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ЮРИДИЧНІ ГАРАНТІЇ ЗАХИСТУ ПРАВ ПЛАТНИКІВ ПОДАТКІВ В УКРАЇНІ

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LEGAL GUARANTEES OF THE TAXPAYERS RIGHTS' DEFENCE IN UKRAINE

Статтю присвячено дослідженню проблем сучасного законодавчого забезпечення захисту прав платників податків в Україні. Зокрема, проаналізовано окремі положення Конституції України, Податкового кодексу України, законів і підзаконних актів у вказаній сфері.
Виявлено та обгрунтовано необхідність подальшого детального вивчення й аналізу впливу останніх змін податкового законодавства України на систему забезпечення та захисту прав платників податків.
На підставі проведеного дослідження авторами запропоновано створити систему постійного моніторингу нових положень Податкового кодексу України з метою розробки рекомендацій щодо усунення недоліків правового регулювання захисту прав платників податків.

This article deals with the problems of the modern legislative provision of protecting taxpayers' rights in Ukraine. Particularly, certain regulations of the Constitution of Ukraine, the Tax Code of Ukraine, laws and subordinate law acts are analyzed as the necessary condition of developing the democratic tax system in the mentioned sphere. Particularly, certain regulations of the Constitution of Ukraine, the Tax Code of Ukraine, laws and subordinate law acts are analyzed in the mentioned sphere.

As a result of considering the main approaches to determining the concept of «taxpayers rights' defence» in the scientific literature the article investigates the tax-legal norms which negatively affect the state of taxpayers rights' defence in Ukraine. The special attention is paid to the legal analysis of norms of the Tax Code of Ukraine, which mediately worsen the state of domestic taxpayers in connection with expanding the list of rights for inspection bodies and fuzzy, diffused regulation of degree of their responsibility for a failure to fulfil or improper fulfilment of their duties.

The basic methods of the taxpayers rights' defence including their advantages and disadvantages are considered. It is proved that a judicial order of appeal of inspection bodies' decisions and actions is the universal form of the taxpayers rights' defence.

Possibilities of borrowing positive experience from such countries as the USA, Canada, Great Britain, Germany in relation to judicial inquiry of tax disputes are determined.

Necessity of further careful study and analysis of influencing the latest updates of the Ukrainian tax legislation on the system of guarantee and protection of taxpayers' rights are revealed and grounded.

On the basis of the carried out research the authors suggest to create the system of the permanent monitoring of new regulations of the Tax Code of Ukraine with the purpose of developing recommendations on the removal of legal settlement drawbacks in the field of taxpayers rights' protection.

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TRADE SECRET IN UKRAINE AND RESPONSIBILITY FOR ITS VIOLATION

Стаття присвячується проблемі інформації, інформаційному суспільству, видам інформації та способам захисту інформації. Окрему увагу приділено інституту комерційної таємниці та правовим засобам її захисту в Україні.

The article is devoted to the information problem, information society, media types and methods of data protection. Special attention is paid to the trade secrets and legal means of protection institution in Ukraine.

It refers to the business in all sectors of the economy which is inextricably linked with obtaining, accumulation, preservation and use of various information, which characterize both the firm business and its associated partners who are being leaders.

It is noted that the concept of «trade secret» is based on confidential information and applies only to the interests of the company (companies). That is why the Law of Ukraine «About Information» entitles professional qualities (businessmen) to determine independently that their

business is a commercial secret, as it is better to protect, develop rules for information classification as a trade secret «СТ» and the circulation order.
Methods of information disclosure, that are trade secrets, may be different: to message specified information to others, including trade secrets owner competitors; others provide to review documents containing trade secrets; other deliberate conditions creation that enable third parties read the data of commercial and banking secrecy, such as leaving documents at workplace giving a possibility to a third party that is in the room was able to find them when the perpetrator is out of the room for a while; message information which contain commercial and banking secrecy, the media and others.

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ОРГАНІЗАЦІЙНО-ПРАВОВІ ЗАСАДИ РЕКЛАМИ ЛІКАРСЬКИХ ЗАСОБІВ В УКРАЇНІ

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ORGANIZATIONAL AND LEGAL PRINCIPLES OF ADVERTISING OF MEDICINES IN UKRAINE

У статті на основі аналізу загальних та спеціальних актів у сфері реклами досліджуються положення, які регулюють рекламу лікарських засобів. Автор зважує за і проти беззастережної їх реклами і схиляється до необхідності широкого застосування заборон та обмежень у рекламі лікарських засобів. Розроблено методологічний підхід до реклами лікарських засобів залежно від їх призначення, аудиторії, місця, форм і засобів реклами.

On the basis of analysis of general and special acts that are investigated in advertising regulations governing the medicines' advertising. By weighing the pros and cons of unconditional advertising and inclined to the need for broad application of prohibitions and restrictions on advertising of medicines. The methodological approach to drug advertising is based on their purpose, audience, space, forms and means of advertising.
The paper substantiates the necessity to restrict medicines' advertising in general and for particular categories of consumers. In order to establish common approaches need for restrictions in civil rights for medicines, the sale of this product and their concertizing as objects and objects of civil rights, the drug advertising feasibility and possibility. On the one hand, it is a consumers' protection of drugs, and the other hand it is an information provision to patients and physicians about drugs, new treatment options and the right for health and life. It would seem that the second aspect is stronger and therefore the more information, including advertising, the better for human life and health protection. However, health care is a professional activity, based on special knowledge about the disease, clinic, special organism characteristics and healing properties and contraindications for use (side effects) of certain drugs.
It is claimed that advertising should be designed to encourage the rational medicines use, to represent it objectively, without positive properties exaggeration. Not allowed limit on drugs information for medical and pharmaceutical workers, except situations required by law.

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ЗАКОНОДАВЧЕ РЕГУЛЮВАННЯ ПРАВОВОГО СТАТУСУ ПРОФЕСІЙНИХ СПОРТСМЕНІВ В УКРАЇНІ

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LEGISLATIVE REGULATION OF THE LEGAL STATUS OF PROFESSIONAL ATHLETES IN UKRAINE

У статті досліджено проблеми правового становища професійних спортсменів відповідно до законодавства України. Визначено, що правове становище професійних спортсменів опосередковує такі види правових статусів як конституційно-правовий, галузевий та спеціальний, а також наведено їх характеристику. Обґрунтовано необхідність для забезпечення адекватного правового регулювання відносин у сфері спорту прийняття окремого закону «Про професійний спорт в Україні».

In the article investigated the problem of the professional athletes' legal status in accordance with the laws of Ukraine. It is determined that the legal status of professional athletes mediates the following types of legal status as constitutional law, and special industry, and their characteristics. In order to have adequate regulation of relations in the field of sports it is necessary to adopt a special law. «About professional sports in Ukraine».
In the scientific article is stated that the legal definition of domestic sport requires significant improvement. Perhaps it makes sense to use a portfolio of modern sport scholars that characterize sport as follows: historically conditioned phenomenon, which is a specific, socially organized, approved by society, governed by the rules of the industry (which includes competitions, preparing to them, the system rehabilitation selection) comparison of physical and intellectual abilities and readiness of the individual or team athletes to achieve sporting results. A professional commercial sports is the part of sport that brings special entertainment, it is a branch of the entertainment business aimed provide public entertainment by providing of the entertainment paid sports services quality.
It is substantiated that the legal status of a person is a system embodied in legal acts and state-guaranteed rights, freedoms, duties, responsibilities, according to which the individual as a legal entity coordinate their behavior in society. Accordingly, the legal status of a professional athlete is a system of rights, freedoms and responsibilities of a person who participates in sport at a professional basis, for which sport is the main source of income.

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GENESIS AND EVOLUTION OF THE PROCESS OF INTERACTION OF TAX AUTHORITIES WITH MASS MEDIA

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ГЕНЕЗИС І ЕВОЛЮЦІЯ ПРОЦЕСУ ВЗАЄМОДІЇ ПОДАТКОВИХ ОРГАНІВ ІЗ ЗАСОБАМИ МАСОВОЇ ІНФОРМАЦІЇ

The article deals with the certain aspects of such a phenomenon as co-operation of tax authorities and mass media on the basis of legal analysis. This research investigates the features of historical development as well as the sources of domestic tax law in the indicated sphere.
General description of the basic approaches of defining the concepts of «mass media» and «co-operation» in the scientific literature is given and on this basis the author's notion of co-operation of tax authorities and mass media as a form of communication of both parties with the purpose of creating conditions for a mutually beneficial cooperation is formulated.
The special attention is paid to the mass media role in the mutual relations of tax authorities and taxpayers. In particular, it is pointed out that the mass media are able to form public opinion and protect social interests where it is necessary.
At the same time importance and primary purposes of activity of the tax authorities' press-

service in the investigated processes are underlined. It is proved that the tax service image formed by the mass media mainly depends on the activity of the press-centre of the State fiscal service central office and press secretaries of the regional tax authorities.
Moreover, the reasons according to which the State fiscal service and mass media co-operation is necessary are found out and grounded. First of all, such reasons are as follows: 1) creating conditions for comprehensive and objective coverage of the tax service activity; 2) providing the structural co-operating with the mass media representatives; 3) forming a reliable public opinion about the activity of the State fiscal service of Ukraine; 4) informing taxpayers about changes in the field of tax legislation.
It is also determined that one of the principles of the State fiscal service activity is an informative openness.
On the basis of analysis of theoretical approaches and legislative acts the conclusion has been drawn that today in Ukraine a considerable attention is paid to the formation of confidence of citizens, businessmen and all taxpayers to the tax reform; to regulating the effective co-operation with public, the common dialogue of power and business which are built on principles of partnership and mutual understanding.

У статті розглядається сучасний стан взаємодії державної податкової служби України з медіа та надається характеристика її значення для дотримання податкового законодавства. Автором надається власне визначення взаємодії.

КРИМІНАЛЬНЕ ПРАВО, КРИМІНАЛЬНИЙ ПРОЦЕС, КРИМІНАЛІСТИКА, ОПЕРАТИВНО-РОЗШУКОВА ДІЯЛЬНІСТЬ

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РОЛЬ СУДОВОГО КОНТРОЛЮ ЗА ДОТРИМАННЯМ ПРАВА НА ПОВАГУ ДО ПРИВАТНОГО ЖИТТЯ ПРИ ОСКАРЖЕННІ РІШЕНЬ, ДІЙ ЧИ БЕЗДІЯЛЬНОСТІ ПІД ЧАС ДОСУДОВОГО РОЗСЛІДУВАННЯ

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THE ROLE OF JUDICIAL CONTROL OVER OBSERVANCE OF THE RIGHT TO RESPECT FOR PRIVATE LIFE UNDER APPEAL DECISIONS, ACTIONS OR INACTION DURING THE PRETRIAL INVESTIGATION

У статті узагальнено норми Кримінального процесуального кодексу України щодо процесуального порядку оскарження рішень, дій чи бездіяльності під час досудового розслідування, порядку здійснення судового контролю на досудовому розслідуванні за дотриманням права на повагу до приватного життя, розглянуто проблемні аспекти такої діяльності.

The article summarized the Criminal Procedural Code of Ukraine regarding procedural order appeal against decisions, actions or inaction during the preliminary investigation, the procedure for judicial review of the pre-trial investigation of compliance with the right to respect for private life, problematic aspects of such activities.

Object of the article is to determine specific features of activity of an investigating judge within judicial control over compliance with the privacy right while appealing against decisions, actions or inactions during the preliminary investigation, based on the current criminal procedural legislation of Ukraine. It will be used as basis for recommendations on improvement of the criminal procedural legislation of Ukraine.
According to the article, even common decision of an investigating judge may have significant impact upon intrusion into private life of a person under criminal proceedings.
The article sets forth new principles and conclusions, which are conceptual within theoretical field and important for legal practice.
Attention is paid to the attitude of investigation bodies, prosecutors, investigating judges and the court to private life; degree of protection of involved person is of high importance for criminal proceeding. However, investigation of criminal offenses constantly causes conflicts between private and public interests, while the whole criminal proceeding and all the activities of involved officials are, in fact, aimed at intrusion into private life and its scrutiny. Such intrusion has to comply with laws and shall be performed to reveal data of illegal nature only among all the scope of private information.

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PROBLEMATIC ISSUES EXAMINATION AND APPLY MEANS OF COMPULSION FOR ITS IMPLEMENTATION

Статтю присвячено актуальним проблемам правового регулювання освідування особи в кримінальному судочинстві та примусового аспекту його проведення.

The article is devoted to the actual problems of legal regulation of examination of a person in criminal proceedings and enforcement aspects of the meeting.
Object of the article is to determine certain specific problems, arising within inspection (especially within the enforcement procedure) for further provision of solution.
According to the article, the legal regulation of inspection procedure is imperfect, because the purpose and objectives of such investigative action are not clearly defined; it results in confusing these concepts in scientific legal literature; types of inspection and procedural order of their implementation, as well as actual bases for its implementation are not clearly stated; there is also no procedural regulation of forced inspection. Thus the pre-trial investigation authorities are able to interpret certain provisions of the law at own discretion, leading to groundless restriction of the rights and freedoms of persons, involved into investigation (search) activities.

The specified circumstances determine the relevance of the chosen topic.
Importance of inspection within preliminary investigation is emphasized in the article. Inspection of a person clarifies existence of the following: distinguishing marks on a body; injuries, their type and location; certain substances on a body from the scene of crime; certain signs on a body, evidencing person's profession or fight; number of injuries, their type, form, nature and location, and so on.

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ЗАРОДЖЕННЯ ТА ЕВОЛЮЦІЯ ЕКСПЕРТОЛОГІЇ В КРИМІНАЛЬНОМУ СУДОЧИНСТВІ

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THE ORIGIN AND DEVELOPMENT OF THE INSTITUTION OF EXPERTS IN CRIMINAL PROCEEDINGS

У статті розглядаються витоки виникнення та розвитку інституту експертів у кримінальному процесі.

The article reveals the origins of the origin and development of the institution of experts in criminal proceedings. Stated that at the present stage of development of the examination institute criminal proceedings is of great importance for the detection and investigation of crime as comprehensively and objectively determine the truth of the case is impossible without the use of specialized knowledge and equipment. Accordingly, the topic is very relevant for today.
The use of expertise in criminal proceedings for a long time investigated. The initial form of use of expertise has been the practice of folk Rangers. It is noted that there is historical evidence that in China, to identify an individual from the time of the Tang Dynasty used fingerprints, and during the Song Dynasty (900-1278), they have already figured in criminal proceedings. Analyzed the origin of the term «expertise» and stated that the term «expertise» comes from the Latin «expertus», which means knowing. Start typing and dissemination of scientific and technological achievements for criminal proceedings can be considered the publication manual «Guidelines for forensic investigators» P.V. Makalinskogo (1871), which is recommended to use the «tools of measurement».
Emphasized that the expert is subject to inspection and evaluation by the court, as well as other evidence, but at the same time, the conclusion can not be discarded without giving reasons.
The author came to the conclusion that because of forensic experts identified annually by an average of 5 thousand attempts to legalize vehicles with altered identification numbers, or false documents, neutralized hundreds of explosive objects. The authority of the Expert Service of MIA of Ukraine strengthened, the prestige of a forensic expert increasing.

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ДЕЯКІ ПРОБЛЕМНІ АСПЕКТИ ЗАБЕЗПЕЧЕННЯ ПРАВ ПОТЕРПІЛОГО В КРИМІНАЛЬНОМУ ПРОЦЕСІ УКРАЇНИ

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SOME PROBLEMATIC ASPECTS OF THE RIGHTS OF THE VICTIM IN THE CRIMINAL PROCESS UKRAINE

У статті розглянуті окремі проблемні аспекти забезпечення прав потерпілого на досудових та судових стадіях кримінального процесу України.

The article is devoted to some problematic aspects of the rights of the victim at the pre-trial and trial stage of the criminal process Ukraine.
In the article the authors note that the rights and legitimate interests of the victim in criminal proceedings of Ukraine is not yet at the required level and the activity of law enforcement bodies of Ukraine is not a guarantee respect for these rights. This applies primarily about the issue of compensation for damage caused by a criminal offense.
In order to ensure that the rights of the victim must be guaranteed by the state equal rights with the suspect, the accused, however, Ukrainian legislation does not provide for specific criminal procedural guarantees for the implementation of these rights.
So, at the pre-trial and trial proceedings the suspect, the accused at the first request has a right to counsel and meet with him, and to receive legal aid defender at state expense. At the same time, the victim has the right to have a representative, however, the right to receive legal assistance of a lawyer at state expense is not provided and cases of free legal aid is also not provided.
The next problem is to protect the rights of the victim in the case of the prosecutor withdraws the support of the state prosecution. If the victim does not agree with the decision of the prosecutor and the prosecution maintains itself it is without any legal help, or he should at his own expense to hire a lawyer, while the accused will protect professional defender.
Not fully resolved right of the victim to compensation in the case of collateral. So law provides, if the mortgagor violates the conditions of bail, it refers to the state income, and the victim will be reimbursed for losses due to the special fund, which has not yet been created and it is not clear when it will be.
Often there is problem reparation in the case of the release of prisoners serving their sentence on probation. This problem occurs because any legal act is not provided the first condition for the liberation of the convict from serving the punishment with the test - voluntary compensation for damage or elimination of harm caused.
Summing up, the authors note that the legitimate interests of the victim are often left unprotected and this issue should be given further attention in the reform of criminal justice in Ukraine.

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SUPPORT RIGHTS AND LEGITIMATE INTERESTS OF VICTIMS IN JUDGMENTS REVISION

У статті розглядаються питання щодо діяльності потерпілого та забезпечення реалізації його прав на стадії перегляду судових рішень. Обґрунтовуються відповідні пропозиції до кримінального процесуального законодавства.

The article is devoted to the activities of the victim and ensure the implementation of its rights under judicial review. In order to correct errors in the conduct of criminal proceedings legislation of Ukraine provides the procedure for appealing court decisions in higher courts, which is an additional guarantee for the protection of rights, freedoms and legitimate interests of citizens, law and justice in criminal proceedings. In Ukraine court decisions may be reviewed on appeal, the court of review, the Supreme Court of Ukraine and by new circumstances.
The legal system of each state provides institutions, courts that ensure correct errors that were committed by the courts due to incorrect application of the criminal law, a substantial violation of the Criminal Procedure Act, incompleteness, or one-sidedness of the judicial investigation, etc.
Legal nature of the right to appeal is considered as given to it by law to initiate judicial process appellate court aimed at checking the legality and validity of a decision taken by the court of first instance, by filing an appeal.
In order to better protect the rights of the victim, the Criminal Procedure Code of Ukraine in case of disagreement involves the victim or his representative with the sentence, regulation or court of the first instance they have the right to appeal the judgment on appeal, and especially in the part concerning non-pecuniary or material damage. This right is an important procedural guarantees of the right to judicial protection and at the same time guarantee justice.

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ПРИЗНАЧЕННЯ ЕКСПЕРТИЗ У ПРОВАДЖЕННЯХ ЩОДО ЗЛОЧИНІВ, ВЧИНЕНИХ ІЗ ОСОБЛИВОЮ ЖОРСТОКІСТЮ

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AN EXAMINATION IN PROCEEDINGS CONCERNING CRIMES COMMITTED WITH EXTREME CRUELTY

Певні недоліки організації роботи правоохоронних органів щодо своєчасного і ефективного розслідування кримінальних правопорушень, вчинених із особливою жорстокістю, можна пояснити тим, що в теорії криміналістики, кримінального процесу, а також юридичної психології не приділялося достатньої уваги науковим розробкам, які могли б використовуватись у практичній діяльності правоохоронних органів. Донині не створена методика розслідування злочинів, вчинених із особливою жорстокістю, яка б ураховувала основні структурні елементи їх кримінальної, кримінально-процесуальної та криміналістичної характеристики. Залишається недослідженою також проблема використання спеціальних знань при розслідуванні таких правопорушень.

Some disadvantages of law enforcement for the timely and efficient investigation of criminal offenses committed with particular cruelty, can be explained by the theory of criminology, criminal procedure and legal psychology is not given enough attention to scientific developments that can be used in the practice of law enforcement. So far, no established method of investigating crimes committed with extreme cruelty that would take into account main structural elements of criminal, criminal procedure and forensic characteristics. It remains unexplored also the problem of using expertise in the investigation of such offenses.
An important procedural form using special knowledge is expertise. During the investigation of

criminal offenses against the person's health using scientific feasibility of different-knowledge. This is because the criminal procedure law (art. 242 CCP Ukraine) provides for the examination is assigned if to address specific issues in the proceedings necessary scientific, technical or other specialized knowledge. But an examination procedure incorporates a number of administrative and legal proceedings. First of all, the investigator must decide who he will appoint and examination questions put to the experts. An important problem is the presence of materials that need to transfer experts and expert agencies or selecting a particular expert.
The evaluation findings psychiatric and psychological examination should focus their research part. The practice there are cases where a person during the examination in a new light: the crimes or reports new evidence, the suspect confessed to committing the crime, although the investigation categorically denied his guilt. Because these readings are recorded person expert in the research of the act, they may have some importance to the case.

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РОЛЬ ПСИХОЛОГІЧНОГО ПОРТРЕТА У ВСТАНОВЛЕННІ ОСОБИ НЕВІДОМОГО ЗЛОЧИНЦЯ ПРИ РОЗСЛІДУВАННІ НАСИЛЬНИЦЬКИХ ЗЛОЧИНІВ

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ROLE PSYCHOLOGICAL PORTRAIT IN IDENTIFYING UNKNOWN CRIMINALS IN THE INVESTIGATION OF VIOLENT CRIME

В статті досліджуються особливості складання та використання психологічного портрета невідомого злочинця при розслідуванні злочинів загалом та серійних вбивств зокрема. Комплексно охарактеризовано методику побудови психологічного портрета та порядок збору і фіксації необхідного доказового матеріалу для його використання в процесі пошуку невідомого злочинця.

The article examines the peculiarities of making and using a psychological portrait of the unknown criminal when investigating crimes in general and in particular the serial killings. Author characterized the methodology for constructing complex psychological portrait and procedure for collecting and fixing the necessary evidentiary material for use in the process of searching for an unknown perpetrator.
It must be emphasized that the method of psychological portrait - is just one of many means of investigation.
Often investigative practice there is situations when the offense is committed in terms of non-obviousness, which creates a number of problems for the investigator to build and version of the investigative process. In such a situation is rather topical application method up a psychological

portrait (profile) of the perpetrator. The effectiveness of the method is that analyzing materials proceedings psychological experts (expert criminologist, criminologist, psychologist or psychiatrist) prepare probabilistic portrait perpetrator sets his mental and constitutional external appearance, professional orientation, lifestyle, hobbies. That is, the psychological portrait (profile) of the offender in this case is the first step in the investigation of the criminal proceedings and gives the investigator a chance at all to investigate the situation of the offense, increasing rates of crime detection.
Today the method of psychological portrait is poorly understood by disclosure and investigation of crimes, it has many flaws and problems in its practical application, but this may be very useful «tool» and when properly applied it can provide substantial assistance in the investigation established the offender in crime. In connection with this a study of international experience with the use of this method in order to ask him borrowings was possible to bring higher quality level - develop their own methods of assembling a psychological portrait of an unknown perpetrator.

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ПРОЦЕСУАЛЬНІ АСПЕКТИ ЗАБЕЗПЕЧЕННЯ БЕЗПЕКИ ОСІБ, ЩО БЕРУТЬ УЧАСТЬ У КРИМІНАЛЬНОМУ СУДОЧИНСТВІ

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PROCEDURAL ASPECTS OF THE SAFETY OF PERSONS INVOLVED IN CRIMINAL PROCEEDINGS

У статті досліджено питання конфіденційності відомостей про особу та його законодавче врегулювання.

In the article the question of confidentiality of information is investigational about a person and him legislative settlement.
The author believes that the current procedure of measures aimed at ensuring the privacy of personal data to effectively ensure the security of persons, provided its strict implementation.
So investigated Krasnikova N.A. provisions indicate that century. 15 of the Act does not contain a complete list of ways to ensure the confidentiality of personal data as a measure of security.
However, fully agree with the position VI Galagan that among the most effective security measures are compliance with data privacy of the person against whom such measures are applied.
Determined that in our country there are no examples of successful witness protection with the use of a set of measures defined by law. And missing data on the expenditure of funds for these purposes. We need to deeply study the successful experience of foreign countries in the field of criminal justice participants, inplementuvaty its national legislation and to solve the basic problem, which is the lack of a national witness protection program and funding costly mechanism for this program. The above should be the subject of further scientific studies on this subject.
Indicated that domestic legislation should be supplemented by relevant provisions guaranteeing the social protection of persons involved in criminal proceedings, followed by the introduction of amendments and additions to the Code of Ukraine and other legal acts.

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КОНСТИТУЦІЙНІ ЗАСАДИ ЯК ГАРАНТІЯ ЗАБЕЗПЕЧЕННЯ ПРАВ І СВОБОД

СУБ'ЄКТІВ КРИМІНАЛЬНОГО ПРОВАДЖЕННЯ

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CONSTITUTIONAL PRINCIPLES AS A GUARANTEE OF RIGHTS AND FREEDOMS OF SUBJECTS CRIMINAL PROCEEDINGS

У статті аналізуються поняття засад кримінального провадження та умови їх реалізації у кримінальному судочинстві України. Окремо звернено увагу на характеристику та місце конституційних засад серед засад кримінального провадження.

The article analyzes the principles of the criminal proceedings and the conditions for its implementation in criminal proceeding of Ukraine. The author notes that the principles of the criminal process is embodied in its rules prevailing in the country and the Ukrainian people moral principles, ideas and legal views on the purpose, objectives and the manner in which criminal justice that have fundamental importance for it in connection They therefore determine and define its essence, focus and build the criminal process in general form and content of its stages and institutions, the violation of which is essential violations of the criminal procedure law, which is the basis for the abolition of mandatory sentencing and other procedural decisions in cases . Meeting the requirements of criminal justice in the investigation, pre-trial and trial is impossible without following closely related requirements for a comprehensive, complete and objective setting and study all the circumstances to be clarified during the conduct of criminal proceedings.
Compliance during the pre-trial investigation and trial requirements comprehensiveness, completeness and objectivity of the setting and researching the circumstances of the case is a guaranty of ascertaining the truth in criminal proceedings. The article states that the study achieved the fullness of correct identification and clarification of the circumstances that outlines the subject of proof, which should cover the content of the crime as reasons the implementation of the proceedings, and beyond proving that characterize the total collected sufficient evidence required for proper resolution case. In a philosophical sense truth - human knowledge, that properly and adequately reflects the surrounding reality. The proof is the essence, core of criminal procedure and is characterized by the following features: it refers to indivisible combination of cognitive, intellectual and practical, procedural members of proof, it is the essence of criminal procedure and is defined in the CPC of Ukraine manner procedural form; aimed at establishing the truth in criminal proceedings through a comprehensive, full and objective investigation, to ascertain the facts of the case - the subject of proof, proof of means of proof are the procedural and factual basis for making all procedural decisions, the burden of proof rests with the officers and government agencies, which are authorized by the state to carry out the proceedings of the criminal case.

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КВАЛІФІКУЮЧІ ОЗНАКИ УМИСНОГО ЗНИЩЕННЯ АБО ПОШКОДЖЕННЯ МАЙНА ЗА ЗАКОНОДАВСТВОМ УКРАЇНИ

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QUALIFIED BY INTENTIONAL DESTRUCTION OR DAMAGE TO PROPERTY UNDER THE LAWS OF UKRAINE

Стаття присвячена дослідженню кваліфікуючих ознак умисного знищення або пошкодження майна, та висловленню окремих пропозицій щодо їх врахування при встановленні кримінальної відповідальності.

The article is devoted research of characterizing signs of intentional elimination or damage of property, and utterance of separate suggestions, in relation to their account at establishment of criminal responsibility.
Indicated that envisage the qualifying signs of intentional destruction of or damage to property need to be resolved due, firstly, wide spread of this category of crime in society in recent years (for example, by 2010-2011 the number of such crimes increased by 5% (1453) compared to the years 2008-2009 (1380)); Second, the complexity of their qualifications, is because the intentional destruction of or damage to another's property or method is often the result of the commission of other crimes; Thirdly, not always the adequacy of measures of criminal responsibility level of social danger of the crime, due to the failings of the criminal law and violation of the order of its use by the criminal justice system.
The analysis of the aggravating circumstances of criminal acts by ch. 2, art. 194 of the Criminal Code of Ukraine.
The author noted that according to p. 6 Resolution of the Plenum of the said Supreme Court, in cases where the result of intentional destruction of or damage to another's property by arson victim of negligence had caused death or grievous bodily harm committed only necessary to qualify for ch. 2, Art. 194 of the Criminal Code. If the offender involved and wanted to deliberately prevent the onset or the consequences of his actions should qualify for multiple offenses under part. 2, Art. 89 and, accordingly, section 115, 116, 117, 121. In this case, the intentional destruction of or damage to property is a way of committing a felony.

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ПОЧАТКОВИЙ ЕТАП ДОСУДОВОГО РОЗСЛІДУВАННЯ ЗЛОЧИНІВ, ВЧИНЮВАНИХ У ЗОНІ ЧОРНОБИЛЬСЬКОЇ АЕС

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THE INITIAL STAGE OF PRE-TRIAL INVESTIGATION OF CRIMES EXERTED IN THE CHERNOBYL NUCLEAR POWER PLANT

У статті проаналізовано нормативно-правові та наукові підходи до визначення початкового етапу розслідування кримінальних правопорушень, вчинених в зоні Чорнобильської АЕС.

Organization investigation initially involves mainly the work of the available information, its processing and evaluation. As a result of this activity is determined by nominating versions and investigation tasks: adopted by the appropriate decision, provided their performance.
To investigate the most socially dangerous acts committed in the Chernobyl exclusion zone, it is important to first perform the initial proceedings and identifying persons suspected of having committed them.
Stages of criminal proceedings, based on generally accepted understanding based on the theoretical and legal approaches to determine the stage of the legal process, characterized by immediate tasks specific range of subjects and activities of arms, peculiar procedural form, the specific nature of criminal procedural relations and the totals decisions; they consistently changing one another, forming a system of criminal proceedings, and therefore have certain limits.

The proposed procedure for early pre-trial investigation, in fact, repealing the so-called «pre-investigation» verification of claims about the crime.
In view of the characteristic elements of the crimes committed in the Chernobyl exclusion zone, the analysis indicates that most reason to start preliminary investigation contained in the following sources: 1) the records and reports drawn up by policemen: a) of scheduledthe terrain area, b) inspection of vehicles, personal search of individuals crossing the border zone; c) detention while committing criminal offenses in the zone; d) detecting radiation contaminated sites in natural markets and elsewhere; 2) acts departmental inspections, audits and inventories, which recorded violations on the handling of radioactive materials or misuse of public funds coming to the needs of providing legal regime of the Chernobyl exclusion zone; 3) statements of victims.
To specific adverse conditions for the initial phase of the investigation of criminal offenses committed and detected in the Chernobyl exclusion zone include: lack of time and lack of information to make procedural and tactical solutions; the relative uncertainty of the initial investigation of the situation; gap in time between the commission of a criminal offense and its detection; criminal offense citizens of Belarus; unknown location of missing radioactive materials; transient dynamics investigation and search for perpetrators and others.
To investigate the most socially dangerous acts committed in the Chernobyl exclusion zone, it is important to implement the relevant original proceedings is in identifying such acts and the main person suspected of the commission. The said predetermined specificity importance of the legal regime of the Chernobyl zone and limited time on its territory.

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СПЕЦИФІКА ВИКОРИСТАННЯ СПЕЦІАЛЬНИХ ЗНАНЬ ПРИ РОЗСЛІДУВАННІ УХИЛЕНЬ ВІД СПЛАТИ ПОДАТКІВ

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SPECIFICITY USE EXPERTISE IN INVESTIGATING TAX EVASION

В статті досліджуються наукові підходи до визначення спеціальних знань та специфіки їх використання на початковому етапі розслідування ухилень від сплати податків, зборів (обов’язкових платежів).

This paper studies the scientific approaches to the definition of specialized knowledge and their use in the initial stage of the investigation of tax crimes.
Special knowledge different from other such characteristics: the ability of repeated use in the investigation process for the formation of sufficient evidence; representation of expertise indirectly, based on the fact that during the pretrial investigation conducted desired end result of using this knowledge to solve specific research practical problem; investigator has no right to re-evaluate the findings of the expert.
The main subject of the use of a specialized knowledge is investigating, since it has a maximum procedural and organizational status. Between investigators and other participants in the use of expertise are mainly two kinds of communication - procedural and functional.
At the stage of investigation verification expertise are used to check for signs of tax crimes and collection of materials needed to decide on the beginning of the pre-trial investigation. At this stage of a documentary check compliance, an act verify taxpayer consulted with experts on the use of special accounting knowledge.
Criminal proceedings for tax evasion peculiar feature is the need to establish not only the factual circumstances of the case, but also give them a special accounting and tax assessment.

Process form of the expertise regulated by criminal procedural law and appears to help the relevant specialists, forensics; participation specialist in conducting investigations; implementation of audit activities; implementation of reference.
Each form using expertise should be clearly delineated in accordance with the objectives and characteristics of its application.
The organization use specialized knowledge management is a complex, methodical, tactical and criminal procedural tools, techniques and methods to address problems of criminal justice.

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НОРМАТИВНО-ПРАВОВЕ ЗАБЕЗПЕЧЕННЯ РОЗСЛІДУВАННЯ ШАХРАЙСТВА З ФІНАНСОВИМИ РЕСУРСАМИ

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REGULATORY FRAMEWORK INVESTIGATION WITH FINANCIAL RESOURCES

В статті проведений аналіз окремих положень нормативно-правових актів, які регулюють діяльність кредитно-фінансової системи щодо забезпечення розслідування шахрайства з фінансовими ресурсами та запропоновано їх класифікацію щодо застосування.

In the article analyzed the individual provisions of legal acts regulating the activity of credit and financial system to ensure the investigations fraud involving financial resources.
According to the analysis the author concludes that the present state of economic relations, globalization of national and international financial markets, the new configuration of national and international labor market imperfections found many norms and practices inherent in the current legislation of Ukraine. Therefore, today there is a need for further modernization of legislation that regulates fraud involving financial resources in our state.
Made classification of normative and legal basis for the application of the criterion of importance when investigating the consider category of criminal offenses to those governing general issues of forensic software (both directly and indirectly) and those which govern the specific application, ie the question of forensic software process investigations fraud involving financial resources. Separation of regulatory legal acts on the groups organizes a regulatory framework that is important both didactic and practical point of view, in terms of a free orientation investigator employee of operating unit in existing regulations regarding issues under consideration.

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ПОВЕДІНКА ПОТЕРПІЛОГО ЯК СКЛАДОВА ЙОГО КРИМІНАЛІСТИЧНОЇ ХАРАКТЕРИСТИКИ

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THE BEHAVIOR OF THE VICTIM AS PART OF ITS FORENSIC CHARACTERISTICS

У статті розглянуто питання поведінки потерпілого від злочину як елементу його криміналістичної характеристики. Акцентується увага на багатоаспектності даного питання. Розглянуто типи та види поведінки потерпілого, її роль в механізмі вчинення злочинів.

The article deals with the behavior of the victim of the crime as part of its forensic characteristics. In particular, the author draws attention to the fact that despite the diversity of research entities victim, forensic scientists, not enough attention is paid to these elements of criminological characteristics, although clarification criminological characteristics of individual victim of crimes will follow correlation that arises between the victim crime, offender and setting a criminal offense, which will definitely enhance the effectiveness of procedures for criminal proceedings.
Consider the types and behaviors of the victim, its role in the mechanism of crime. The mechanism of criminal behavior, is the relationship and interaction between external factors and objective reality of internal mental states and processes that determine the individual decision to commit a crime, govern and oversee its implementation. The interaction of the victim and the offender are always certain values of common concern. They can be both material and inmaterial.
Marked variety of types of relationships between the offender and the victim, which may be material and spiritual, major (for each of the subjects of communication) and secondary, realizable and unconscious.
It is concluded that the issue of crime victim's behavior is to consider only one of the elements of criminological characteristics of persons injured in need of a separate study.

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ПРОПОЗИЦІЯ НАДАННЯ НЕПРАВОМІРНОЇ ВИГОДИ ЗГІДНО ДІЮЧОГО АНТИКОРУПЦІЙНОГО ЗАКОНОДАВСТВА УКРАЇНИ

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OFFER TO PROVIDE UNDUE ADVANTAGE ACCORDING TO THE CURRENT ANTI-CORRUPTION LEGISLATION UKRAINE

У статті аналізуються окремі новели нового антикорупційного законодавства. Звертається увага на доцільність встановлення кримінальної відповідальності за пропозицію надання неправомірної вигоди, а також висвітлюються можливі негативні наслідки надмірної криміналізації у даному напрямі.

Some novels of new anti-corruption analyze legislation in the article. Attention is paid to the feasibility of establishing criminal liability for the offer of unlawful benefit, reward, and highlights the possible negative consequences of over-criminalization in this area.
A package of three anti-corruption laws: «About the Prevention and Combating Corruption», «About liability of legal persons for corruption offenses» and «About amendments to certain legislative acts of Ukraine regarding liability for corruption» adopted by the Verkhovna Rada of Ukraine on June 11, 2009 analyzed in the article.
In the article, the author concludes that the developers of the new anti-corruption legislation partly ignored the suggestions of the test questions are made Chief Scientific Expert Department (2006), Chief of Legal Department of the Verkhovna Rada of Ukraine (2008), the Supreme Court of Ukraine (2006) on the draft provisional anti-corruption laws, adopted June 11, 2009, which further ambiguous may affect the effectiveness of fight against corruption. In total, in the article considers only one of the many issues concerning the criminalization of corrupt acts, which require separate scientific review.

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КРИМІНАЛЬНА ВІДПОВІДАЛЬНІСТЬ ЗА НЕЗАКОННИЙ ОБІГ ДИСКІВ ДЛЯ

ЛАЗЕРНИХ СИСТЕМ ЗЧИТУВАННЯ: МІЖНАРОДНО-ПРАВОВИЙ ДОСВІД

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CRIMINAL LIABILITY FOR ILLEGAL CIRCULATION DISCS FOR LASER READING SYSTEMS: INTERNATIONAL LEGAL EXPERIENCE

У статті здійснено порівняльний аналіз кримінальної відповідальності за незаконний обіг дисків для лазерних систем зчитування, матриць, обладнання та сировини для їх виробництва за кримінальним законодавством України та деяких зарубіжних країн.

In the article the comparative analysis of criminal responsibility for the illegal turn of disks for the laser systems of read-out, matrices, equipment and raw material for their making on the criminal statute of Ukraine and some foreign countries is conducted.
The author made a comparative analysis of criminal liability for illegal circulation discs for laser reading systems, equipment and materials for their production for domestic criminal law (art. 2031 CC Ukraine) criminal law and certain foreign countries and determining the appropriateness of consideration positive experience for the improvement of domestic criminal legislation.
Based on the analysis of crime like illicit trafficking discs for laser reading systems, equipment and materials for their production under the criminal law of individual states the author concludes that the legal framework of Ukraine in this area more differentiated compared to the criminal law of the analyzed countries. Only the Criminal Code of Ukraine contains a special criminal law, which provides for liability for illegal circulation it drives regardless of whether they contain objects of copyright. But there are provisions that could be borrowed to improve century. 2031 Criminal Code of Ukraine. This includes the introduction of the proposed rule aggravating circumstances such as: actions, organized hrupamy; actions stipulated by Part 1 of Art. 2031 CC but in a large scale.

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COMPROMISE AS THE SIMPLIFIED CRIMINAL LEGAL PROCEEDINGS IN SOME FOREIGN COUNTRIES

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КОМПРОМІС ЯК СПРОЩЕНЕ КРИМІНАЛЬНЕ СУДОЧИНСТВО У ДЕЯКИХ ЗАРУБІЖНИХ КРАЇНАХ

The article deals with the types of simplification of criminal legal proceedings in some foreign countries. In particular, the wide experience of such countries as France, UK, Germany, Belgium, Netherlands, Italy, Spain, Czech Republic, Poland, Russian Federation, USA and Israel is analyzed.
Main tendencies of formation of the simplified criminal proceedings in the countries of Anglo-Saxon legal system and the countries of the European Union are outlined. The current main approaches to compromise application in criminal proceedings of certain countries are emphasized.
It is marked that the necessity of compromise application on the stage of prejudicial inquiry is conditioned by the fact that refusal from application of the system of mutual concessions can result in the arising hopeless situations during crimes' investigation. At the same time it is underlined that the reaching a compromise will facilitate prevention of conflict situations as well

as allow to solve a number of tactical tasks which are earmarked to avoid conflicts and observe communication ethic norms.
The conditions when an agreement in criminal proceeding acquires compromise signs are found out.
It is determined that a compromise in criminal proceedings is an agreement between the participants of prejudicial inquiry (namely among criminal offence victims, the suspected or the accused or between a public prosecutor and the suspected or the accused) on the basis of mutual concessions. Making of such an agreement takes place in the order regulated by the norms of the criminal procedural legislation with the aim of solving the problems of the criminal proceeding. It is emphasized that a ground of making a reconciliation agreement is the fact of conciliating the person who committed a crime with a criminal offence victim. Hence, on the one hand, the purpose of such an agreement is commutation of the accused person, and, on the other hand, it is diminution of loading on the judicial system in criminal cases, procedural simplification of a case consideration.

У статті розкриваються типи спрощення кримінального судочинства у деяких зарубіжних країнах. Зокрема, аналізується досвід спрощення кримінального судочинства у таких країнах, як Франція, Великобританія, Німеччина, Бельгія, Нідерланди, Італія, Іспанія, Чехія, Польща, Російська Федерація, США та Ізраїль.

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THE RIGHTS AND DUTIES OF PERSONS TO WHICH THE DAMAGE BY ILLEGAL DECISIONS, ACTIONS OR INACTION OF BODY OF PRE-JUDICIAL INVESTIGATION, PROSECUTOR'S OFFICE OR COURT IS CAUSED

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ПРАВА ТА ОБОВ'ЯЗКИ ОСІБ ЯКІ ПОРУШУЮТЬСЯ НЕЗАКОННИМИ РІШЕННЯМИ, ДІЯМИ ЧИ БЕЗДІЯЛЬНІСТЮ ОРГАНАМИ ДОСУДОВОГО РОЗСЛІДУВАННЯ, ПРОКУРАТУРИ АБО СУДУ

The article is devoted to the development of theoretical foundations of the current state of criminal procedural investigation proceedings in cases, which concern victims' obligations. The article highlights such problems as the protection of victims' rights and generalized practice of criminal procedural law highlighted in this area. Also, how the criminal procedure science classifies victims' rights by their essential purpose and two groups they are divided into. In the legal literature is an ongoing discussion on problems of improving the legal status of the victim. The author highlights the idea of providing a justice model; current criminal procedure legislation that differs significantly progressive tendencies. The rights and the duties of a victim have rights to during the criminal proceedings. The article confirms credentials of representatives to the victim in criminal proceedings in justice administration adversarial criminal process and current criminal procedural law and nowadays realities.

Стаття присвячена розробці теоретичних основ сучасного стану кримінально-процесуального розслідування проваджень, у випадках, які стосуються обов'язків жертв.

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USE OF POLYGRAPH IN CRIMINAL LEGAL PROCEEDINGS OF FOREIGN COUNTRIES: HISTORICAL AND LEGAL ASPECTS

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ВИКОРИСТАННЯ ПОЛІГРАФА У КРИМІНАЛЬНОМУ СУДОЧИНСТВІ ЗАРУБІЖНИХ КРАЇН: ІСТОРИЧНИЙ ТА ЗАКОНОДАВЧИЙ АСПЕКТ

The article states that the polygraph as a tool to assess the reliability and necessary to investigate and solve the crime information from the interviewee person, by fixing human physiological responses to the questions used during t he criminal proceedings law enforcement agencies in several countries.
The features of origin and use of polygraph are considered in the criminal process of countries of Africa, Asia and America.
It is noted that the United States has a federal law that protects citizens from the polygraph research, however, does not apply to public authorities. Despite the widespread use of polygraph in the investigative and judicial practice, some US states separately indicate the possibility of using polygraph in the investigation.
Attention is paid to the process of recognition of this method of detecting false information from public authorities of China, accompanied by seeking scientific and technical support to the US. Studied, Japan is now the country, law enforcement and judicial authorities which often use the results of research in the printing proof. It is noted that the current South American Polygraph Association claims on the need for a separate law that would define the requirements for specialists polygraph procedure and the related method.
Special attention is given to the use of polygraph in the detection and investigation of crime in the European Union. In particular, it is stated that the trend of the polygraph in the practice of law enforcement agencies in Western and Northern Europe became widespread only in the second half of the 90 years of the twentieth century. It is concluded that today among the most active European polygraph is used in Belgium, where the polygraph test is considered a specialized method of interrogation and used as part of the investigation, but results are not proof.

У статті розглядаються особливості походження та використання поліграфа в кримінальному процесі країн Африки, Азії та Америки. Особливу увагу приділено використанню поліграфа в розкритті та розслідуванні злочинів в Європейському Союзі.

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CONCILIATION AS AN INSTITUTION OF CRIMINAL PROCEDURAL LAW OF

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ПРИМИРЕННЯ ЯК ІНСТИТУТ КРИМІНАЛЬНОГО ПРОЦЕСУАЛЬНОГО ПРАВА УКРАЇНИ

The article represents a comparative analysis of the rules of criminal procedure legislation forming the Institute of agreements in criminal proceedings in Ukraine and other countries; identifies common agreements on the recognition of guilt and reconciliation, the stages of their findings, assessed the appropriate authority actors.
We have proposed Mediation procedure in criminal proceedings, that should be understood as an activity of specialist (mediator) to settle the dispute, which is carried out in the framework of negotiations between the parties of the criminal law conflict with the aim to conclude a settlement agreement between them. Also we have proposed the draft of the Law of Ukraine «On Mediation in criminal proceedings.» The introduction to the legal field of mediation institute primarily requires legislative status determination of the notion of «mediators» as the central authority's powers, the purpose of the intermediaries work coordination, as well as the terms of production determination in which mediation is possible (for example, in France there is no restrictions on its use, and in Poland the possibility of mediation shall be permitted only in cases of minor crimes).
Thus, in the context of our research we mention that the conclusion of agreements on the recognition of guilt and the reconciliation of the parties in criminal proceedings in Ukraine have a number of common features, such as: their purpose is to settle criminal legal conflict; these agreements involve a system of mutual concessions (compromise); their conclusion comes under the control of the court, both models are based on the will of the parties; consideration of the agreements by the court takes place in a specific order, that is determined by the Criminal Procedure Code of Ukraine; agreements can be initiated at any time, at the stage of pre-trial investigation (starting with the message of the person suspected), and during the trial; court approval of such agreements has important legal consequences until the end of the proceedings and the person’s release from criminal responsibility, and can significantly affect the elective punishment.
Based on the Criminal Procedure Code of Ukraine Institute of agreement is considered as a positive step towards the solution of the modern criminal proceedings problems relating to both the pre-trial investigation and trial stages. However, the expansion of procedural autonomy of the defense in the forms and methods of influence on the procedure of criminal proceedings does not deprive the investigator and the prosecutor to prove the duties properly, and the court should objectively investigate the circumstances of the offense.

У статті проведено порівняльний аналіз стандартів кримінально-процесуального законодавства, що утворює інститут угод у кримінальному судочинстві України та інших країн. Висвітлено загальні ознаки угод про визнання провини і примирення сторін, етапи їх укладення; оцінено діяльність відповідного органу учасників процесу.

ЦИВІЛЬНЕ ПРАВО І ПРОЦЕС, ГОСПОДАРСЬКЕ, ЗЕМЕЛЬНЕ ТА ТРУДОВЕ ПРАВО

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ОБМЕЖЕННЯ МАЙНОВИХ ПРАВ ФІЗИЧНИХ ОСІБ:
КОНЦЕПТУАЛЬНІ ТА ПРАВОВІ АСПЕКТИ

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LIMITATIONS OF PROPERTY RIGHTS NATURAL PERSONS: CONCEPTUAL AND LEGAL ASPECTS

У статті розкриваються основні положення концепції обмежень майнових прав фізичних осіб. Доводиться положення про належність вказаних обмежень до механізму правового регулювання цивільних відносин.

The author points out that the need to streamline the theoretical concepts of property rights restrictions caused by insufficient theoretical elaborated and lack of clear ideas in practice, enforcement of the restriction of property rights of individuals. The tools use this approach indicates in particular on the idea of setting limits, based on the principles of proportionality legal restrictions; consideration of human nature limited; priority of the property rights to their limitations.
Analyzed the relation between property rights restrictions of individual subjective right, the results of which indicated that the restrictions do not affect the content of the subjective civil law, however, complicate the possibility of its implementation.
Specifies that the efficiency of the restrictions of property rights of individuals in the mechanism of regulation depends on: a) the quality of law-making, according to which the law must clearly identify the range of rights and obligations of entities for which set restrictions peculiarities of rights, limited determine the content of these restrictions; b) achieving certainty of the law on limited by acts of law in protecting the rights of people affected in the courts and implementing restrictions through the actions of other law enforcement; c) focus on ensuring the implementation of subjective civil rights in the light of other authorized persons and the public interest.

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ДОКУМЕНТИ ЯК ОБ’ЄКТИ ЦИВІЛЬНО-ПРАВОВИХ ВІДНОСИН

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DOCUMENTS AS OBJECTS OF CIVIL LAW RELATIONS

У статті на основі загальних положень про суб’єктивне право визначені права на документи. Встановлено, що основним правом є право володіння, а інші (користування та розпорядження) є факультативними. Запропоновано зобов’язати власника повідомляти про намір розпорядитися документом, який є національною історичною чи культурною цінністю.

The article on the basis general provisions on the subjective right of were defined right on of documents. Established that fundamental right it is right is ownership, and the others (use and disposal) is facultative. It is proposed to oblige the owner to notify on the intention to dispose of the document, which is a national historical or cultural value.
The paper drawn attention to the fact that the documents have their own rooms. Due to the fact some people avoid getting numerology and codes and certifying documents with numbers.
Object is a document on property relations and object - and other acts of civil law, scientific doctrine and practice..
Quite significant in the study is the division of rights into absolute and relative, especially in the case when there is ownership documents. Absolute rights are those who oppose the duties of an undefined group of parties liable. They give their holders a monopoly by law to perform actions.

Each group of civil rights to documents has specific manifestations, its inner meaning, its implementation mechanism and its limits affecting the legal status of the passport holder. Subjective rights and obligations of the documents it is advisable to divide into two groups: basic and optional. Their relationship or set describes the right to the documents. The main, we believe, is the right of ownership. It can only belong as ownership that arose for reasons as provided by law, not by law, but was not contrary to, or as part of content ownership or other rights, including ownership of the document as a godsend, ownership document issued for a specific purpose (attorney - at representation, identity - in the performance of official duties, etc.).
Thus, in the document, there is the owner of a number of rights and obligations which it must comply with the applicable laws, regulations sometimes document (certificate of award).

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НЕУСТОЙКА ЯК ГАРАНТІЯ ЗАХИСТУ ПРАВА ДИТИНИ НА ЇЇ УТРИМАННЯ
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PENALTY AS A GUARANTEE OF THE RIGHTS OF THE CHILD TO ITS CONTENT

Стаття присвячена проблемі стягнення неустойки як способу захисту права дитини на утримання. У статті визначається правова природа неустойки у сімейному праві, розглядаються особливості визначення розміру неустойки при простроченні аліментного зобов'язання, обґрунтовується висновок про необхідність пониження розміру неустойки.

The article is devoted to the problem of the penalty as the way to protect the right of the child to be hold. In the article is justified the legal nature of a penalty in the family law, the features of the determining in the amount of a penalty in delaying the alimony of the obligation conclusion about the need to decrease the size of the penalty. According to the family law Ukraine provides for liability for delay in payment of alimony only if child support collected by the court decision. It should be noted that in the legal literature is expressed the view of the possibility of recovery of actual damages in the case of delay in payment of alimony.
Analysis of judicial practice on a penalty (fine) for late payment of alimony shows that there were different approaches to the calculation of the amount of penalties (fines) for late payment of child support.
The analysis considered cases, showing that quite often the court shall apply its right to reduce the penalty considering the financial and marital status of the maintenance payer.
Penalty in case of delay in payment of child support is an effective way to protect, above all, the right of the child to be held. The method of protection - a concentrated expression of state coercion measures by which to person whose rights or interests affected, reaching the desired legal result.

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РЕАЛІЗАЦІЯ ПРАВА ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ НА ПРОМИСЛОВИЙ ЗРАЗОК
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IMPLEMENTATION OF INTELLECTUAL PROPERTY RIGHTS IN THE INDUSTRIAL DESIGN

У статті проаналізовано умови правової охорони промислових зразків. Виділені умови правової охорони промислових зразків за законодавством України, Російської Федерації та законодавства Європейського Союзу.

The article analyzes provided legal protection of designs, including selected conditions specified under the laws of Ukraine, Russia and European Union regulations.
It is reported that one of the objects of intellectual property, which has been widely used in the industrial sector is industrial design. The ambiguity of industrial design as a result of intellectual activity, the combination of artistic and technical creativity, similar to other intellectual property rights give rise to many issues for their protection, use and protection.
Emphasized imperfection enshrined in the legislation of Ukraine definition of the industrial design.
Highlights the essential features of the design, including features that determine aesthetic and (or) ergonomic features of appearance of a product, including shape, configuration, pattern and color combination.
Attention is drawn to the opportunity to highlight the similarities as well as differences in the conditions and procedure of industrial designs under the laws of Ukraine, Russia, Belarus and the European Union.
It is concluded that in the field of protection of rights to industrial designs as objects of intellectual property rights are issues that require appropriate solution, including the current legislation on international experience, hence the relevance and practical need for further scientific studies in this area.

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ПРАВОВИЙ СТАТУС КОМІСІЇ З ТРУДОВИХ СПОРІВ В СУЧАСНИХ УМОВАХ

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LEGAL STATUS AND COMMISSION LABOR DISPUTES IN MODERN CONDITIONS

Стаття присвячена дискусійним питанням визначення правового статусу комісій по трудових спорах за діючим законодавством України. Окрему увагу приділено перспективам застосування інституту медіації при вирішенні індивідуальних трудових спорів.

The article is devoted controversial issues of determining the legal status of the labor dispute commission for the current legislation of Ukraine. Special attention is paid to the prospects of the institution of mediation in resolving individual labor disputes.
Extrajudicial dispute resolution is a priority: First, this method makes it possible to find out the status quo of the parties and assess their chances of winning, and secondly, makes it possible to avoid the interference of outsiders in dispute and preserve confidentiality, thirdly, this method is cheaper and faster and, fourthly, in the case of successful completion of the agreement in the interest of all parties without exception.
Mediation – as a certain approach to conflict resolution in which a neutral third party provides a structured process in order to help the conflicting parties come to a mutually acceptable resolution of disputes.
The author agrees with the view that reforming the consideration of labor disputes should provide for comprehensive action to qualitative changes in the entire system of substantive and procedural law, including not only employment, but also civil procedural law. Fragmented system of settlement of labor disputes need to be unified, thus increasing the powers of the

National Mediation and Reconciliation, as the body that has experience in dealing with labor disputes, and the existing system of regional offices.
Crucial for understanding the prospects of improvement of legislation of individual labor disputes is that the commission on labor disputes remain the authority that will have the authority to solve disputes within the other in another way, on the other, most likely based on conciliation.

ТЕОРІЯ ДЕРЖАВИ І ПРАВА, КОНСТИТУЦІЙНЕ ПРАВО

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АКТУАЛЬНІ ПИТАННЯ ЗАКОНОТВОРЕННЯ В СУЧАСНИХ УМОВАХ

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HIGHLIGHTS OF LAWMAKING IN THE PRESENT DAY

У статті піднімаються найбільш актуальні проблеми у сфері законотворення, які не вдалось вирішити в продовж існування Української держави. Серед основних завдань виокремлюється необхідність прийняття закону «Про нормативно-правові акти», формування правової політики, запровадження планомірності, якості та ефективності законопроектної діяльності як основних пріоритетів законодавчої діяльності тощо.

This article raises the relevant issues in lawmaking area that could not be solved within the life-span of Ukraine as a state.
Amongst the main tasks the need to adopt Law On Legislative and Regulatory Legal Acts as a system-forming law is singled out to form a solid foundation for establishment of the system containing no internal contradictions and the system of qualitative legislation system. Based on the purpose of solving this problem, the need to make and to implement the legal policy in Ukraine is substantiated.
As followed from the analysis of the reforms that took place in Ukraine, the expediency to implement conformity to plan, quality, efficiency of lawmaking activities as the main priorities of lawmaking and the ways of their fulfillment were substantiated.
The need was indicated to monitor the practices of application of the law with a view to identify the effectiveness of the current legislation and to hold a discussion on the new legal system and legislation in Ukraine. The issue was raised with respect to expediency of the in-depth study of the international best practices in law making and its application practices, the conditions for attaining the experience of law and state formation from foreign countries, staff training in law making area in Ukraine.
It was emphasized that the solution of the said problems, including with the participation of practitioners, academicians, government officials, representatives from the interested public can significantly improve the overall state of the law and its application.

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ВИКОРИСТАННЯ НАУКОВОГО ПОТЕНЦІАЛУ У СТАНОВЛЕННІ СУЧАСНОЇ ПРАВОВОЇ СИСТЕМИ

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USING THE SCIENTIFIC POTENTIAL IN THE DEVELOPMENT OF MODERN LEGAL SYSTEM

У статті розглядається процес формування сучасної національної правової системи в Україні, де спостерігається активне оновлення нормативно-правової бази, урізноманітнення правових засобів, зокрема джерел (форм) права, перегляд концепції панування та верховенства закону, утвердження загальносоціальних цінностей. Вказано на значення наукових праць юристів для формування моделі правового регулювання вітчизняним законодавцем.

The article deals with the formation of a modern national legal system in Ukraine, where there is active updating of the legal framework, the diversity of legal means, in particular sources (forms) law, the revision of the rule and the rule of law, the statement of general social values.
The role of doctrine in the administrative process due to the complex nature of the interaction of law and society, the need for continued refinement of the theories put forward, monitoring the efficiency of their impact on social relations. The variability of the environment triggers the formation of reliable management principles based on legal doctrine.
The undeniable requirement of the organization and successful operation of public authorities is to implement a number of principles of organization and activities of government. As the idea of supreme authority, is a scholarship requirement.
Today, the influence of doctrinal legal provisions increasingly felt. Dependence of the legislator doctrine contributes to the quality of legal acts. Scientists can and should be more thoroughly influence the development of concepts of legislation, to carry out scientific support their adoption.
The practice of lawmaking recently, shows that it is impossible to create an area of law or law that would meet the current requirements of justice, without thorough scientific development of the concept. Legislation should be formed on the basis of carefully balanced and tested national and international practice research findings, rather than on perceptions and aspirations of individuals or groups.
Legal doctrine is a scientific basis for state policies, with a focus on the latest democratic transformation of the domestic legal system. It is also a source for the preparation of proposals for the improvement of the legal, scientific, technical, organizational and other support for the state formation. Scientists can and should not only influence the development of concepts of legislation, but also to carry out scientific support for their adoption and implementation. Current practice cannot learn , and most importantly - do not consider the theoretical conclusions arising from the experience and do not take into account the evidence-based recommendations to improve practice. Especially notable interpenetration of science and practice today, when there is development of a strategy of state and legal rule-making in Ukraine.

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ТИПОЛОГІЗАЦІЯ ДЕРЖАВ СВІТУ: МЕТОДОЛОГІЯ ТА КЛАСИФІКАЦІЯ

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TYPOLOGIZATION OF THE WORLD: METHODOLOGY AND CLASSIFICATION

Запропонований ретроспективний огляд основних методологічних підходів до типології держав за певними типами (групами). Удосконалено цивілізаційно-історичну типологізацію держав, що грунтується на діахронічному методі пізнання закономірностей та етапів розвитку держав світу.

Retrospective review of the basic methodological approaches to the typology of for certain types (groups) proposed. Civilizational and historical typology of countries based on diachronic method of learning patterns and stages of development of the world improved.
The practical significance of the typology will: understanding the internal logic and the laws of

the development of the world and on this basis the scientific prediction of the future Ukraine and other countries, systematization and analysis of the factual and scientific material relating to the origination and evolution of the world, a clear separation of scientific and pseudo-scientific state-legal theories in order to develop modern countries in the world solely on a scientific basis. Typology or classification of the world is one of the fundamental categories, while methodological problems of legal science.
The solution to dealing with its economic geographers, economists, political scientists, sociologists and lawyers. The main methodological problem of typology is the choice of criteria (base) of the grouping by type. Taking into account that the formation of the state and the political map of the world have several millennia, the author used a form of systematic as possible and periodization proposed retrospective review of the evolution of criteria and based on their typology of concepts. Type period of antiquity characteristic of the article argues that ancient philosophers made the first classification of countries based on criteria of legality and legal opposition to government lawlessness summarizing. In modern social science, the term "civilization" is still not definite, fixed value. It is associated with "good manners" and with certain stages of development of a society or culture and so on.
The author believes the most fruitful for the development of scientific knowledge in terms of building typology classification schemes of civilizational approach is when a civilization understands as certain era of human culture in the interaction between society and nature.

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РОЛЬ ОРГАНІЗАЦІЇ ОБ'ЄДНАНИХ НАЦІЙ У КООРДИНАЦІЇ МІЖНАРОДНОГО СПІВРОБІТНИЦТВА У БОРОТЬБІ З КСЕНОФОБІЄЮ ТА РАСИЗМОМ

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THE ROLE OF UNITED NATIONS IN COORDINATION OF INTERNATIONAL COOPERATION IN THE FIGHT AGAINST XENOPHOBIA AND RACISM

Стаття присвячена актуальним питанням участі Організації Об'єднаних Націй у розвитку та координації міжнародного співробітництва держав-учасниць у боротьбі із ксенофобією та расизмом.

The article is devoted to the topical issues of United Nations in development and coordination of international cooperation of States Parties in the fight against xenophobia and racism.
The article focuses on the fact that issues of racism, racial and ethnic discrimination, xenophobia and other types of intolerance as well as issues of human rights in the world and in certain states are considered by the Human Rights Council. This body plays one of the most important roles. The Human Rights Council is an institution, dealing with elimination of all forms of discrimination, protecting human rights and freedoms, defending equality of all people in the world. The Council was founded in 2006 and is the successor to the tasks and powers of the Human Rights Committee. Board members are the states, members of the United Nations

Organization, elected by the General Assembly. Nowadays the list of the members includes 47 countries from five regional groups: Africa (13), Asia (13), Latin America and the Caribbean (8), Eastern Europe (6) and Western Europe and other countries (7). According to the resolution on the establishment of the United Nations Human Rights Council, the members of the Council have to comply with the highest standards of human rights promotion and protection. The General Assembly is authorized to cease the rights and privileges of a member of the Council (voting "pro" by two-thirds of its members), in case of constant violation of human rights, as happened, for example, with Libya in 2011. Ukraine is a member of the United Nations Human Rights Council.

Position of Ukraine, as one of the founding members of the United Nations Organization, is the following: racism, racial or ethnic discrimination, xenophobia and related intolerance are not only unacceptable in the modern world, because they violate basic human rights, but are actual crimes.

In Ukraine the notions of racism, nationalism, other forms of intolerance and counteraction to them are governed by the Constitution of Ukraine, certain provisions of the Criminal Law of Ukraine and other normative legal acts of Ukraine.

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ПРАВО ОСОБИ НА ПОВАГУ ДО ГІДНОСТІ: МІЖНАРОДНО-ПРАВОВИЙ АСПЕКТ

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THE RIGHT TO RESPECT FOR HUMAN DIGNITY: INTERNATIONAL LEGAL ASPECT

У статті аналізуються положення про право на повагу до людської гідності у міжнародному та європейському праві.

The right to respect for human dignity in international and European law in the article analyzes. It is noted that each person as an individual is self-sufficient, it has certain moral and intellectual qualities, which it tends to be perceived as a positive and significant for the society, which means that it has a sense of self-worth.

It is noted that the content of the right to respect for human dignity and the statutory guaranteed by the state a set of rules that give everyone confidence in their public value, the ability to recognize themselves as individuals, to respect their own moral principles and rules to insist on respect for other people themselves, government bodies and their officials, and require that any doubts as to his moral character and moral principles have been properly substantiated.

Attention is focused on the fact that the importance and novelty of the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms is that it is the first international human rights instrument, which bore mandatory normative. The main value of the Convention is determined primarily by the fact that it secured a mechanism that ensures the implementation of a number of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

It was determined that the main factor in the development of the system of protection of fundamental rights and freedoms in Ukraine should be uniform for the whole of Europe legal values and an understanding of the legal nature of fundamental rights and freedoms. Ukraine can not be an exception to this process, in particular in the uniform interpretation and application of the Convention as well as the application of the case law of the European Court of Human Rights, as in determining the content and scope of the relevant constitutional provisions for their implementation, and in the law-making process.

Рецензія на монографію Власової Г.П.