ABSTRACT&REFERENCES

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PEOPLE'S SOVEREIGNTY AND HUMAN RIGHTS IN THE EUROPEAN CO-OPERATION OF CONSTITUTIONALISM

p. 4-9

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The authors of the article carried out a comprehensive analysis of the problems of the relationship between the two basic principles of constitutionalism - national sovereignty and human rights through an integrative approach. This relationship was considered in the context of two basic legal theories, namely, the concept of democratic values and participatory (participatory) democracy. The first concept focuses on legal values, and the second -on the legitimate procedure for their adoption.

An inextricable connection between popular sovereignty and human rights due to the very nature of a person who combined in him-herself the inherent, inalienable right to personal freedom with the need to be a part of a natural communication space as a legal environment to ensure his/her vital interests and needs. The key aspect that characterizes the formation of a person is communication. Just communicative orientation of the individual creates natural conditions for the existence of law as a result of inter-subjective interdependent relationship.

People's sovereignty is not absolute, it ends where an individual life begins. The observance of civil (personal) human rights is a condition for the functioning of a democratic society. They determine the inviolable boundaries of possible interference from the side of the state and society in the personal space of a person, which can be described as follows.

The internal relationship between national sovereignty and human rights is due to the fact that civil rights are intended to guarantee every level the chances of achieving their vital intentions and provide reliable legal protection, while the realization of political rights of citizens through the direct participation in the process of democratic legitimation is an effective mechanism, protection of personal freedom

Keywords: *civil rights, democracy, constitutionalism, national sovereignty, participatory communicative theory of law*

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QUALIFICATION FEATURES OF THE CIRCUMSTANCES INTRODUCING ACTIVITY FOR PROTECTION OF THE Paragraph «B» CLAUSE 3 ARTICLE 35 OF THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

p. 10-14

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The article analyzes the condition for acceptability of individual applications to the European Court of Human Rights, which was introduced by The Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, the "substantial damage to which the applicant suffered" as well as the circumstances that introduce the reservation of paragraphs "B" clause 3 of the Art. 35 of the Convention for the Protection of Human Rights and Fundamental Freedoms and their qualification features.

It has been found that the European Court of Human Rights, even assuming that the applicant did not suffer material damage cannot declare as inadmissible any individual claim that raises the question: the adoption of law, interpretation of the norms of the Convention for the Protection of Human Rights and Fundamental Freedoms, national right. It has been established that the respect for human rights, even if there is a presumption that the applicant did not suffer material damage, requires announcement as an admissible by the European Court of Human Rights such an individual application, since it has raised issues of a general nature regarding the observance of the norms of the Convention for the Protection of Human Rights and Fundamental Freedoms:

1) the necessity to clarify the obligations of the State under the Convention;

2) to compel the respondent State to resolve a structural problem affecting the interests of other persons in the same position as the applicant. The following conditions have been identified in the presence of which respect for human rights does not require consideration of the statement by the European Court of Human Rights:

1) the relevant national legislation and practice changed, and similar issues had already been resolved in other cases that the European Court of Human Rights reviewed;

2) the relevant law was canceled and the statement had only a historical character;

3) The European Court of Human Rights or the Council of Ministers have already considered this issue as a complex issue

Keywords: *individual statement, conditions for acceptability of an individual statement, reservation, material damage*

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IMPACT OF TRADITIONS AND STATE FORMATION EXPERIENCE ON CONSTITUTION CREATION AND DEVELOPMENT OF CONSTITUTIONAL PROCESS

p. 15-18

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In this paper the author analyzes the views of scientists on the constitution formation as a natural process in accordance with the national traditions and state formation experience. The author pays attention to the works of Charles-Louis de Montesquieu, A. V. Dicey, E. Burke, G. F. Puchta, devoted to the issues of the distribution of state power, the choice of form government, nature of laws, characteristic features of constitutions. The influence of the experience of organizing public authority on the development of the constitutional process is analyzed. In particular, the author analyzes the state-building process in Ukraine in 1917–1921, the works of state officials in the field of the state-building process, including the works of Sergei Shelukhin and Stanislav Dnistriansky in the context of preparing the basic law, taking into account the historical basis of the people's life, understanding the basic principles of the state system, the origins of the constitution. The author analyzes the text of the First Universal of the Ukrainian Central Rada. The texts of the preambles of the constitutions of the Republic of Lithuania, the Republic of Poland, the Slovak Republic, the Czech Republic and the French Republic were worked out. The author pays attention to the references to the traditions and customs, the achievement of the nations, the cultural and political heritage of the ancestors, the practice of domestic state formation process in the preambles of the constitutions. The author analyzes the text of the Constitution of Ukraine preamble. The author proves that the constitution is not created from the abstract principles and represents the peculiarities of the state constitutional order, which is determined by the traditions, experience and practice of state building. The author convinces that the process of the constitution formation is natural and should reflect the people's interests, and the validity of the constitution depends on the consideration of the national traditions and state formation experience

Keywords: *constitution, separation of powers, rule of law, national traditions, state formation experience*

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REASONABLE TERRITORIAL BASIS FOR THE ACTIVITY OF LOCAL SELF-GOVERNMENT BODIES AND EXECUTIVE AUTHORITIES: ISSUES OF IDENTIFYING

p. 18-22

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The article gives a critical analysis of some studies and suggestions on the content of the reform of the administrative-territorial system of Ukraine. Analysis of the draft Law of Ukraine «On Amendments to the Constitution of Ukraine (Regarding the Decentralization of Power)» was provided. The preconditions and the expected result of the voluntary association of territorial communities in the process of constructing a substantiated territorial basis for the activities of local self-government bodies and executive authorities are determined. The result should be the creation of a basic level of administrative-territorial system – a «gromada» (community), several communities will form a district. The content and condition of observance of conditions of the voluntary association of territorial communities are analyzed, on the basis of which it is proposed to supplement the Law of Ukraine «On voluntary association of territorial communities» in the part of the consequences of violation of the conditions of the association of territorial communities. As a consequence, it is proposed to recognize the invalidity of the decision on the voluntary association of territorial communities. The necessity of the introduction of conditions for the association of territorial communities, aimed at adhering to the proportionality with regard to the size of the territories and population, was determined. On the basis of the analysis of the provisions of the Law of Ukraine «On Voluntary Association of Territorial Communities», a distinction was made between the concepts «community» and «territorial community». The problem of uniting in all territorial communities of the district is proposed to be resolved by joining a district, in which there is only one territorial community, to one of the neighboring districts, followed by the liquidation of district councils and the conduct of elections to the newly formed district council

Keywords: *administrative-territorial structure, reform, territorial community, association, territorial organization of power, local self-government*

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TAKING INTO ACCOUNT OF PSYCHOLOGICAL FACTORS WHICH APPLY TO ENFORCEMENT OR TO VIOLATION OF THE LAW IN THE LEGISLATIVE ACTIVITIES

p. 23-28

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One of the main criteria of the law quality is its ability to create a system of rules of conduct in real people's life. For this purpose the rule must be adopted by them. This increases the relevance of a research of psycho-emotional processes which motivate people to choose behavior patterns within the normative-regulated rule.

After reviewing the issue in decision-making theory context, and in particular, in it's emotional and rational research approaches, the following conclusion has been formulated: while choosing a behavior model people are guided by socially accepted standards and norms. They are inclined to regard such behavior as law-abiding. Despite the fact that the decision of a behavioral model choice is taken emotionally, emotion itself is rational rather than chaotic phenomenon.

Emotion, in essence, is a phenomenon that in general reflects conclusions from life experience events that a person accumulates in the process of socialization. Accordingly, when forming a model of behavior, a person is oriented not to the content of the law, but towards legal events, triggered by it. And particularly important are the actions of the primary executor of the act. These actions shape the first wave of legal events for the social group to be oriented to.

The psychological factors of a person's decision how to comply with a legal requirement may be predicted during legislative activity. This opens up the possibility of adjusting requirement details in order to increase the law quality up to the point, when it becomes a regulatory rule in their real life. In particular, the following factors may be taken into account: education, religious and social beliefs, major events, recently occurred in a social group, and the predominant reactions to these events.

Keywords: *psychology of law, Legislative activity, lawmaking, psychological theory of law, decision making*

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FEATURES OF THE ADMINISTRATIVE PROCEDURE FOR IMPLEMENTATION OF THE PROCESSED NON-CURRENT PROPERTY THROUGH ELECTRONIC BIDDINGS

p. 29-34

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The article reveals the peculiarities of the administrative procedure for the realization of arrested real estate through electronic trades. The procedure for realizing arrested immovable property through e-commerce would seem to be more or less settled, however, the preparatory stages for its actual implementation contain a number of gaps in the law and the points by which it is possible to interpret the actions of both the executors differently and the procedure of implementation of the arrested real estate of the debtor. So, in the case of the registration of a minor child in the housing of the debtor, the procedure for the realization of such property becomes almost impossible. Or, for example, in the case of a violation of the procedure for assessing real estate, the possible consequences in the form of complaints about the actions of the executor or judicial recognition of the report on the assessment of immovable property invalid, which in turn complicates the further implementation of the procedure.

In connection with the above it is necessary to change the approach as to the preparatory stages of the procedure for collecting the debtor's property and for the further realization of such property on e-trades. It is necessary to pay attention to existing problems in the enforcement proceedings and to fully outline them, which in turn will help to identify gaps in legislation and improve the provisions of the law

Keywords: *administrative procedures, administrative procedures for the realization of arrested real estate through electronic tenders*

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LEGAL ASPECTS OF THE IMPLEMENTATION OF SOCIAL MEDICAL (HEALTH) INSURANCE IN UKRAINE

p. 34-39

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Based on the analysis of normative-legal acts, judicial practice and scientific studies in the sphere of social insurance, there are considered separate legal aspects of introducing the system of social medical insurance in Ukraine.

There are considered main international documents and acts of the International labor organization that fix the human right for health protection, and also establish the duty of states in providing realization of these rights, in particular by functioning of the social medical insurance system. Main models of financing the health protection system are presented.

There are investigated norms of the Ukrainian Constitution in the sphere of health protection, medical care and medical insurance. There is cited the judgment of the Constitutional Court of Ukraine in a case of free medical care and possibility of functioning of social medical insurance. There is argued a conclusion that medical insurance it is not an end in itself, but a guarantee of realization of the right for health protection and medical care. Attention is accented on the aim of functioning of social medical insurance.

There is analyzed the role of voluntary medical insurance (private) in financing of the health protection system in Ukraine. Separate differences between social and private medical insurance are determined. There are accented problems of payments for treaties of private medical insurance in Ukraine to insurers.

There are presented objective factors of introducing social medical insurance. Normative-legal acts that, starting from the Conception

of social insurance of 1993, provide introduction of the social medical insurance system are analyzed.

As a result of the study, conclusions have been made about the necessity of realization of the juridical duty of the state on introducing social medical insurance as a guarantee of realization of rights of citizens in the sphere of health protection and medical care.

Keywords: *social medical insurance, health protection, medical care, insured person, social risk*

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