis of the above-mentioned provisions, the author proposes to consider the place of service law in the system of law in terms of its division into public and private as a sub-area of public law. In clarifying the place of service law in the system of law in the division of material and procedural, the author notes that the employment law combines material and procedural norms and acts in material and procedural law. In the context of the division of the right to a law, the regulator and guardian of the author notes that the service law combines norms and regulatory and security, which is why it is regulative-security, however, the regulatory element is still dominant. The author notes that only in the complex should consider all these issues to clarify the place of employment law in the system of national law

Keywords: *service law, system, public law, private law, protection law, regulatory law, substantive law, procedural law*

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THE MECHANISM OF LEGAL REGULATION OF EMPLOYMENT RELATIONS: METHODOLOGICAL ASPECT

p. 41-46

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The article deals with the methodological approaches to the understanding of the category of the mechanism of legal regulation, which are used in the scientific literature. The author emphasizes that the mechanism of legal regulation aimed at the effective implementation of legal norms in life through adequate legal means, that is, reflects its dynamic component. For this reason, it is necessary to study the signs of the mechanism of legal regulation through the prism of its dynamics, since under the conditions of statics the mechanism does not move. The author argues that when studying the mechanism of legal regulation of labour relations it is impossible to clearly adhere to any one of the methodological approaches, the advantage should be given to the application of the so-called integrated approach, which uses the capabilities of both instrumental and systemic approaches. This allows us to characterize the mechanism of legal regulation of labour relations as a whole, as well as to analyze its individual constituent elements, their interrelations and interdependence within the limits of one system.

In terms of development of the information society, rapid robotics, considering the need to revise the classical forms of work, while preserving existing standards of decent work and ensuring the human right to work, anthropological approach to the study of the mechanism of legal regulation of labour relations is also of great importance.

The author suggests the concept of the mechanism of legal regulation of labour relations as a system of legal means (elements), through which there is a regulation of social relations in the field of employment in order to bring them in line with the state-defined patterns of behavior within the framework of labour relations.

Study of the mechanism of legal regulation of labour relations as a certain instrumental system, taking into account the main stages of labor relations, namely their emergence, transformation (change, suspension) and termination, gave rise to distinguish within the general mechanism of legal regulation of labour relations, taking into account the stages of legal regulation, the mechanism of the emergence of labour relations, the mechanism of transformation of labour relations and the mechanism of termination of labour relations

Keywords*: mechanism of legal regulation, labour relations, legal facts, methodological approach, system of legal means, dynamics of labour legal relations*

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