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**KNOWLEDGE TRANSFER  
IN THE GLOBAL ACADEMIC ENVIRONMENT.  
Terminological Basis of  
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МІНІСТЕРСТВО ОСВІТИ І НАУКИ УКРАЇНИ  
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## **OBLIGATIONS TO COMPENSATE FOR DAMAGES CAUSED BY LAW ENFORCEMENT AUTHORITIES**

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The Constitution of Ukraine proclaims the comprehensive provision of human rights and freedoms as the highest social value. Given that the provisions of the Constitution are the norms of direct action, which allows in case of violation of human rights and freedoms to go to court to protect and restore them, compensation for property and moral damage to the judiciary in making decisions, the implementation of appropriate actions is compliance with substantive and procedural law.[2]. One of the guarantees of observance of rights and freedoms of citizens in their relations with the state and its bodies is the civil liability of the state and its bodies established by law. The judiciary is obliged to act in accordance with the Constitution and laws of Ukraine, where, in general, the state power of the judiciary is manifested, which should not neglect its principles, but always act in the name of law and justice. It is the high mission of the court that gives rise to a civil society in which citizens and the associations of which they are members enjoy a wide range of rights and freedoms, and all their relationships are built on the rule of law. The same requirements are set for the activities of law enforcement agencies [2].

One of the guarantees of respect for the rights and freedoms of citizens in their relations with the state and its judicial and law enforcement agencies is the statutory obligation of the state to compensate for damage caused by illegal decisions, actions or inaction of inquiry, pre-trial investigation, prosecution and court. However, investigation of crimes, exercise of supreme supervision and the administration of justice are activities so specific that the legislator has regulated property liability for damage caused by its improper implementation, a special rule of law.

The legal basis for the state's liability for damage caused by illegal decisions, actions or omissions of inquiry, pre-trial investigation, prosecutor's office and court, is now enshrined in Article 1176 of the Civil Code of Ukraine, and the procedure for compensation - in the law of Ukraine "About the order of compensation of the damage caused to the citizen by illegal actions of bodies of inquiry, pre-judicial investigation, prosecutor's office and court" of December 1, 1994.

The first part of Article 1176 of the Civil Code of Ukraine contains an exhaustive list of public authorities, as well as their illegal decisions, actions or omissions that caused the damage. Such bodies include: a) bodies of inquiry; b) pre-trial investigation bodies; c) the prosecutor's office; d) the court.

The right to compensation for damage under part one of Article 1176 of the Civil Code of Ukraine is granted to an individual if it is caused as a result of illegal prosecution of illegal use as a precautionary measure or detention on bail, illegal detention, illegal administrative penalty in the form of arrest or correctional works.

If the damage was caused as a result of an illegal decision in a civil case, the right to compensation is granted to both individuals and legal entities. Individuals can be harmed both personally (restriction of liberty, humiliation of honor, dignity, business reputation, etc.) and property (deprivation of ownership of property that was confiscated, loss of earnings of other income, etc.). As a result of the court's decision in an illegal decision in a civil case, damage may also be caused to a legal entity. Damage can manifest itself in the deprivation of property rights, loss of profit and in another sense of property of the legal entity, as well as humiliation of its business reputation.

In the cases provided for in Article 1176 of the Civil Code of Ukraine, damage is reimbursed by the state from the state budget (Article 174 of the Civil Code of Ukraine).

Liability of the state for all illegal decisions, actions or omissions of judicial and law enforcement agencies is due to the fact that they perform functions of the state and are state bodies. Having reimbursed the damage, the state is given the right of recourse to the official of the inquiry body, pre-trial investigation, prosecutor's office or court only in the case of establishing in its actions *corpus delicti* on the basis of court sentence against them, which has entered into force.

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## **ENGLISH AS AN ASPECT OF DIGITAL GLOBALIZATION**

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The global process of globalization no longer requires confirmation. Diplomatic and business relations are already

conducted primarily in English, and more and more people are learning English to become a part of the international community. Over the years it has become the language of international communication and the number of people who speak it as a foreign language now exceeds the number of native speakers. But the problem of globalization is precisely that English is the variable that contributes to globalization.

The topic of globalization has been studied by many authors. For example, M. Dwivedi says that “English has become the most important language of the world as it acts as a link between people hailing from different parts of the worlds. It has aided in global interaction and international business” [1]. W. Brown states that the English language is a “common resource” of all people in the World [5]. Elizaveta Pachina’s statement about English being a global language can relate to the problem statement of this work. “English is undoubtedly in just about every sector whether it is in education, medicine, business, technology, tourism, communication, and so on. It is perhaps this worldwide acceptance and usage of the English language that propels it as an extremely essential global language” [6].

The dominant force that has created and maintained the status of English as a global language is the Internet. It was English that is used at the heart of the system and about half of all websites use English as the main language according to a W3Techs study. The historical trends in the usage of content languages since March 2020 reveals that English has been a dominant language in this context - 60.7%, first place; second place occupies Russian with 8.3% [3] Additionally, according to Internet World Stats, the number of English-speaking users is the biggest [4]. These reasons make globalization the language of international business. Companies like Porsche and Phillips, despite being based in Germany and the Netherlands, respectively, do use English as their

main language [2]. Also, the simplicity of English compared to other languages [1] and technological dominance provide itself the worldwide spreading, that is confirmed by the fact that even the learning of English as a foreign language in China seems to jeopardize first-language education for the Chinese [6].

The future of English in a globalized world can be defined with reference to W. Brown's article that "English can only truly be considered as a common resource if there is universal acceptance of the regional varieties of World Englishes that exist in the world today." [6]. This means that the spreading of English will change common understanding of each other, but as everyone will understand each other it can cause other languages to assimilate in perspective.

Needless to say that English has become the global language and this does not require substantiation. The history of this language shows that it has become a mixed language and is still collecting new different words. Globalization is expanding due to English and there are many reasons and assumptions for this, as described above. Nevertheless, in the future, there are serious foreseeable consequences for languages of the whole world because of English, thus making this subject worthy of further examination.

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## **THE "UNWRITTEN CONSTITUTION" OF THE UNITED KINGDOM OF GREAT KINGDOM AND NOTHERN IRELAND — IS IT A CONSTITUTION?**

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Most people in the world are informed that the United Kingdom differs from other countries by its type of the Constitution. The importance of this document is really high as it settles out the structure of government and regulates its relationship with citizens. The majority of the countries has the codified Constitution where all main laws which help to administer “the life” of the country are collected. But there are three countries (the UK, New Zealand and Israel), which are the exceptions of this rule. It is often said that Ukraine has a written Constitution and the United Kingdom has an unwritten one. On the one hand, this is true, for example, in Ukraine there is a formal document called the Constitution, while there is no such document in the UK. In fact, however, many parts of the British Constitution exist in written form, because of that some scholars prefer to classify it as “uncodified” instead of unwritten [2].

The British Constitution consists of a number of sources: statutes, case law, doctrinal sources or works of authoritative scholars in the field of jurisprudence, constitutional agreements [4].

British unwritten constitution can be explained by its history. In most countries that have gone through the revolutions and wars it has been necessary to build the state from scratch and to enshrine all mechanisms for exercising state power in the basic document that is clear and understandable. In contrast, the British Constitution has been developing over a long period of time and has been showing the stability of British public policy. Therefore, there has never been a need to create one single document.

It has been offered that the UK's Constitution can be outlined in such sentence: What the Queen in Parliament enacts is law. This means that the Parliament, using the power of the Crown, enacts law which no other body can challenge. One of the main principles of the British Constitution is Parliamentary sovereignty [1].

All advantages and disadvantages of the unwritten constitution are analysed in the given work. First of all, such constitutions are dynamic, flexible and more adapted to constitutional reform. British Constitution is often described as a "living constitution". It represents the changing social attitudes such as the Marriage (Same-Sex Couples) Act of 2013.

On the other hand, there is no single document that has a higher legal status over other laws and rules. Due to this, it makes it more difficult to understand and to get access to it. In addition, the powers of executive, legislative and judicial branches are not clearly defined. It can lead to amphiboly, uncertainty and possible conflict between the three pillars of government [3].

Summarizing the above, we can definitely say that "unwritten Constitution" of the United Kingdom of Great Britain and Northern Ireland is the genuine Constitution. And we believe that it is not necessary to adopt codified constitution because in my

opinion the government of the UK has been functioning effectively for generations. Because of this, I think, the benefits for future codification will be minimal.

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## **SENTENCING FOR AN INCOMPLETE CRIMINAL OFFENCE**

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The commission of a criminal offence by a person always entails responsibility, and as a consequence – a punishment that must be imposed correctly to prevent the commission of some new crimes. The importance of this is the principle of legality of punishment must be implemented. The concept of a criminal offence as a socially dangerous criminal act committed by a subject of a criminal offence is disclosed in Article 11 of the Criminal Code of Ukraine. An urgent issue today is the concept of an incomplete criminal offence, its separation from the completed, and what the criminal liability will be for it. Article 13 of the Criminal Code of Ukraine distinguishes two types of differentiation of a

criminal offence: completed and incomplete. The same article states that an incomplete criminal offence is preparation for a criminal offence and attempt to commit a criminal offence, and completed is an act that contains all the elements of a criminal offence under the relevant article of the Special Part of this Code. The main difference between an incomplete criminal offence and a completed one is that an incomplete criminal case does not have all the obligatory features of a criminal offence, but has a completed one. Regulation of liability for an incomplete criminal offence is enshrined in Article 16 of the Criminal Code, and the imposition of punishment for it – in Article 68 of the Criminal Code of Ukraine.

There are interesting cases where a criminal offence can be considered complete, when in fact it is incomplete. These are cases such as: 1) encroachment on the life of a statesman or public figure (Article 112 of the Criminal Code of Ukraine); 2) encroachment on the life of a defense counsel or a person's representative in connection with activities related to the provision of legal assistance (Article 400 of the Criminal Code of Ukraine); 3) on encroachment on the territorial integrity and inviolability of Ukraine (Article 110 of the Criminal Code of Ukraine); 4) encroachment on the life of a judge, lay judge, or juror in connection with their activities related to the administration of justice (Article 379 of the Criminal Code of Ukraine).

When examining the question of whether an incomplete criminal offence is a crime, many scholars have concluded that for various reasons it is still a crime. After all, intentions to carry it out in the person already exist and it can lead to an approach of socially dangerous consequences. The main question remains, what punishment should a person suffer for an incomplete criminal offence. It should be borne in mind that attempt and preparation (which are types of an incomplete criminal offence) are not filled with all the mandatory features of a criminal offence, except in

special cases, it would be appropriate if the punishment was less than for a completed criminal offence.

In the Criminal Code of Ukraine, the legislator established the exact limits of punishment for committing a criminal offence. For preparation for a criminal offence, the term or amount of punishment may not exceed half of the maximum term or amount of the most severe type of punishment. For attempted criminal offence, the term or amount of punishment may not exceed two-thirds of the maximum term or amount of the most severe type of punishment.

In conclusion, these rules on criminal liability and sentencing for an incomplete criminal offence are quite appropriate in the context of the Criminal Code of Ukraine. But at the same time, the Ukrainian legislation is not perfect and needs to be changed at the state level.

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## **THE RIGHT OF JOINT OWNERSHIP**

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Property may belong to the right of ownership to one person individually or to several persons (subjects of property rights) at the same time. According to Part 1 of Article 355 of the Civil Code of

Ukraine, property owned by two or more persons (co-owners) belongs to them on the right of joint ownership (joint property). These are the general legal principles of the concept of joint ownership. In this case, joint ownership arises between these entities. Since joint ownership by its legal nature is a kind of way for the subjects to exercise the right of private, state or communal property, no other new independent form of ownership is formed here. Thus, the right of joint ownership is the right of two or more persons to one object (to one thing or a set of things).

The right of joint ownership is realized by several co-owners. A joint object may consist of one or a set of things, which may be divisible or indivisible, but as an object of ownership they form a single whole. This means that the right of each of the co-owners extends to the whole object, and not to a certain part of it. Thus, the right of joint ownership is characterized by the plurality of its subjects and the unity of the object [1].

Joint ownership is the property of two or more persons without determining the shares of each of them in the ownership of property (Part 1 of Article 368 of the Civil Code). Joint co-ownership is characterized by the uncertainty of the co-owners' shares in the right to property. The share of each of the co-owners is determined only upon termination of joint ownership (for example, upon division of property). Due to the uncertainty of the shares, the co-owner has no right to dispose of his share through its sale, exchange, gift, etc. It is also important that during the creation of joint ownership, the contribution of each of the co-owners to the acquisition (manufacture, construction) of property as a general rule does not affect the size of its share in the right of joint ownership in the case of its definition.

Under the Civil Code, the subjects of the right of joint ownership may be individuals and legal entities, as well as the state, territorial communities, unless otherwise provided by law

(Part 2 of Article 368 of the Civil Code). However, this approach is questionable. In the scientific literature it is correctly defined that the nature of joint ownership requires special trust of its participants. It should be agreed that the existence of joint ownership relations for entities other than individuals, which are interconnected by purely economic interests, is not justified.

The regime of joint ownership of property can be established both by law and by agreement. In accordance with the legislation on the right of joint ownership, it is established in respect of property acquired by the spouses during marriage (Part 3 of Article 368 of the Civil Code) acquired in joint work of family members (Part 4 of Article 368 of the Civil Code) obtained in the privatization of housing – apartments or houses (Article 8 of the Law "On Privatization of State Housing"), etc. It should be noted that Part 1 of Art. 74 of the Family Code introduces an amendment according to which, if a woman and a man live in the same family but are not married to each other, the property acquired by them during the joint residence belongs to them on the right of joint ownership, unless otherwise provided by written agreement between them. The right of joint ownership may also be established by an agreement. Based on the fact that the Civil Code does not provide for restrictions on the subjective composition of co-owners, agreements on the creation of the right of joint ownership may be concluded by the entities specified in Part 2 of Art. 368 CC.

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## THE SURROGACY

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With the rapid development of science and the use of the latest technologies in almost every sphere of life, it becomes possible to solve a number of problems. As of today, one of the problems that is being solved by the development of reproductive technologies is infertility. Scientists engaged into research in this area have made significant progress, and there is currently the possibility of surrogacy. The expansion of the use of surrogate mothers has led to unresolved issues from a legal point of view.

Article 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms states that a man and a woman who have reached the age of marriage should have the right to start a family. However, unfortunately, not every couple has the opportunity to do it. This applies to the physiological and biological features of human body. The active work of scientists and physicians has led to the fact that assisted reproductive technologies began to be introduced and became one of the most important achievements of the XX century. The first birth of a child as a result of artificial insemination and embryo transfer took place on July 25, 1978 in Great Britain. This first case in the history of reproductive medicine has led to a significant increase in the number of people wishing to take advantage of this opportunity.

Among the various methods of assisted reproductive technologies, surrogacy occupies an important place, which today is seen not only as an opportunity to create a family, but also,

unfortunately, as a business that is actively developing around the world. It should be noted that the surrogacy in many countries is not controlled by any authority, and in practice this violates the rights of both surrogate mothers and children, which often results in child trafficking and is punishable by law.

In modern society, surrogacy is used not only by couples who cannot have children due to certain biological or physical problems, but also by wealthy people who do not want to bear the burden of childbearing. That is why there is a great need for legal regulation of the issue of the use of surrogacy. This is due to the fact that reproductive technology aims to combat female infertility, and it cannot be based on the commercial gain and interest of the rich by using other women as a raw material appendage.

The realities of today call for the immediate creation of a perfect legal framework to protect the world from unlawful encroachments on biological human rights. As the right to surrogacy is interpreted differently in various countries, it needs to be enshrined in the relevant legislation in order to exercise clear control over the use of surrogacy to prevent offences in this area.

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## **WAYS OF LEGALIZING LABOR RELATIONS: LABOR-AND-LEGAL ASPECT**

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Legalization of labor relations is extremely important in modern realities. The main problem of this phenomenon is connected with the existence of the informal employment. Informal employment, according to modern ideas, is the part of the informal economy. This term was proposed in the 70's by the English scientist K. Hart [1].

The problem of informal employment is usually discussed in the works of economists. Thus, Ukrainian economists A. Balanda, S. Bandur, E. Libanova, V. Mandibura, R. Mykhailyshyn, V. Onikienko, and L. Tkachenko paid attention to this problem.

The use of terms characterizing informal employment shows the variability in their application depending on the type and purpose of the research on this social-and-economic phenomenon. For example, European scholars have noted that the terms “informal employment” or “unregistered employment” are the most commonly used terms in academic literature on macroeconomic development or on employment at the macro level, first of all, when it comes to defining the part of the labour force whose employment is not reflected in statistical reports [2].

The term “undeclared work” is used in applied research (as well as in the regulations of a number of EU countries). This term

highlights the absence of an employment contract between the employee and the employer, as well as their failure to comply with the tax and social contribution obligations that they must fulfil if they are to be formally employed [3]. We base our research on this definition.

Well-known Russian sociologists T. Zaslavskaya and M. Shabanova analyze the nature of informal employment as a form of non-legal practices. Non-legal labour practices refer to “a set of sustained and massive social interactions involving the violation of legal laws and other formal legal norms” [4].

On the one hand, with informal employment, workers have a financial advantage in the form of not paying taxes, and the amount of these taxes remains with them. But, on the other hand, working in the informal sector, the employee is not protected by the labor code and is deprived of those rights that he could have in his official job, such as: the risk of non-payment of wages by the employer, deprivation of social guarantees and others [5].

To sum up, there are many different interpretations of the term “informal employment”. Everyone sees it differently but all scientists agree that informal employment is a negative phenomenon and the State must make every effort to legalize labour relations.

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## **ASSISTED REPRODUCTIVE TECHNOLOGY AND HUMAN RIGHT: GENERAL DESCRIPTION**

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Natural aspiration of the man is procreation, but according to the World Health Organization, the incidence of infertility reaches 17.0-19.5% of the total number of couples in Ukraine. At the same time, the use of assisted reproductive technologies (further ART) in Ukraine remains low. This is due to many problems, in particular financial factors, very little support from the State and, of course, the lack of regulation. The relevance of the ART issue is therefore constantly growing.

The study of the legal dimension of the concept of assisted reproductive technology requires, first of all, clarification of its essence. Analysing the work of scholars such as N. Starikova, O. Zaliska, M. Makarenko, D. Hovseev, L. Martynova, R. Vorona, I decided to use this definition of ART. So assisted reproductive technology is the system of methods used in the treatment of infertility, in which certain stages of fertilization (for instance, the production of reproductive cells or embryos) occur outside the body [4].

It should be noted that the current legislation and regulations on assisted reproduction technologies in Ukraine are generally aimed at consolidating the right to use ART and

regulating the medical side of the issue. The Ukrainian Civil Code provides that adult women or men are entitled, on medical grounds, to undergo treatment programmes in accordance with the procedure which has been regulated exclusively by orders of the Ministry of Health Care of Ukraine [3]. Referring to Ukrainian legislation, in accordance with paragraph 1, article 92 of the Constitution of Ukraine human and civil rights and freedoms and their guarantees must be defined by the laws of Ukraine, but there is no law governing the legal aspects of the matter [2]. What is needed, in my opinion, is the law that will enshrine such important aspects: the definition of the concepts that refer to ART; legal aspects of the donation of gametes and embryos and the rights and obligations of the donor; rights and obligations of people for which ART is applied; the question of the sex of the unborn child.

Experience in the legal regulation of assisted reproductive technologies abroad has been successful. For example, in the Russian Federation, ART are regulated by Federal Law "On the Fundamentals of Health Care for Citizens in the Russian Federation", of 21 November 2011. In the Republic of Belarus this question is regulated by the act "On Assisted Reproduction Technology" dated of 7 January 2012. 341-3. There are also countries, which prohibit ART. For instance, in Italy the act "On the Norms of Assisted Reproductive Technologies" dated of 19 February 2004, not only completely prohibits surrogacy, but also severely restricts other methods of assisted reproductive technologies [1].

Taking everything into account I can state that the ART issue, even if it is prohibited, is legally settled abroad. In Ukraine, certain aspects of legal settlement of ART remain unresolved. Consequently, the relevant legislative framework needs to be improved.

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## **SOVIET STATEHOOD AND LAW IN UKRAINE (1946-1991)**

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The peculiarity of the state building of the USSR was active use by the communist regime of an ethnic group for territorial and administrative structuring of the country, so-called territory of the ethnos. The general Soviet consciousness has to be updated with a number of ideologies or so-called supranational historical images. Among the basic characteristics of the "Soviet man" are paternalism, patriotism, ideological conservatism, intolerance, etc.

In the postwar period, almost all Ukrainian lands were in the USSR. The Ukrainian minority in neighboring USSR countries was also under Soviet control by the end of the 80's.

The totalitarian regime, which had grown stronger during the years of war, in order to strengthen its influence in the post-war

world, had drawn the country into a "cold war". The direction of all material and human forces to the restoration of heavy and defensive industries in the decline of war-ravaged agriculture led to a new famine in Ukraine. The repressive and punitive mechanism established in the 1930s continued to function and the legislative changes brought about by the abolition of the military status were limited.

According to M. Khrushchev, the process of democratization of state-legal life during the period of de-Stalinisation is characterized by attempts to reorganize the system of central and local governance, the radical manifestation of which became the transfer of the functions of economic government to the State farms. However, the division of regional councils on a production feature has led to negative consequences.

The judiciary and law enforcement authorities have been reformed. Mass repression and terror have ceased. The second codification of Soviet law had begun and had helped to improve the legal system. A characteristic feature of the second codification of legislation in Ukraine was that it had begun with criminal law and criminal procedure. This demonstrates the significant role of criminal law enforcement as a method of managing society at that time. However, the "Khrushchev" reforms were inconsistent. The political and economic foundations of the State remained unchanged. The country was still governed by a Soviet-Party bureaucracy.

At the time of Brezhnev, the legal position of Ukraine in the USSR, despite the sovereignty stated in the 1978 Constitution, is characterized by political, economic and ideological dependence on the Union center. Under the conditions of the CPSU's absolute monopoly on power, the position of the party-Soviet bureaucracy was consolidated. The strengthening of the command-and-control system has led to the unification and the centralization of

legislation.

M. Gorbachev's radical reform of the country's socio-economic system and socio-political life required legal support. Legislative reform has been inconsistent and controversial. The adoption of the Declaration on State Sovereignty of Ukraine of 16 July 1990, the Act of Independence of Ukraine of 24 August 1991, confirmed by the results of the All-Ukrainian referendum of 1 December 1991, marked a new stage in the development of Ukraine as an autonomous, sovereign country.

Under the rule of a bureaucratic system, citizens' rights and freedoms were violated and manifestations of the awakening of the national consciousness of the Ukrainian people were suppressed. This was the impetus for national revival and the building of an independent state in which the rights and freedoms of its citizens are respected.

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## **EXPERIENCE OF COLLECTIVE BARGAINING LABOUR RELATIONS OF THE EUROPEAN UNION FOR UKRAINE**

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Collective bargaining in the European Union has been going on for a longer time than in Ukraine. Since Ukraine aspires to join the EU, and this follows from the enshrinement in the Constitution of Ukraine of a strategic course to achieve full membership in the EU, the labor relations should focus on how labor relations are regulated in EU member states. This is the relevance of this topic.

The regulation of labor relations in the EU is based on such legislature acts as the Community Charter of the Fundamental Social Rights of Workers, the Charter of Fundamental Rights of the European Union, the European Social Security Code, as well as a number of other supranational regulations. In addition, the national legislation of the EU member states is widely applied. In Ukraine, at the moment there is a significant problem, such as non-compliance with the requirements of the main legislature acts, such as the Labor Code of Ukraine, the Law of Ukraine on Collective Bargaining and Agreements and others governing the field of labor law of Ukraine, including the institution of collective contractual settlement of labor relations.

Thus, researching the topic of collective bargaining of the EU for Ukraine, I am faced with the task not only to superficially analyze the labor legislation of EU member states, labor legislation of Ukraine, but also to compare EU legislation with Ukrainian legislation. There is not much material on this topic in Ukraine, so when working on this topic, I aimed to express my position on the need to use the experience of collective bargaining in the EU for

Ukraine, to determine the basic legal principles that need to be implemented in the legislation of Ukraine.

The theoretical and methodological basis of the work are the works of such researchers as Kiselyova E.I., Kitsak T.H., Kovalenko I.F., Zinchenko Y.V., Yurovska V.V., Bozhko V.M., Zhernakov V.V., Pylypenko P. D., Darmoris O.M., Prokopenko V.I., Hruzinova L.P.

**The purpose of the research** is to analyze the legislative acts of Ukraine and the labor legislation of the EU, to compare them and to define the basic directions of improvement of collective bargaining regulation in Ukraine and involves the following tasks: 1) to find out the range of legislative acts regulating collective labor relations in the EU; 2) to compare EU and Ukrainian legislation; 3) to form a position on the use of experience in collective bargaining in the EU for Ukraine.

The application in Ukraine of a certain model of collective bargaining used in any EU country will not have positive consequences, at the same time it is necessary to build our own model using the European principles of collective bargaining. However, it is necessary to work not only with the law, but also with employees and acquaint them with their rights, because in practice there are situations when the employee, although having the rights enshrined in the collective agreement, but due to ignorance is unable to use them.

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## **PECULARITIES OF THE MARRIGE CONTRACT AS AN INDEPENDENT TYPE OF CONTRACT**

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Marriage is a family union, which undoubtedly must be based upon mutual love and trust. Nevertheless, nowadays, ownership aspects affect relationships between spouses and require a significant legal regulation. Ukrainian family and civil law consolidate an imperative rule that property earned by a married couple is a joint. What's more, there is a phenomenon that is less mentioned and used, although develops the idea of contractual regulation of such relations, namely the "marriage contract".

Today, the institution of a marriage contract is prescribed in Chapter 10 of the Family Code of Ukraine and the Civil Code of Ukraine, which establishes general regulations for the contract. Yet, it doesn't give a definition of a marriage contract and that can be considered as one of the legal gaps that creates numerous disputes in the legal community. Among the various and sophisticated positions, must be emphasized the opinion of Zhilinkova I.V., who, devoting several scientific papers to this

problem, considers that the marriage contract is an agreement of individuals who have applied for registration of marriage or spouses to establish their ownership rights and obligations bound by marriage, its existence or suspension [4].

The valuable issue is the legal nature of the marriage contract whether it should be assumed as an independent type of contract. According to most scholars, we should consider it in the context of the general theory of civil law contracts, but it is necessary to remember all its features and specifications.

Firstly, under Article 93 of the Family Code of Ukraine marriage contract regulates only property relations between spouses, for instance, monetary obligations or their finance, etc. Provided that personal relationships between spouses stay unregulated, though it still may not put one of the spouses in an extremely disadvantageous financial position as well as reduce the scope of the child's rights established by the Code. Another aspect is that real estate and other property, the right to which is subject to state registration, cannot be transferred to the ownership of one of the spouses under the marriage contract. In this case, the spouses should conclude the Deed of Gift.

Secondly, the marriage contract has a limitation of its subjective composition, which is the basis for its attributing to a separate type of contract. According to Article 92 of the Family Code of Ukraine, a marriage contract may be concluded by brides – persons who have applied for registration of marriage, as well as spouses – persons who have already registered marriage in the civil registry offices.

There are certainly more other persuasive peculiarities of such contact, for instance, its special form or other allegations. All things considered it may be concluded that the marriage contract is a unique institute with its specific aspects and regulation.

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## **IMMEDIACY OF THE EXAMINATION OF EVIDENCE AS A BASIS OF CRIMINAL PROCEEDINGS**

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Principles of criminal proceedings are one of the most important topics in the theory of criminal procedure law, because in general criminal proceedings are based on them and must comply with them, otherwise such proceedings are considered illegal. Immediacy of the examination of evidence is one of the twenty-two principles that are mandatory in criminal proceedings and in accordance with the Criminal Procedure Code of Ukraine means that the court examines the evidence directly, and the testimony of participants in criminal proceedings the court receives orally.

Information contained in testimony, things and documents that have not been the subject of direct court investigation may not be recognized as evidence, except in cases provided for by this Code. The court may accept as evidence the testimony of persons who do not give it directly in court, only in cases provided by this Code. The prosecution is obliged to ensure the presence of prosecution witnesses during the trial in order to exercise the right

of the defense to be questioned before an independent and impartial tribunal [1].

On the basis of the immediacy of the study of testimony, things and documents in criminal proceedings should be understood as the normative provisions according to which the investigator, the prosecutor and the court are obliged personally investigate (perceive, collect, verify, evaluate) evidence, substantiate their decisions on the basis of the evidence that they have personally examined, use primary evidence, except when obtaining the latter impossible and to provide the possibility of direct participation of other participants criminal proceedings in carrying out procedural actions and their acquaintance with materials of the criminal case in the cases and within the limits provided by law [2].

The following elements are being implemented at the stage of pre-trial investigation principles of immediacy as: 1) direct study of indications, things and documents and display of results in protocols of investigative actions and appendices to them; 2) the use of primary evidence except when their lost or impossible to obtain, and cases of use of derivative evidence for identification, verification and replenishment of primary; 3) ensuring the participation of parties to criminal proceedings, in particular by the defense and the victim, by investigators (search) actions and their acquaintance with the materials of criminal proceedings; 4) making procedural decisions (investigator, prosecutor - in the form of a resolution, and investigating judge - decisions) based on the assessment of personally perceived factual data [3].

To conclude, the studied principle of criminal proceedings, like all others, is extremely important, both for the science and theory of criminal procedure law, and for practice. However, in contrast to more general principles, such as legality, equality before the court, the rule of law, the stage of immediacy examination of

evidence is special and is applied directly in criminal proceedings. However, the most important thing is that this stage serves to make a fair decision by the court.

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## **LEGAL STATUS OF A PERSON**

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The legal status of a person is the subjective rights and legal obligations of a person enshrined in the relevant sources of law and guaranteed by the state. It consists of the Institute of Citizenship, rights, responsibilities and legal personality. The legal relationship between a person and a country arises as a result of a person having the citizenship of that country or through the residence of a person within its territory as a foreigner or a stateless person.

The presence of citizenship is a legal basis due to which a

person endowed in full with rights, freedoms, performs the duties provided by the Constitution of Ukraine. Foreigners, stateless persons who are on the territory of Ukraine have certain rights established by the Ukrainian legislation, but, unlike citizens, do not have the full rights as citizens of Ukraine. Under Article 26 of the Constitution of Ukraine, foreigners and stateless persons legally staying in Ukraine enjoy the same rights, freedoms and obligations as citizens of Ukraine – except as provided by the Constitution, laws or international agreements of Ukraine. In order to be a citizen, he or she must have general legal personality. Legal personality is the ability of a person to be a party to legal relations provided by the law. It consists of: legal capability which is the ability of a person to have subjective legal rights and perform subjective legal obligations; legal capacity is the ability of a person to exercise subjective legal rights and obligations independently, by his conscious actions, provided by the norms of law; tort – the ability to be responsible for offences.

The basis of a person's legal status is generally based on certain principles defined by the Constitution of Ukraine. Under the Constitution of Ukraine, the constitutional principles of the legal status of a man and a citizen are the following: 1) all people are free and equal in their dignity and rights. Rights and freedoms are inalienable and inviolable; 2) the rights and freedoms of a man and a citizen enshrined in this Constitution are not exhaustive; 3) constitutional rights and freedoms are guaranteed and cannot be canceled. When adopting new laws or making changes in the current legislation, it is not allowed to narrow the content and scope of existing rights and freedoms; 4) everyone has the right to the free development of his personality, provided that the rights and freedoms of others are not violated, and has responsibilities to a society in which the free and comprehensive development of his personality is ensured; 5) citizens have equal constitutional rights

and freedoms and are equal before the law. There may be no privileges or restrictions on the grounds of race, colour, political, religious or other beliefs, sex, ethnic or social origin, property status, place of residence, language or other characteristics.

For the constitutional and legal regulation of fundamental human and civil rights and freedoms in Ukraine at the present stage are characterized by the following interrelated aspects: 1) expansion of rights and freedoms enshrined at the level of the Fundamental Law; 2) amendment of traditional constitutional rights, freedoms and responsibilities; 3) the priority is not socio-economic, as it was before, but civil and political rights and freedoms; 4) orientation of the constitutional and legal regulation of the legal status of a person on international human rights standards; 5) strengthening guarantees of basic civil and political rights and freedoms and narrowing the guarantees of economic, social and cultural rights; 6) narrowing the range of constitutional responsibilities; 7) strengthening in general legal guarantees of rights and freedoms. Therefore, the legal status of a person plays an extremely important role in the organization of public relations, because by establishing the rights, responsibilities and guarantees of their implementation, determines the basic principles of interaction of the subjects of legal relations and determines the place of a particular subject in society.

Comparing with the past of our country it is possible to see that the legal status of a person in Ukraine has really improved. For example, in the Constitution of Ukraine of 1996 the guarantee of the basic civil and political rights and freedoms of a person became stronger, traditional constitutional rights, freedoms and responsibilities have improved as the right to work, social protection, housing, health care, medical care and health insurance, education, etc. are better argued than in previous constitutions. We consider the expansion of fundamental human and civil rights and

freedoms is a very positive aspect. Everyone must know their rights and responsibilities in order to build a democratic state.

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## **DONATION CONTRACT**

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Donation, as a kind of contract of gift, was known to pre-revolutionary law. In Volume 10 of the Code of Laws of the Russian Empire, which included Ukraine, articles 979-981 were devoted to it. Donation was defined in Art. 979 as a voluntary offering of property for the benefit of society. The donation was not seen as a contract, but as a unilateral agreement, similar to testament. In the Soviet Codes, donations especially did not stand out.

The donation contract today regulates the issue of free acquisition of certain property to another person. The legal framework of contract donation includes the Civil Code of Ukraine

(CCU) of 2003, the Law of Ukraine “On charitable activities and charitable organizations” and other legal regulations. Article 729 of the CCU says that the endowment shall be granting of real estate, movables, especially money and securities to persons as established by part one of Article 720 of this Code aiming at reaching a specific predetermined goal. The study of the major types of contract donations can be found in the works by L. Gorbunova, M. Dolynska, A. Erdelevsky, A. Isaev, E. Klyueva, M. Maleina, O. Yavorska, and other scientists.

The legal notion of donation is a key one in the current research because it is the basic legal form that mediates the movement of civil turnover, movement of material values and provision of services. The Ukrainian civilian, O. Dzera, states that a donation contract is a gift agreement that indicates the intended purpose of the gift.

The donation contract is bilateral, rights and obligations arise on both parties. The subject of the donation may be any property that the donor may dispose of. Most often it is money, although it can be other things (*e.g.*: for people who have become the victims of a natural disaster), however it does not include property rights. This is an essential feature that distinguishes a donation from a gift. The contract of donation is always a real contract (the grantee's ownership right in a gift shall arise since the moment of its acceptance).

Therefore, contract donation is an important contract, as it regulates important relations in society. Examining aspects of this agreement, it should be noted that donation is a fairly new institution, which has not been deeply researched. In the Ukrainian legislation it is not sufficiently regulated, so, there are many gaps, which should be studied to improve legislation and relations in the field of civil law.

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## **DISCIPLINARY PUNISHMENT AS ONE OF THE METHODS FOR ENSURING THE FULFILLMENT OF THE TERMS OF AN EMPLOYMENT CONTRACT**

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Labor offense as the basis for disciplinary liability is a guilty, unlawful non- fulfillment or improper fulfillment by the employee of labor duties stipulated by labor legislation, collective and employment contracts, which leads to a violation of the internal labor regulations at the enterprise. Disciplinary liability consists in the duty of the employee to answer for his committed violation of labor discipline before the employer and to bear the disciplinary penalties provided for by labor law [1].

Art. 147 Labor Code of Ukraine contains information about general disciplinary liability. It is universal in nature and can be applied to all employees who work under an employment contract, regardless of the type of activities they carry out.

The least severe form of disciplinary action is reprimand. For its announcement, only the fact of a violation of labor legislation is sufficient. The reprimand aims to prevent a person from applying more severe disciplinary action in case of repeated violations of discipline and to encourage the employee to properly perform his labor duties [2]. However, there is a more severe punishment - dismissal. Dismissal is a negative consequence of unlawful behavior, and a legal means of supporting labor discipline

because of the exclusion from the worker's work process, which violates the procedure for performing work in a single collective process [3].

In the case of disciplinary liability, the offender is liable directly to the employer. Involving an employee in disciplinary liability is the right, and not the employer's responsibility.

Consequently, disciplinary liability for violating labor laws can only be applied within the limits of the official duties of the particular employee who is responsible for complying with the requirements of labor legislation. A mandatory condition for the use of such liability is the presence of a person brought to disciplinary liability in a labor relationship with the enterprise. It is important to note that the legal mechanism for providing discipline of work envisages the possibility of applying disciplinary measures, and not the employer's duty to apply them to the employee.

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## **AGREEMENT ON THE TRANSFER OF KNOW-HOW**

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Nowadays, more and more attention is concentrated around issues related to intellectual property, in general, and its objects, in

particular. In our opinion, it is because of the fact that the national sphere of intellectual property law must comply with innovations and standards of international legal regulation in the field of intellectual property. The transfer of the latest technology plays an important role in the spread of innovations. The transfer of know-how and the protection of trade secrets are the integral parts of it.

Keeping in mind the purpose of this research, we will try to understand the notion “know-how”. The term “know-how” was first used in the United States in the *Desend v. Brown* case in 1916. This problematic issue was investigated in the works of such scientists as: Begova T., Dovgy S., Dmitrenko V., Dobrynin O., Zharova V., Zaychuk V., Kolosova O., Prakhov B., Savikovskaya O. and others. Regarding the research of "know-how" in foreign countries, it is worth mentioning the following scientists: Deishin Lee, Elina Gaile-Sarkane, Eric Van den Steen, Mikus Dubickis [6]. Despite the significant number of scientific studies, this term is interpreted differently by scientists both in national and foreign law.

Begova T. determines know-how as the result of intellectual or creative activity in the field of engineering and technology in the form of a set of technical knowledge, information, practical skills (experience), which is secret, essential, identified, practically applicable, and the confidentiality of which is ensured by its rightful owner [5].

The meaning of the term is clarified in the definition given in the Law of Ukraine "On state regulation of activities in the field of technology transfer" of 2006. Thus, in accordance with paragraph 5 of Art. 1 of this law: “know-how is a technical, organizational or commercial information derived from experience and testing of technology and its components, which: is not well known or readily available on the day of concluding the agreement on technology transfer; is essential, important and useful for

production, technological process and / or provision of services; is defined/described sufficiently comprehensively to be able to verify it compliance with the criteria of non-knowledge and materiality” [4]. Besides, this term is used in many legal acts of Ukraine, such as the Law of Ukraine "On Investment Activity" of 1991 [2], the Law of Ukraine "On the regime of foreign investment" of 1996 [3], the Law of Ukraine "On Foreign Economic Activity" of 1991 [1].

According to the US Legal Dictionary, know-how means any form of technical information or assistance relating to the manufacture or placing into operation of the said products. It also means any practical knowledge, techniques, and skills that are required to achieve some practical end. It is considered an intangible property in which rights may be bought and sold [7].

We base our research on the definition given by national legislator, because it contains the main characteristics of the notion and helps to understand the concept of know-how.

Summarizing the above, we can give the following definition of the term “know-how”: know-how is all confidential information of whatever nature relating to the intellectual property and its use, including technical information, processing or manufacturing techniques, designs, specifications, systems, processes, information concerning materials and marketing, as well as business information in general.

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## STATE AND LAW OF ANCIENT CHINA

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The ancient history of China has long attracted the attention of scientists from many countries. However, studies on its history began only at the end of the XIX century, and at first it started by translation ancient monuments of Chinese literature, on the basis of which various assumptions were made as to the development of ancient Chinese society.

The basic work in the Chinese history studies is the "Historical Notes" (Shi Tzu) by Sima Qian, the father of Chinese historians (155-88 BC). This is the first consolidated history of the country, covering the period from ancient times to the first century. B.C. The author used the sources available at that time (II-I centuries BC), which, however, were lost over time.

In addition to archeological findings, monuments of Chinese history and literature "Shu Jing" and "Shi Jing" ("Book of History" and "Book of Songs"), historical chronicles "Chunqiu", "Zhozhuan" are of exceptional importance for the study of ancient Chinese history, political and economic treatises "Yijin", "Xunji" and others. The theoretical and methodological basis of the research are the works of such researchers as Tyshchych B.Y., Avdyev V.I., Vihasina A.A., Dandamaev M.A., Perlo O.D., Vihasina A.A., Heorhadze H. H.

The relevance of the topic of the reserch is that currently during the long history of Chinese traditional society there has been

only one radical qualitative change in the development of productive forces and social production - in the V -IV centuries. B.C. This period was accompanied by the destruction of communal land ownership, the growth of large private landholdings, the spread of leased forms of exploitation of landless and landless peasants.

**The purpose of the research** is to identify the conditions and prerequisites for the creation of a centralized state, to analyze the state and legal situation in ancient China; consider and analyze the reforms of Qin, Han, Zhou.

To understand the formation of the state and law of ancient China, it is necessary to consider what influenced this development. The history of the state of ancient China is divided into four periods, each of which is associated with different dynasties.

Ancient Chinese law, in contrast to the state, has gone through three stages in its development. The selection of these stages is associated with different understandings of the role of law in the mechanism of social regulation, its relationship with other social norms. No other legal system in the world has been as strongly influenced by two powerful philosophical teachings as the legal system of ancient China. The concepts of Legism and Confucianism have become key factors in the development of law, its ideological foundations, principles and institutions, mechanisms for the application of Chinese law.

In different periods of existence of the ancient Chinese state, there were various changes both in the legal and in the operated systems by the state. There are several features worth to mention: 1) the existence of inequality and slavery, which is not surprising for the formation of ancient states; 2) an integral part of the law of religion, and one of the first lawyers are considered to be the priests who in some way regulated public relations; 3) low level

of the system of rules and receptions concerning the regulation of relations between people.

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## **LEGAL PROFESSIONAL ACTIVITY OF A JOURNALIST AS AN OBJECT OF CRIMINAL PROTECTION UNDER THE CRIMINAL CODE OF UKRAINE**

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The profession of a journalist has become dangerous in our time. Establishment of criminal protection of legal professional activity of a journalist aims to ensure the possibility to conduct their activity freely.

The definition of a journalist is established in legislation. Article 1 of the Law of Ukraine «On State Support of Mass Media and Social Protection of Journalists» establishes that a journalist is a creative worker who professionally collects, receives, creates and prepares information for mass media, carries out editorial and official duties in the mass media in accordance with the professional titles of positions of the journalist, which are specified in the State classifier of professions of Ukraine [1].

The concept of professional activity of journalists is provided in the note to Article 345-1 of the Criminal Code of Ukraine as a systematic activity of a person related to the collection, acquiring, creation, dissemination, storage or other usage of information for dissemination to an indefinite number of persons through print mass media, television and radio organizations, news agencies, the Internet [2]. There is the need to apply the system with some flexibility, in a way that does not exclude, for example, freelancers or bloggers [4, p.9].

For the first time legal professional activity received criminal legal protection in 2001 in the context of Art. 171 of the Criminal Code of Ukraine. The Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine to Strengthen the Guarantee of Legal Professional Activity of Journalists» supplemented the Criminal Code of Ukraine by Articles 345-1, 347-1, 348-1, 349-1.

The specific object of these criminal offences is public relations, ensuring the safety of legal professional activity of journalists, the main direct object is the order of legal professional activity of a journalist that protects the constitutional right to freedom of thought and speech [3; p.90-91].

So, the task is to provide an appropriate mechanism for the application of norms that establish criminal liability for encroachment on journalists and their legal professional activities. It should be the norm that all cases of encroachment on legal professional activities of journalists have as a result proper liability for them.

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## ACTS ON APPLYING LEGAL NORMS

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Acts on applying legal norms are legal acts that establish a rule of an individual character, which establishes, changes, cancels legal rights and obligations of persons in a particular situation. The relevance of the topic lies in the fact that enforcement is one of the forms of implementing law; therefore, the accurate and timely implementation of law is an important component of the observance of the rule of law in the country.

Resolutions of the Verkhovna Rada of Ukraine, decrees of the President of Ukraine, and orders of the Cabinet of Ministers of Ukraine are all the acts on applying legal norms. Acts on applying legal norms must meet the requirements of legality, expediency, and validity. Acts on applying legal norms are strictly individual and concern a particular person; thereby, they differ from other normative acts.

Many lawyers have studied this notion, among them: M.I. Kozyubra, L.A. Lutsyk, A.V. Petrishina, P.M. Rabinovich, M.V. Tsvik and others [1-4; \_\_\_]. All researchers differ in their opinions, but most interpret this notion as a legal act of an individual character addressed to a particular person, which determines the rights of the subjects in particular situations.

The act on applying legal norms is of authoritative character and its implementation is ensured by the state. Only authorized state bodies in accordance with the procedure established by law issue such acts. Since the acts are individual in nature and addressed to a specific person, the refusal or improper execution may entail legal liability. Acts on applying legal norms have oral or written forms, which mark that acts of law are exhaustive, but in some cases may be long-lasting. The act has to be stated accurately, clearly, and contain terms which are provided by the legislation.

Thus, acts on applying legal norms are separate legal acts of the competent state body or an authorized official, which establish the rights and obligations of persons based on legal norms. Acts on applying legal norms perform administrative, socio-political, preventive and educational tasks.

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## **PUBLIC AUTHORITIES IN MODERN UKRAINE**

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Analysis of the problems of civil society and settlement of the problems of its development is the basis for the formation of a democratic, legal state, in accordance with the proclaimed course on European integration in modern realities.

Theoretical understanding and practical support of the process of transformation of Ukraine into a democratic state governed by the rule of law raises the question of a conceptual approach to a complex and multifaceted phenomenon, which is interpreted as "building a civil society." The answer to this question must contain at least two aspects: the content of the idea of "civil society" and its relationship with other concepts, especially with the most important social institution - the state.

Recent changes in Ukraine have caused a rethinking of the concept of civil society, its features and patterns of formation, structure, features of development in different cultural and historical conditions. However, civil society is a very complex and flexible system to have a universal structure. The goal of the development of such a society is the person himself, and not the process of recoping the stereotypes of developed countries. It is worth to agree with the scientist V. Barkov that in the situation of finding and implementing the basic principles of civil society it is necessary to take into account national specifics, to unleash the potential of its own management system and initiate a strategic process that will combine the efforts of different levels of government and self-government. Therefore, the concept of civil society of a country should reveal the degree of development of this society, its potential, ability to implement reforms and its own

development strategy. That is why the chosen research topic in modern conditions is especially relevant.

Today, many scientific works are devoted to this issue. At different times the concept of civil society and the mechanisms of its interaction with the state have attracted the attention of scientists. Such as: J. Locke, G. W.F. Hegel, E. Arato, G. Arendt, J. L. Cohen, A. Ferguson, N. Rosenblum, G. Shchedrova, P. Rabinovich, V. Averyanov, V. Varivdina, M. Tsvik, A. Karas, I. Kravchenko, A. Kolodiy, J. Pasko, O. Petryshyn and other researchers.

**The purpose of the research** is to reveal the content of the process of forming civil society, its features in Ukraine, as well as generalization of theoretical approaches, and determine on their basis the essence and functions of civil society, to determine the relationship of civil society with social and legal state.

The acquaintance with the concepts of civil society and the rule of law, their characteristics will allow to formulate their essential features. Civil society is a non-institutional phenomenon, an independent society of highly developed citizens and their communities, able to influence jointly on the formation and implementation of government decisions, to respect human rights and freedoms and guarantee its development to ensure self-realization of each person.

Having analyzed the different approaches to understanding civil society, we highlighted the following main features: 1) delimitation of the competence of the state and society; 2) the existence of self-governing and independent institutions; 3) high level of legal awareness of citizens; 4) the priority of human rights and freedoms over the interests of the state; 5) transparency in relations between society and government.

Civil society can be defined as an association of persons who are legal members of society and exercise their rights and

freedoms through voluntarily formed public institutions that operate independently, as relatively independent of the state, within the Constitution and laws of Ukraine.

The interaction of civil society and the state is crucial in ensuring the democratic development of the country. The balance between civil society and the state is an important factor in stable democratic development, and its violation will lead to an increase in power structures, alienation and political powerlessness of the people.

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## **CONCEPT OF BURGLARY**

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Burglary is defined as the unlawful entry into almost any structure (not just a home or business) with the intent to commit any crime inside (not just theft/larceny). No physical breaking and entering is required; the offender may simply trespass through an open door. Unlike robbery, which involves use of force or fear to obtain another person's property, there is usually no victim present during a burglary. For example, Ivan enters Nazar's boathouse through an open window, intending to steal Nazar's boat. Finding the boat is gone, Ivan returns home. Though he took nothing, Ivan has committed burglary.

The crime of burglary has been around for centuries. It originally developed under the common law, but states have incorporated the basic idea of burglary into their penal codes, albeit with some slight modifications. For instance, under the common law definition of burglary, the crime had to take place in the dwelling house of another person at night. Most states have subsequently broadened the definition of burglary to include businesses and illegal entries during the day.

Burglary laws developed to safeguard people's homes and to prevent violence, but not to protect against theft. Other laws criminalize the taking of property; instead, burglary laws are meant to preserve the sanctity of a dwelling and to shield residents from harmful encounters with burglars in their house.

Ancient references to breaking into a house can be found in the Code of Hammurabi and the Jewish Bible [1-2].

Sir Edward Coke, in chapter 14 of the third part of the Institutes of the Lawes of England, describes the felony of burglary

and explains the various elements of the offence. He distinguishes this from housebreaking because the night aggravates the offence since the night time is when man is at rest [3].

In chapter 16 of the fourth book of the Commentaries on the Laws of England, Sir William Blackstone observes that burglary “<...> has always been looked on as a very heinous offence: not only because of the abundant terror that it naturally carries with it, but also as it is a forcible invasion of that right of habitation” [3].

During the 19<sup>th</sup> century, English politicians turned their minds to codifying English law. In 1826, Sir Robert Peel was able to achieve some long advocated reforms by codifying offences concerning larceny and other property offences, as well as offences against the person. Further reforms followed in 1861. Colonial legislatures generally adopted the English reforms. However, while further Criminal Code reforms failed to progress through the English parliament during the 1880s, other colonies, including Canada, India, New Zealand and various Australian states codified their criminal law.

Conclusions. The Ukrainian legislation does not provide for liability under different articles for theft and burglary. Burglary is a qualifier for theft, so, liability is provided for in Article 185 of the Criminal Code of Ukraine [4].

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## **COMPARATIVE LEGAL ANALYSIS OF THE POSSESSION IN THE CONTINENTAL, COMMON LAW AND EASTERN EUROPEAN LEGAL SYSTEMS**

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During the history possession became an integral part of the law of property. The origins of this institute of law date back to the Ancient Rome. Roman lawyers formed the structure of possession and determined its basic elements. As a result, it allowed to settle the role and the place of possession in the legal system. The acquisition of Roman Law became the basis of the modern European Law and the possession is not the exception.

In the XVIII and XIX centuries the legal possession was the subject of researches of many scholars in Europe and in the USA. Consequently, two theories were formed which include opposite views on the issue of the nature of the possession. The first one was created by Friedrich Carl von Savigny and he said that possession consists of two main elements: corpus and animus. By corpus he implied compelling physical control of the object. Savigny by clarifying it says that the physical intensity of managing the subject promptly and of barring any remote office over it is the factum which must exist in each possession. Animus basically means the mental element or the aim to hold the possession as the proprietor against all others [1].

This concept of possession was criticized by many scholars who support the other theory formed by Rudolf von Jhering. His main idea was that animus is not important and we should only interpret the institution of possession such as holding. The practical meaning of this theory consists in different number of cases which we could define as possession. For example, due to the Jhering's

concept the rent is a kind of possession and as a result the tenant has more possibilities to protect his own thing from the encroachments of others [1].

The developments of the researchers on the issue of the possession became a part of two main codified acts of Europe: German Civil Code and French Civil Code. The civil legislation in Germany used the Jhering's theory to form their own concept of possession. In particular, the section 854 of the German Civil Code says that possession of a thing is acquired by obtaining actual control of the thing. What is more, the next section contains the rule that agreement between the previous possessor and the acquirer is sufficient for acquisition if the acquirer is in the position to exercise control over the thing.

At the same time French legislation suggests different definition of the possession. Due to article 2255 of the French Civil Code possession is the detention or enjoyment of a thing or of the right which we hold or exercise by ourselves, or by another person who holds and exercises it in our name [4]. This statement proves the fact that French lawmakers used the theory created by Savigny. In general, French civil law provides possession in cases when a person: 1) holds the thing, but does not use it; 2) uses the beneficial properties of the thing (uses for himself); 3) uses the right to the thing personally; 4) uses the right to the thing, obtaining beneficial properties as an intermediary [2].

Ukrainian legislation provides an ambiguous definition of the possession. The national Code does not contain the description of the animus and some rules contradict each other [3]. It is obvious that the regulation of the institute of possession in the Civil Code of Ukraine urgently needs revision and improvements.

To conclude, possession is one of the most important parts of the law of property and it occupies the central place in economic life. Further researches of this institution and improvement of its

regulation in the national legislation will allow us to protect the rights and interests of people.

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## **POLITICAL CENSORSHIP IN THE HISTORY OF UKRAINE**

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Censorship is the control of information and ideas disseminated in society [1]. Censorship can be overt or latent - it depends on the purpose and nature of the political and legal regime in the country. The legitimacy of the technologies of censorship (prohibition of publication, administrative, punitive) depends on the nature of censorship [2]. Either it is **protective** (information is harmful to psychological health, affects human rights and feelings), or it is **ideological** (attempts to establish total control in society by banning the dissemination of certain ideas and views).

Censorship aimed at establishing certain attitudes in society is illegal. The Universal Declaration of Human Rights (1948, UN) in Article 19 enshrines the right to freedom of opinion and

expression, including the receipt and dissemination of information despite the government or other stuff. [3] However, dictatorships create entire departments to control the circulation of information and opinions in society thus artificially forming loyalty towards the government.

Here are some of the most egregious acts of censorship imposed by the authorities of the Russian Empire and the USSR. The year 1677 marks the beginning of censorship of Ukrainian books in the Moscow state. Patriarch Joachim ordered to tear pages from Ukrainian books. In 1720, Peter I issued a decree banning all Ukrainian fiction. The Ukrainian primer was banned, education in schools was conducted only in Russian [4].

The second half of the 19th century has seen the strengthening of national movements of Ukraine. The Valuev Circular of 1863 banned any publication in the Ukrainian language. 1876 - Ems decree banning publications in Ukrainian. Ukrainian writers were repressed and exiled.

The Soviet authorities continued the tradition of destroying Ukrainian culture and nationality. In 1922 the "Main Directorate for Literature and Publishing (GOLOVLIT)» was created [5]. Their task was to preview all works, publications, photographs, drawings that were to be published; issuance of permission for publication; creating a list of works prohibited for distribution. Any publications criticizing the Soviet government and calling for a struggle against it were banned.

Thus, throughout its history, Ukraine has fought with attempts to suppress its freedom, voice, and nationality. All possible human rights have been violated, all laws and conventions have been violated. The consequences of such activities are the inhibition of the development of Ukrainian literature and culture in general, the destruction of the intellectual potential of the people, and their national self-consciousness, self-identification.

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### **EXECUTION OF THE WILL**

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The execution of a testament is the process of realizing the will of the testator, which is expressed in the document. The Chapter 88 of the Civil Code of Ukraine is dedicated to the execution of the will. The norms of this part constitute a separate institution of inheritance law. The current provisions of the law suppose the executor of the will an obligatory subject of legal relations in the process of inheritance under the will with the certain condition.

If the testator forms a list of actions which the heir must perform during his/her lifetime, conditions which should be observed to transfer property to the inheritance. It is reasonably for the testator to choose the person responsible for the implementation of his last will. It can be both: lawyer and barrister, whom the

testator trusts, a close friend, a relative and so on. The main thing is that this person should clearly understand the will, wishes of the testator, know him for a long time and understands the values and motives of his actions.

In Ukrainian inheritance law, the role of the executor of the will is complex and multifaceted. Not only does it carry out the will of the testator, but also ensures the protection of the rights and legitimate interests of heirs, other interested persons, manages the inheritance and so on. The executor of the will is appointed by the testator, heirs or on their initiative - by the court, and in the absence of heirs - by a notary. The performance of the duties of the executor of the will is voluntary, paid and controlled by the heirs.

The testator has the right to appoint an executor of the will - a person who will monitor compliance with the instructions contained in the will, and will act as a kind of guarantor of the will of the testator. The appointment of the executor of the will ensures the protection of the interests of the heir to the will, who may not know in time about the opening of the inheritance (for example, while on a business trip, have a permanent residence in another country, etc.). Instead, the executor of the will before the appearance of the heir performs actions to protect the inheritance, manages it, takes other measures to protect the interests of the heir.

The executor of the will may be a natural person with full civil capacity or a legal entity. It is possible to appoint several executors in one will. The Civil Code of Ukraine provides for two cases of appointment of the executor of the will not by the testator himself, but by other persons: on the initiative of the heirs and on the initiative of the notary. In the first case, the executor of the will is appointed by mutual consent of the heirs, and if the heirs do not reach an agreement, then at the request of one of them, the executor of the will is appointed in court. In the second case, on the initiative of the notary, the executor of the will may be appointed if the

testator has not appointed the executor of the will or if the executor refused to execute the will or was removed from its execution and if required by the heirs.

I would like to conclude that after termination of powers, the executor of the will must return the document issued by the notary to confirm his authority. If the executor refuses to return this document, the heirs (their legal representatives, guardianship and trusteeship authorities) have the right to apply to the court to demand a document certifying the authority of the executor.

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## **CONSTITUTIONAL LEGAL NATURE OF THE PREAMBLE OF THE CONSTITUTION OF UKRAINE**

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The Constitution of Ukraine is the fundamental law of Ukraine. The constitution was adopted and ratified at the 5<sup>th</sup> session of the Verkhovna Rada (the Parliament) of Ukraine on June 28, 1996. The constitution was passed with 315 votes out of 450 possible. The right to amend the constitution through a special

legislative procedure is vested exclusively in the Parliament. The only body that may interpret the constitution and determine whether legislation conforms to it is the Constitutional Court of Ukraine. Since 1996 the public holiday Constitutional Day is celebrated on June 28.

The purpose of this research is to determine the essence and specifics of the preamble of the Constitution of Ukraine, to understand the importance of the preamble in its structure and to realize its value for the state as a whole.

The Constitution of Ukraine, like the constitutions of most other countries, begins with a small introductory part, which in special literature is traditionally called the preamble. Historically, the first is a small preamble to the US Constitution of 1787, as a result the American experience was adopted by other states and became a general tradition. Such preambles usually contain the most fundamental provisions, historical references, ideological motives, the main objectives of the constitution. The word “Constitution” and the content of the preamble have their direct origins in the old, complex and difficult struggle of the Ukrainian nation for its independence. Due to this, the preamble, on the one hand, reflects in the most general way the unity of the Ukrainian people in the implementation of national freedom and political democracy, on the other hand, it complements the main chapters of the Constitution with essential new elements. Therefore, the preamble occupies a prominent place in the general content of the Constitution as a basis for interpreting the entire system of state and political system of Ukraine. Moreover, the preamble of the Constitution of Ukraine consists of nine paragraphs and covers three large, logically connected parts, which together form a single whole. Adoption of the constitution of the state is considered to be the right of the people of the corresponding state; this is fully in line with the general democratic tradition. In order to avoid any

possible differences in the interpretation of this extremely important provision for understanding the entire text of the Constitution, the preamble achieves due clarity in the legal definition of the meaning of the term “the Ukrainian people”. Under the Ukrainian people as a fundamental category of constitutional law of Ukraine is understood the totality of all citizens of Ukraine of all nationalities. The Constitution states, first of all, that we are talking about citizenship, the legal relationship of a person with the state, his/her belonging to Ukraine, regardless of ethnic origin. Excessive interpretation of the word “people” once again allows us to make sure that the legal nature of the Constitution of Ukraine is an act of constituent power.

At the same time, we must realize that the formation of the preamble of the Constitution of Ukraine and its content was influenced by the experience of foreign countries. For the introductory part of the basic law of many countries are characterized by: universality, accessibility, brevity, general character, absence of contradictions, compliance with universal and international values and the historical destiny of the people. The main features of the preamble characterize its connection as an important structural element of the constitution with the historical development of society and the main text of the constitution. Countries such as France and Germany were approximately the first countries, which called the introductory part of the constitution a "preamble", our state followed the same example. Scientific analysis of the provisions of the preamble of the fundamental law of the country and the problems of their practical implementation can enrich the science of constitutional law, as well as help to bridge the gaps between the legal and de facto constitution. The analysis of the preambles of foreign constitutions shows that the main thing in their content, despite the different goals set out in them, is the assertion of statehood, democracy, determining the

priority of human and civil rights and freedoms.

In conclusion, we can undoubtedly state that the Preamble is closely linked to the Constitution. In addition, the preamble provides a better understanding of the original content of constitutional norms, which was formed in them at the time of the adoption of the Constitution of Ukraine. Clarification of the deep essence of the provisions of the preamble and their meaning is also necessary for the correct interpretation of the Constitution and the exercise of its function of protection. In my opinion, every citizen for whom his/her state is important must understand the content of the preamble of the Constitution.

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**ESTABLISHMENT OF THE NAZI DICTATORSHIP IN  
GERMANY. CHANGES IN THE STATE SYSTEM,  
POLITICAL REGIME & REACTIONARY LEGISLATION**

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Nazism is one of the most brutal ideologies in the branch of political views. National Socialism, also known as Nazism – is an ultra right totalitarian political ideology that was a political doctrine of the German leadership as well as in some other countries. It is based on the thesis of the value of the nation and its supremacy in the process of state formation. Denying human values, pluralism of thought, and human nature in general, the leaders of Nazism unleashed one of the worst wars in our history. Our goal is to understand how Nazism developed in Germany, how it affected on the law, the state system and the political situation in general.

The situation in Germany was quite complicated after the First World War: poverty, helpless new political elite with President Hindenburg, economic decline, huge reparations. All this led to the fact that the great magnates and the financial monopoly elite began to support unknown Adolf Hitler and his ideas actively. So, January 30, 1933 became a turning point in the history not only of Germany but of the whole world. It was the day when Adolf Hitler became the Chancellor of Germany and began to implement his policy. At first these changes were rather mild and then over time they became more violent and rapid.

First of all, Adolf Hitler began to liquidate political parties and his opponents. The elimination of political pluralism formed an excellent basis for reforming the state system. The Nazis deprive the lands and subordinate them to the central authorities of the Reich. As the result, Adolf Hitler abolished the Reichstag and the

German parliament became unicameral. After 1933, many regulations were issued in Germany – laws, decrees, decision which made significant changes in all areas of law. This litigation was based primarily on the principle of protecting the interests of the Nazi state and party. The “red line” through all the litigation was racial theory, the theory of the supremacy of the Aryan race. Nazi jurists and ideologists were sharply attacked by the notion of “subjective rights”, which they proposed to abolish altogether or to replace with the notion of “Subjective rights of a member of a Nazi party”. All branches of law in which the principles of Nazi ideology were laid down underwent great changes. Adolf Hitler had the idea of creating “national” civil code that reflected the Nazi understanding of individual freedom, which should be limited in the event of a discrepancy between “freedom of the nations”.

The culmination of Nazi racial theory was the law “The protection of German blood and honour” (September 15, 1935). Its main content is reduced to a strict prohibition of marriages and extramarital relations between German and Jews. People who got married were punished by hard labour and the marriage was declared invalid. Criminal law also underwent characteristic changes. The criminal code was emended, in particular, on liability for a crime or misdemeanour not only provided by law, but also for actions that deserve punishment in accordance with the idea of “healthy people`s feelings”.

In general the Nazi leaders did the impossible in a short time they raised Germany from its knees but at the same time, with their brutal policies they destroyed their own country. It`s really important to know the history of Nazi German in order to avoid it in future and to remember we must always be people with human values.

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## **PRINCIPLES OF UKRAINIAN FAMILY LAW**

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Nowadays, every branch of law cannot exist without its basic ideas. They permeate all rules and regulations and help us in situations when law doesn't regulate some aspects of public relations. Thus those ideas are very important in terms of using legislation in practice. In addition, they ensure implementation of the rule of law, which provides for the increase of public trust to

national courts. These basic ideas are called principles. Among other branches of law, family law is the one, which depends on them a lot. There are plenty of leading academics in the field of law, who were analyzing this topic. However, due to the gaps in Family law, there is no single point of view on its principles and their definition, so many issues still remain unexplained.

In the legal doctrine, the principles of law are usually defined as fundamental ideas of law, which determine the content of its norms and form an interconnected, mandatory, universal, and stable system. However, there is no clear definition of the principles of Family Law of Ukraine. After Ukraine became an independent country, Family Law has been changing a lot. Therefore, many new principles appeared, like: inadmissibility of intervention of authorities, the regulation of family relations by its member`s agreement [2, c. 110].

The analysis of modern family legislation of Ukraine leads to the conclusion that its norms reflect many principles. All principles are expressed directly or indirectly in the norms of family law [1, c. 110]. Moreover, a lot of them are also enshrined in the Constitution of Ukraine. However, some scholars also suggest principles that are not defined in legislation. Such practice of consolidating the principles of Family Law this way is common in other countries, too. In most of them there is no definite list of principles in legislation. At the same time all these countries have different legislative acts which contain them. For example, there are countries where they are enshrined in codified acts (Republic of Belarus, Poland, Moldova, Russia), and where they are fixed in special laws (Hungary, Slovakia, Serbia) [3, c. 111].

In conclusion, Family Law regulates one of the most important areas of our lives, because everything starts with the family. Every family is a brick, which builds, together with others, our society. Therefore, the principles of Family Law of Ukraine

have a significant impact on public relations. Therefore, in order to ensure the realization of rights and interests of individuals, increasing public trust in courts and ensuring the rule of law in our country, it is necessary to eliminate the existing gaps in the family legislation of Ukraine. At the same time, the system of principles of Family Law of Ukraine, in my opinion, is quite developed and progressive today and needs only appropriate application in practice.

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## **LEGAL REGULATION OF DIVORCE**

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The family is one of the most important human values, which has importance both for the individual and for society in general. The family has long been an important social institute which is in the focus of the research by the scholars from different fields of knowledge, among them lawyers, sociologists, psychologists, and philosophers.

Modern legal literature in the sphere of family law does not contain a generally accepted concept of family. However, currently, the greatest recognition has been given to the interpretation of this concept by Ya. Shevchenko, who, in her

wellknown work “Legal understanding of the concept of family”, defines the concept of family as a “union of persons based on marriage, consanguinity and adoption, which aims at mutual moral and material care and support, birth and upbringing of children” [2]. Many other scholars have also put forward their own interpretation of the concept of family, in particular: O. Bondarchuk; T. Gurko, E. Meshcherska and others [1].

It is important to note that there is no classical definition of the family in the Family Code of Ukraine. Under Article 3 of the Family Code of Ukraine, family is the primary and main unit of society, and has a number of features that are inherent in the union of two or more persons, namely: cohabitation; common life; mutual rights and obligations [5].

It should also be noted that the legislator provides a definition of “marriage” in Article 21 of the Family Code of Ukraine. This article fixes that that marriage is a family union of a woman and a man, registered in the body of state registration of civil status [5].

The legislator also notes that the importance of state registration is in its contributing to the stability of relations between women and men, protection of the rights and interests of spouses, their children, as well as in the interests of the state and society. In its turn, the state, under Art. 51 of the Constitution of Ukraine, undertakes to protect the family, motherhood, fatherhood, and to create conditions for strengthening the family [4].

It is important to emphasize that the issue of divorce remains quite problematic. Divorce is one of the grounds for termination of marriage. Art. 104 of the Family Code of Ukraine indicates that divorce is carried out by the civil registration authorities or the court.

In Ukraine, about half of marriages have been dissolved in recent years [3]. Scholars believe that such a large number of

divorces indicates that the divorce procedure in Ukraine is much easier and more liberal than in other countries, as the Ukrainian law does not actually restrict the right of one of the spouses to divorce. On the contrary, practicing lawyers argue that the judicial process of divorce is extremely cumbersome and difficult.

Therefore, I believe that the issue of legal regulation of divorce needs further improvement.

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## **SUBSIDIARY LIABILITY**

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First of all, it is necessary to say what "subsidiary liability" is and where this concept is enshrined. Subsidiary (additional) liability is one of the types of civil liability and is the liability of one person (subsidiary debtor) in addition to the liability of another person (principal debtor). The concept of subsidiary liability in

Ukraine at the legislative level is enshrined only in the Civil Code of Ukraine in the Art. 619 "Subsidiary liability". This article states that the contract or law may provide for additional (subsidiary) liability of another person along with the debtor's liability. Prior to filing a claim against a person liable for subsidiary liability, the creditor must file a claim against the principal debtor [2].

It should also be noted for how the concept of subsidiary liability is understood in the scientific literature. In the legal literature, liability is interpreted as a reaction to an offence and as the performance of duties on the basis of state or public coercion. This obligation is manifested in the fact that the offender suffers negative consequences of personal or property order. Liability is defined as a sanction "for an offence that causes negative consequences for the violator in the form of deprivation of subjective civil rights or imposition of additional civil obligations", and as due to the peculiarities of the subject and method of civil regulation system of civil remedies, which, on the one hand, provides and guarantees the protection of civil rights and interests of subjects of civil law, on the other – is penalty and educational influence on offenders.

If the principal debtor has refused to satisfy the creditor's claim or the creditor has not received a response to the claim from him within a reasonable time, the creditor may file a claim in full against the person liable for subsidiary liability [4].

The creditor may not demand satisfaction of his claim from the person who bears subsidiary liability, if this claim can be satisfied by crediting the counterclaim to the principal debtor. The person who bears subsidiary liability must, prior to satisfying the claim presented to him by the creditor, notify the principal debtor, and in the case of a lawsuit, – file a petition to involve the principal debtor in the case.

In case of non-compliance with these requirements by the person liable for subsidiary liability, the principal debtor has the right to raise against the recourse claim of the person liable for subsidiary liability, the objections he had against the creditor.

As a general rule, the responsibility lies with the person who violated a certain rule or obligation established by law, but as you know, there are exceptions everywhere. Thus, in cases established by regulations for improper performance or non-performance of obligations by a person, measures of responsibility may be transferred to another person [5].

As an example we can use Article 528 of the Civil Code of Ukraine, which regulates the performance of duties by a third party. This article contains a provision that in case of non-performance or improper performance of the debtor's obligation by another person, the debtor must perform this obligation by himself. This position is reflected in the civil literature, where liability for the actions of a third party is considered a case of liability for innocent failure to fulfill obligations [1].

Subsidiary liability is an independent type of legal liability, has an additional nature and is a category along with the main liability. Primary liability – arises for non-compliance, improper performance or other violation of the principles of law, subsidiary in turn means liability for the actions of others.

All things considered, we can formulate the following definition of subsidiary liability. Subsidiary liability is the obligation to suffer negative consequences by a subject of law (individual, legal entity or state), which arises as a result of non-performance, improper performance of obligations or violation of the law not by him directly, but by another entity that is in a different legal relationship with the infringer.

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## **STARTUP AS AN OBJECT IN THE FIELD OF INTELLECTUAL PROPERTY**

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Global trends are dictated by globalization processes in the formation and development of economic. Moreover, they have a great influence on the economic phenomena and processes in general. In particular, the process of entrepreneurial activity has changed several times. During the evolution of social relations, entrepreneurship acquired new forms, features and was transformed into a modern business model, called startup. Startup is a new basis for creating your own unique ideas.

The theoretical and methodological basis of the work are the works of such researchers as Aksyutina A.V., Nestertsova-Sobakar O.V., Tropin V.V., Boyarinova K.O., Kopishinskaya K.O., Vitlina M.O., Glibko S.V., Geets V.M., Dergachova V.V., Perminova S.O., Ivashova N.V., Kornukh O.V., Makhanko L.V., Krivolapchuk V.M., Fil S.P., Kurchenko O.O., Lalu F.F., Mrikhina

O.B., and others. The purpose of the research is study startup as an object in the field of intellectual property law in Ukraine.

Increasingly, but we can hear about startups from various information networks, especially social ones. They combine characteristics that allow businesses to function optimally in the complex conditions of today's market.

It was believed that the creation of a new product/service begins with market research including the behavior analysis of consumer choice. The most breakthrough innovative products, in contrast, are appeared on the market due to the intuition of entrepreneurs. They create a market for such products by attracting the future consumer (scaling) to be a "co-author". This business model of entrepreneurship is a relatively unknown concept in economics. That's why it needs more detailed theoretical justification in order to critically comprehend it and overcome barriers in the practical implementation of the startup.

There is no definition of the term "startup" in Ukrainian legislation. Although, Ukrainian competitive startups are emerging, gaining momentum not only in Europe but also in North America and Asia. Therefore, their activities are regulated by laws and regulations in accordance with certain activities of such companies. The current legislation includes 14 legislative acts, more than 50 government regulations, about 100 different departmental documents related to innovation. However, there is no formal definition of a "startup" in the legislation and owners are deprived of the opportunity to choose the institutional-legal form.

To conclude, startups are a powerful source of economic development. The foundation for this is formation of the Ukrainian IT sector. This sector has a strong position in the economy of Ukraine. In addition to that favorable environment for founding startups is being formed, the general level of awareness and experience of IT specialists in creating startups is increasing.

Investors are more and more interested in investing in projects related to IT technologies. Thus, we have a big problem with the legal aspects of intellectual property protection. The national market of startups is developing dynamically in Ukraine. It determines the urgency of a separate bill that would regulate their activities and provide appropriate protection. For example, introduction of the state Program of support of Ukrainian technological startups and related programs, which will provide a synergetic effect. The Ministry of Economic Development and Trade of Ukraine should launch such programs. However, Ukraine does not need copies of successful programs, but a reproduction of the best world experience, taking into account national characteristics and historical experience, which will provide an effective tool for the development of innovative entrepreneurship.

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## **NEOLOGISMS IN JOURNALISM**

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«The press is the fourth estate» - this famous phrase about journalists was first written by Thomas Carlyle in 1841. They influence not only the course of history but also national cultures.

Neologisms, often used by journalists, might change our vocabulary, develop their audience's language skills and bring the language to a higher level.

Neologisms are defined as a new word or expression in a language, or a familiar word or expression that is now being used with a new meaning [2]. Neologisms demonstrate language's ability to grow and evolve with time. They appear as a need arises to name some actions or concepts that don't have the appropriate word to describe them. It can be a one-word expression for which a multi-word expression has been used so far. What is also important, as the new word arises, the older names die and these two continuous processes are known as the development of the language (vocabulary).

Some of Ukrainian scientists and linguists have considered the use of neologisms in journalism. O. Serbenska, I.V. Andrusyak and O.A. Mitchuk made their investigation and developed their own classifications of journalistic neologisms. Among these researchers we single out O.A. Stishova, who classifies groups of neologisms in the language of Ukrainian mass media such as innovations («kuchmism»), adoption («bryfinh», «videoklip», «imidzh»), instant occurrences («kruto», «krutyzna», «krutyty») and abbreviations («nardep») [5].

We can follow the development and spread of neologisms since 1994, when we witnessed an explosive growth of neologisms. According to Birmingham Institute of Media and English, from January to March 1994, about 99 neologisms have come into use in the mediasphere. Among them the most popular are «roverised», «over-housed», «homocritical», «false-positive» etc [1]. These days in journalism we widely use neologisms such as «offshore», «digital», «soundtrack», «copywriter», «memes» etc.

Neologisms in journalism are extremely useful because words are a great power which all of us own. And when a word

comes to be used by a journalist, it gains even more importance, as it applies to more than one person.

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## **LEGAL REGULATION OF COMMERCIAL REPRESENTATION IN UKRAINE**

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For the first time at the legislative level, the provision on commercial representation was enshrined in the Civil Code of Ukraine of 2003. At present, only article 243 of the Civil Code of Ukraine is devoted to the general provision on commercial representation [4].

Representation can be viewed in two ways: objective and subjective. The proponents of the first approach view representation as a legal institution, i. e., a body of law, governing

the activities of one person (representative) who represents another person on his or her behalf. Another approach views the right of representation as the legal possibility of a representative to act on behalf of the person he represents, with direct legal consequences for the latter.

Commercial representation, as a special type of representation, is defined as a legal relationship in which one party (the business representative is a sole-trader or a juridical person that is an entrepreneurial entity) authorized to carry out a transaction on behalf of the other party (the person represented – a sole-trader or a juridical person that is an entrepreneurial entity). The second party is obliged to pay a sum of money for the services provided.

As for the features of commercial representation, they are divided into general, that is, those that are characteristic of the institution of representation, and special, which are unique to commercial representation and distinguish it from other types of representation.

Along with the term «commercial representation» another almost similar term «commercial mediation» is used. Although they are quite similar, they do represent different concepts that need to be taken into account in practice.

The distinction between commercial representation and commercial mediation is necessary and practical. Commercial representation may be a separate type of business activities or may be a component of commercial mediation. These concepts also have different legal regulations, implementation mechanisms and legal consequences.

With regard to the grounds on which legal relations of commercial representation may arise, civil law specifies two grounds for the establishment of commercial representation, namely, POA (power of attorney) and the contract of commercial

representation [4]. In the view of the legislator, the power of attorney is an autonomous basis of the commercial representation, out of which it grows out.

Another ground is the conclusion of a contract of commercial representation. Essential terms of the contract of commercial establishment are the combination of the terms on the object, price and term. The important part of the contract of commercial representation is the section on the rights and obligations of the commercial representative.

In general, some scholars are convinced that a contract of commercial representation should be considered an autonomous contract that can be applied independently of the POA or agency contract [2 p. 55-61]. Others, however, argue for the second approach and do not recognize the autonomy of the contract of commercial representation [3, p. 307; 1, p. 34].

Main directions of the development of legal regulation of commercial representation in Ukraine are the regulation of rights and obligations of the commercial representative, such as: the right to payment for his services, the right to hold the goods received and the duty to protect trade secrets.

Thus, representation is an important guarantee of the effective realization of rights and performance of duties by legal persons. The relevance of this topic stems from implementation of systematic and effective legal reforms in Ukraine, which leads to the need for an in-depth study of the problems connected with improving mechanisms for the realization of civil rights and interests of civilians, and, therefore, rethinking some of the approaches to the legal nature of commercial representation.

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## **IMPLEMENTATION OF INTERNATIONAL LEGAL NORMS ON TORTURE INTO THE CRIMINAL LEGISLATION OF UKRAINE**

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Torture has been recognized by the international community as one of the most inadmissible and serious crimes. Ukrainian law also recognizes the seriousness of such a crime as torture, enshrining in Article 28 of the Constitution of Ukraine the following rule: "No one may be subjected to torture, cruel, inhuman or degrading treatment or punishment" [1]. However, in order to better implement the prohibition of torture, Ukrainian legislation needs to create an appropriate legal framework that is in line with international standards in this matter.

The study of the potential of international law on the prohibition of torture and their implementation in Ukrainian law was carried out by such scholars as M. I. Bazhanov, E. Yu. Zakharov, K. V. Katerynychuk, E. A. Lukasheva, V. T. Malyarenko, V. F. Opryshko, M. B. Shugurov and others.

The purpose of the research is to get acquainted with the basic norms of international law on torture and to follow the process of their incorporation into national legislation.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that was adopted and opened for signature, ratification and accession by General Assembly of

the United Nations resolution 39/46 of 10 December 1984 and entered into force 26 June 1987 gives us a definition of the term "torture" that means "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" [2]. This Convention was ratified by Ukraine on January 26, 1987.

Convention for the Protection of Human Rights and Fundamental Freedoms also have an Article that prohibits torture: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment" [3] and was ratified by Ukraine in 1997. International Covenant on Civil and Political Rights that was ratified by Ukraine in 1973 also contains a rule on torture that sounds almost the same [4].

Since its ratification by the Verkhovna Rada of Ukraine, these acts have become part of national legislation, i.e. the implementation of international legal norms on torture has taken place. However, only the proclamation of such norms is not enough, for the realization of human rights in practice it is necessary that the implementation of these norms is ensured by the state [5].

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## **THE CONCEPT AND CLASSIFICATION OF MEASURES OF ADMINISTRATIVE COERCION IN THE POLICE**

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Coercion is one of the most important elements of the organization of society. Coercion by its legal nature is mostly related to the power of the state and in fact determines the quality of this power - how effective and efficient this model of power regime will be within a particular community. All areas of application of law contain the direct possibility of applying coercive measures and for the implementation of its regulatory function in the field of public relations can't do without state coercion.

State coercion is a measure which is used as objectively necessary. Moreover, the implementation of this coercion affects the formation of worldview in society and contributes to the development of habits, lawful behavior of citizens.

Quite often, measures of a certain type of state coercion protect public relations which are governed by the rules of several different or related branches of law. Thus, a specific type of

coercion can be established taking into account which branch of law regulates the procedure and grounds for its application.

Today the problem of applying this method of management is extremely relevant. In the administrative law of Ukraine coercion is considered as one of the methods of public administration which manifests public management influence to ensure proper behavior of legal entities which are acceptable within the state in a particular historical moment of time.

Administrative coercion is characterized by certain features. The most important are two. Firstly, there are law enforcement activities aimed at maintaining law and order. Secondly, there is an activity carried out within the framework of protective legal relations.

The problem of creating an optimal classification of measures of administrative coercion is still relevant at present. Lawyers have been unable to reach a consensus on this issue creating more and more options. This classification of measures of administrative coercion allows us to clarify the purpose of specific measures of administrative coercion and their legal nature, to make a comprehensive analysis of the current state of legal regulation and the application of these measures in practice.

Most lawyers divide the measures of administrative coercion into three groups: 1) administrative and preventive measures (verification of documents, review, submission of proposals to eliminate the causes of offenses, etc.); 2) measures of administrative termination (administrative detention, seizure of things and documents, compulsory treatment, removal from management, etc.); 3) administrative penalties (warnings, fines, deprivation of special rights, administrative arrest, etc.).

The issue of coercion and specifically administrative coercion today continues to be quite relevant in the scientific community because in the absence of authoritative methods of

management in society will be chaos, powerlessness and arbitrariness which is unacceptable in modern society. Administrative coercion has the following main tasks: protection, development and strengthening of normal management relations in the basis of the principle of subordination; prevention of offences and elimination of their negative consequences that harm public or state interests. This type of state coercion is a legal way to protect public relations from unlawful encroachments, restoration of the rule of law, implementation of the rule of law, creation of authorized bodies of practical protection of public order as well as punitive function of perpetrators of administrative offences.

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**THE RIGHT TO BE FORGOTTEN**

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The progress of science and technology and the global digitalization of the society have caused a lot of major changes (positive and negative) in all spheres of life. Positive changes include almost complete automatization of the society, which makes its existence much easier. The negative aspect of the process is connected with the disruption of privacy, which can lead to the violation of the basic human rights.

That's why the right to be forgotten has appeared, it was created to establish a balance between the two main human rights (the right to privacy and the right to freedom of opinion and expression). Despite the importance of this new legal notion, it was mentioned only in one legal act [General Data Protection Regulation (GDPR)], even without any official determination of the notion; besides, its definition is not given in any legal system of the world. The basic research of the problem was made by A.M. Boyko, V.V. Buga, S. Bulavina, R. Fellner, E. Frantz, A. Gaudamuz, S.A. Ilchenko, A.V. Kopeichenko, I.I. Priphane, W. Sekholmi, O.K. Volokh, and S. Wexler.

So, as it was mentioned above, there is no official definition of right to be forgotten, but on May 13, 2014 in the *Costeja vs Google case*, the European Court of Justice firstly gave (and actually coined this term) the definition to it. It sounds as follows: the right to be forgotten (or the right to vanish) is the right to have the private information about a person to be removed from the Internet searches and other directories under some circumstances [2]. But, as S. Wexler mentioned in his work, this definition is not correct enough, because of the phrase "under some circumstances", the notion "some circumstances" is not defined fully in any law. Thus, there has not been any comprehensive, correct and official definition of right to be forgotten.

In my research I understand the right to be forgotten as follows: *the right to be forgotten* is a basic human right that allows a person to demand, under certain conditions, the removal of his personal data from the public access through search engines, by deleting links to the data that, as he thinks, can harm him. It includes outdated, inappropriate, incomplete, inaccurate data or the information, which legal basis for storage has expired with the lapse of time.

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### **MEDIA COVERAGE OF SPORTSWOMEN**

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Media plays the leading role in our modern society and creates a certain image that influences its consumers. Over the years, journalism has caused gender stereotypes in various areas of life. Media not only adds to the maintenance of ability differences, but it creates a division between sexes of what is deemed appropriate for males on the one hand and females on the other.

Media coverage of female sports in Ukraine often focuses on appearance, private life, or aesthetics instead of athletes'

performances, where, on the other hand, men are portrayed as powerful competitors. Male sports are much more popular all around the globe as they get more media attention. Gender-biased portrayals of sportswomen have impact on female participation in sport and coaching, as well as on leadership positions in sport. Lack of quality coverage of female sports creates a wrongful image in children's minds that sport is exclusively for males.

At the end of the year 2004 partners from Austria, Lithuania, Norway, Italy, and Iceland, started a project “**Sports, media and stereotypes**” (SMS) [3]. This project conducted research on portrayal of women and men in sports and media. They analyzed different aspects such as, for example, the focus of the story. According to the findings of the research, there is a significant difference between stories covering male and female athletes. When the story involves only or almost only men, the focus is more likely to be negative due to the fame of male football players. When the focus of the stories is on the individual player, it can be on his private life, club transfers, etc. The other possible explanation of why men receive more critical coverage is that men's sport is considered a more serious business than women's. Not reaching a goal in any man's sport would therefore call for critique while a less important woman's sport does not.

The United Nations Education Scientific and Cultural Organization (UNESCO), with support from Cambridge University Press, has created the first-ever sports media-focused gender equality Chrome extension called **Her Headline** [1]. It scans sports articles and shows gender-biased words and phrases that are often used in sports media coverage, and explains why they can be sexist or problematic. This Chrome extension can help to reduce the gender stereotyping and word-misusage in media, but unfortunately, works only in English.

We have made several steps in the right direction, but the

media world of sports remains to have an unequal representation of males and females. As a society, we must not only raise awareness but continue working towards an equal showcase of all genders.

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## **GENERAL CHARACTERISTICS OF LEGAL LIABILITY IN LABOR LAW OF UKRAINE**

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Illegal acts occur in any society. They require establishing legal measures of responsibility. The sphere of labor relations is no exception. Responsibility acts as a guarantor of the obligatory performance by the parties of labor relations of their duties in compliance with the current legislation. The issues of legal liability in labor law were studied by S.M. Bratus', I.O. Galagan, B.B. Lazareva, I.S. Samoschenko, H.M. Khutoryan and many other scientists.

Traditionally, legal liability is understood as a legal means of ensuring certain behavior of people. In the explanatory dictionary of the Ukrainian language the word “responsibility” is understood as: assigned to someone or undertaken to be responsible for a certain area of work, business, for someone’s actions, words etc.

Scientists distinguish positive and retrospective (negative) aspects of responsibility. In regards to the positive aspect of responsibility P.O. Nedbaylo notes that individuals have responsibility when they begin to perform their duties, and not only when they do not perform them or act contrary to them [3]. V.S. Venediktov emphasizes the legal aspect of positive responsibility as a legally regulated additional obligation of the subject to report on the proper performance of his/her duties and actions [3].

The retrospective liability arises only for the committed offense. Moreover, L.R. Nalyvayko notices that retrospective legal liability occurs precisely because the subject of the offense is in a general relationship of responsibility with the state, but breaks this connection by an act of irresponsible behavior. Speaking about the labour sphere, V. M. Andriyiv takes the position that legal liability in the field of labor law occurs in the event of non-fulfilment or improper performance of duties by employees.

In our research we have come to the conclusion that in understanding legal liability it is advisable to take into consideration both negative and positive legal liability. It should be noted that the institute of legal responsibility in labor law acts as a guarantor of the obligatory performance by the parties of labor relations their obligations in compliance with the current legislation.

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## **THE NOTION OF INSANITY IN THE CRIMINAL LAW OF UKRAINE**

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The notion “insanity” is a key one in the current research because of the high social and legal significance of the problem of committing criminal offenses by persons suffering from mental illness, thus, determination of insanity and its criteria is one of the main and complex issues in criminal law, as far it gives legal grounds to protect persons suffering from mental disorders from criminal responsibility.

For the first time, the meaning of the term in Ukrainian lands was clarified in the definition given in “The Code of Criminal and Corrective Penalties” of 1845, which enshrined a rule stating that criminal liability did not arise for “crimes committed by the insane or insane from birth” [2].

For several centuries, there were many different approaches to interpret this notion. For example, in the 1920s, an insane person was subject to measures of social influence which were equal to punishment. But we now understand that an insane person cannot be held criminally liable for his/her objectively socially dangerous actions, primarily because he/she does not realize what he/she is doing or his/her consciousness or will does not take part in his/her physical actions.

The first step towards understanding insanity as a special legal state was made by A.A. Khomovsky in 1967. He determined

insanity as an immeasurably broader legal notion, which denotes the mental and psychological state of the person. It is provided for by the criminal law [*see*: 2]. However, that determination remained incomplete, since it did not clearly separate the scope and content of the notion “insanity”, but simply listed elements indicated in the law, without taking into account the principle of the *inverse ratio* of the scope and content of the notion [3].

The Criminal Code of Ukraine of 2001 (CCU) in part 2 of Article 19 contains an exhaustive definition of insanity: “A person who, at the time of a socially dangerous act, as prescribed by this Code, was in the state of insanity, i.e. was not aware of or could not control his/her actions (omissions) in consequence of a chronic mental disease, or a temporary mental disorder, or feeble-mindedness, or any other morbid mental condition, shall not be criminally liable. Such a person may be subjected to compulsory medical measures upon the decision of a court” [1].

In the CCU, the concept of insanity is defined based on two criteria: medical and legal. The legal criterion implies that at the time of committing a socially dangerous act a person is unable to understand the situation adequately, as well as to control his/her actions (omissions).

The medical criterion includes all possible mental illnesses that significantly affect the consciousness and will of the person. Part 2 of Article 19 of the CCU lists the following types of mental illnesses: a chronic mental disease, a temporary mental disorder, feeble-mindedness, or any other morbid mental condition [1].

In discussing this notion, there are constant disputes on deciding whose competence is it to define this condition: either that of psychiatrists or lawyers? However, insanity as a legal category, it cannot be equated with the types of mental disorders and is not reduced to a simple list of morbid mental states. Therefore, the

definition of insanity belongs exclusively to the competence of courts and lawyers.

Thus, the concept of insanity is a purely legal category. In our research, we understand the notion of insanity as the inability of a person to be aware of the actual nature and social danger of his/her activities (omissions/non-activities) or to control them due to a morbid mental disorder at the moment of committing a socially dangerous act. Thus, a person cannot form an intention and motive as the elements of the subjective side of the criminal offense, so prosecution is impossible due to the lack of *corpus delicti*.

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## **ADMINISTRATIVE APPEAL OF ACTS OF PUBLIC ADMINISTRATION**

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Administrative appeal can be defined as a legal institution, which consists of the set of legal norms governing public relations that arise in connection with the exercise by individuals and entities of their right to appeal against decisions, actions and omissions of the executive branch. They can make it by submitting a complaint to the executive body or official, who is authorized to consider and resolve them in accordance with the law.

The right to appeal belongs to a group of rights that give the individual the opportunity to protect its subjective rights and legitimate interests from illegal decisions, actions of other subjects of law. The right to appeal is an absolute and inalienable right.

The specificity of the legal regulation of the institution of administrative appeal is characterized by the fact that within this institution the use of two methods is combined – imperative and dispositive. The content of the appeal should be divided into two components – substantive and procedural. The main ideas of administrative proceedings are fixed in its principles. These principles are rule of law, legality, justice, publicity, objective truth, legal equality, economy and efficiency, responsibility, confidentiality. These principles ensure the appropriate legal regime for administrative proceedings on the complaint. They are fixed or follow from the content of the norms of the Constitution of Ukraine and normative acts, which regulate the procedure of administrative appeal. At the same time, the principles of administrative proceedings remain unregulated, which complicates their application in the practice of government entities and other participants in administrative proceedings on the complaint.

Administrative complaints are a legal remedy for the protection of the rights and freedoms of individuals and legal entities violated by the executive authorities. An administrative complaint is an appeal of a subject of administrative-legal relations addressed to an authority subject authorized to resolve an administrative-legal dispute, demanding protection and restoration of subjective rights violated by decisions, actions or inaction of another participant in administrative-legal relations. The subjects of an administrative complaint are decisions, actions or inaction of executive bodies.

In the administrative proceedings on the complaint it is necessary to distinguish the stages of its implementation: 1) stage

of preliminary processing of the complaint; 2) examination (consideration) of the complaint; 3) decision-making on the complaint; 4) appeal against the decision made as a result of consideration of the complaint; 5) execution of the adopted decision – includes a set of actions aimed at restoring the violated rights of a citizen or legal entity, as well as raising the issue to bring the perpetrators to justice.

Overall, ensuring compliance with the legislation on complaints of individuals and legal entities is carried out through a number of organizational and legal means. The main of them are control, supervision and legal liability for violation of the legislation on complaints.

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## **ADMINISTRATIVE AND LEGAL MECHANISMS OF PERSONAL DATA PROTECTION IN UKRAINE**

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In times of a continuous development of telecommunication technologies, Internet networks, digitalization of the procedure for providing administrative services, etc., the question of the effectiveness of regulation of legal relations in the field of personal data protection is raised. No matter what web portals our citizens register on, they check the box in the column "I agree with the conditions provided by the law of Ukraine" On personal data protection "or" I agree with the terms of use "without prior acquaintance with the relevant regulations. The question arises: do our citizens understand all the intricacies of personal data processing?

Clause 6 of Regulation (EC) No 216/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and repealing Directive 95/46 / EC (General Data Protection Regulation) states: Rapid technological development and globalization lead to new difficulties for the protection of personal data. The scale of collecting and sharing personal data has increased significantly. Technology allows both private companies and public authorities to use personal data on an unprecedented scale in order to carry out their activities. Individuals are increasingly providing access to personal information to the public and globally. Technology has changed both the economy and public life and should further stimulate free movement of personal data within the Union and its transfer to third countries and international organizations, while ensuring high level of personal data protection. "

Actually, the topicality of this issue is due to the objectives of the study, namely analytical activities on both national and European legislation, detection of conflicts by comparing regulations, testing in practice the effectiveness of regulation of legal relations in Ukraine in the field of personal data protection.

The subject of the research are normative legal acts of the Verkhovna Rada, the Constitutional Court, as well as European legislation, case law of the ECtHR, doctrinal conclusions of leading legal scholars, and the purpose of the course work, respectively, is to study the subject.

Summarizing all the above, it should be noted that, indeed, the Ukrainian legislation in the field of personal data protection needs permanent improvement in accordance with the emergence of new legal relations in this area. Thus, having analyzed the regulations, case law and doctrinal materials of scholars, it is necessary to identify prospects for the development of this area to avoid retrospectives in the regulation of such legal relations, namely, it is necessary to strengthen the capacity of the supervisory body to protect personal data on the world wide web: at the legislative level, mechanism should be provided for blocking information posted on the Internet; a clear definition of how the terms “confidential information” and “personal data” relate; the Law of Ukraine “On Personal Data Protection” should provide a clearer definition of consent to the processing of personal data; it is necessary for the owner to record who, from what time and to what extent uses access to personal data, as well as when and who was denied such access.

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## **GUARANTEES OF REALIZATION OF LABOUR RIGHTS OF EMPLOYEES WHO WORK REMOTEDLY**

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Today in Ukraine, with the introduction of quarantine measures and amendments to the Labour Code of Ukraine on the legal regulation of remote work, the issue of ensuring the rights of workers who perform such work becomes relevant. In accordance with paragraph 2.1 of the Final Provisions of Law № 540-IX by March 30, 2020, it is established that for the period of quarantine and restrictive measures related to the spread of coronavirus disease (COVID-19), the employer may instruct the employee to perform during a certain period of work, defined by the employment contract, at home, as well as to provide an employee with a vacation. Thus, the legislator settled the legality of the transfer of employees to remote work. However, the legal regulation of a remote work in Ukraine is extremely limited nowadays. There are no mentions of a remote work in the national legislation. There are just a few rules of law on work at home in the Labour Code of Ukraine and in the Law of Ukraine «On Basis of Social Security of Disabled in Ukraine».

Preconditions for the formation of remote work in Ukraine

are the following factors: the instability of the labour market, the deficit of the pension fund, the decline in employment growth and the number of labour in the manufacturing sector; rising hidden unemployment; accumulation of overstaffing; manifestations of discrimination on the basis of age, regional location, lack of official work experience; difficulty in finding employment for people with young children; unpredictable waves of reductions.

Nevertheless, there are not only such negative factors that determine the features of remote employment. The advantages of this form of labour organization are also obvious. This is a reduction in the employer's costs for renting premises and organizing jobs; significant savings of time, energy and resources of the employee due to the lack of transport problems, increasing productivity in its organization in accordance with the individual needs of the individual in a more comfortable home environment; reduction of environmental pollution due to reduced traffic flows, etc. Opportunities for remote employment increase business activity and employment. Thus, some segments of the population (people with disabilities, women with young children, etc.) are able to work without leaving home due to new technologies, and entrepreneurs can attract workers without providing them with jobs.

The remote form of employment has certain features that distinguish it from other types of work, but guarantees of ensuring the rights of workers performing such work should remain the same. Compliance with the requirements of the legislation and international acts on ensuring the rights of remote workers, both by the state and by employers will reduce the economic and social risks that may arise in society.

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## **THE OBJECTIVE SIDE OF THE CRIMINAL OFFENSE UNDER ART. 248 "ILLEGAL HUNTING" OF THE CRIMINAL CODE OF UKRAINE**

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According to Article 13 of the Constitution of Ukraine, land, its subsoil, air, water and other natural resources located within the territory of Ukraine, natural resources of its continental shelf, exclusive (marine) economic zone are objects of property of the Ukrainian people [1].

**The purpose of the research** is to characterize the objective side of illegal hunting.

**The analysis of basic research and publications** on criminal liability for illegal hunting has received some attention. Issues of the objective side of illegal hunting were studied by such scientists as Bushuyeva T.D., Gavrish S.B., Grishchuk V.K., Dudorov O.O., Kostenko O.M., Lanovenko I.P., Mikheenko M.M., Miller A.Y., Nekipelov P.T., Svetlov O.Ya., E.L., Tatsiy V.Ya., Trofimov S.V., Shirokov B.A., Dubovik O.L. and others.

**Results and discussion.** First, it is necessary to reveal the concept of "illegal hunting". Nowadays, the most common word for "illegal hunting" is the term "poaching". This word was

originally used to denote "hunter with a hunting dog", but much later, it acquired its modern meaning and came to mean hunting in a forbidden place or at an unauthorized time and describe such actions as illegal hunting, illegal fishing, and illegal logging. Therefore, as you can see, poaching is a collective concept that encompasses various illegal actions against many natural components that surround us [3, p. 80].

Hunting is a human action aimed at tracking, pursuing and capturing (shooting, catching) hunting animals that are in a state of natural freedom or kept in semi-free conditions [2].

The objective side of the crime is to commit the following actions: violation of hunting rules, if it caused significant damage; illegal hunting in reserves or other territories and objects of the nature reserve fund; hunting of animals, birds or other species of fauna listed in the Red Book of Ukraine. Illegal hunting is also equated with illegal stay in hunting grounds with rifles, hunting dogs, birds of prey, traps and other hunting tools, as well as with hunting weapons in assembled form outside public roads or with captured hunting products.

Hunting is criminally punishable if it is illegal. Violation of hunting rules means that this type of use of wildlife is carried out without proper permission, at a forbidden time, in unauthorized places, prohibited by tools or methods, in respect of those species of animals that are listed in the Red Book.

Hunting in unauthorized places is hunting in such places where it is forbidden at all, or where a special permit is required. Hunting at a forbidden time means that it is carried out when hunting any animals is prohibited in general and during the periods during which it is forbidden to hunt certain species of wild animals and birds. Hunting without permission is unauthorized action without appropriate document issued by competent authority.

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## **GROUNDNS FOR CIVIL LIABILITY FOR NON-PECUNIARY (MORAL) DAMAGE**

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Moral damage is a loss of intangible nature due to moral or physical suffering or other negative phenomena caused to a natural or legal person by illegal actions or inaction of others [2]. In particular, non-pecuniary damage caused to a legal entity should be understood as non-pecuniary losses incurred in connection with the humiliation of its business reputation, encroachment on the brand name, trademark, disclosure of trade secrets, as well as actions aimed at reduction of prestige or undermining of trust in its activity.

Under Article 1167 of the Civil Code of Ukraine moral damage caused to a natural or legal person by illegal decisions, actions or omissions shall be compensated by the person who caused it, in the presence of his fault [1]. Moral damage is compensated regardless of the fault of a state authority, an authority of the Autonomous Republic of Crimea, a local self-government body, a natural or legal person who caused it: 1) if the damage was caused by injury, other damage to health or death of an individual due to the action of a source of increased danger; 2) if

the damage was caused to an individual as a result of his illegal conviction, illegal criminal prosecution, illegal use as a precautionary measure of detention or a written undertaking not to leave, illegal detention, illegal imposition of an administrative penalty in the form of arrest or correctional work; 3) in other cases established by law.

Unlawful conduct of a person who has caused moral damage may consist of: inflicting injury or other damage to health; illegal behaviour towards family members or close relatives of the victim; destruction or damage to property; in humiliation of honour, dignity, and business reputation of a natural or legal person. Also, the obligatory basis for tortious liability for non-pecuniary damage is the establishment of a causal link between the damage and the wrongful conduct of a person [4].

Normatively, the minimum and maximum amounts of compensation for non-pecuniary damage and the method of its determination have not been established. At the same time, when assessing the amount of compensation for non-pecuniary damage, it should be borne in mind that non-pecuniary damage cannot be reimbursed in full, as there are no (and cannot be) exact criteria for property expression of mental pain, peace, honour, dignity.

The amount of compensation for non-pecuniary damage is immediately assessed by the victim and determined in the statement of claim. The final decision on the amount of compensation for non-pecuniary damage is made by the court.

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### **MITIGATING CIRCUMSTANCES: DETERMINATION OF NOTION**

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Mitigating circumstances are various factors relating to the guilty person and the committed crime, which respectively reduce or increase the social danger of the crime and the offender, and, hence, the degree of his or her responsibility. The definition, which we use in the report, is given by E. Samoylenko [1].

The importance of the notion “mitigating circumstances” in the sphere of criminal law is very high. Understanding of the definition helps a judge to apply a right sanction to a defendant.

The Plenum of the Supreme Court of Ukraine on October 24, 2003, obliged courts to motivate their decisions of applying mitigating circumstance in any case by the Resolution “About the Practice of Criminal Punishment by Courts” [6]. O. Dudorov notes that mitigating and aggravating circumstances of the punishment are considered to limit the judge’s discretion and, as a basis for imposing a more severe or less severe punishment, they are the subject to considering each criminal case [2].

Mitigation of punishment can take place within one type of punishment or in the process of considering another, milder type of punishment with an alternative sanction. The list of circumstances

that mitigate the punishment is described in article 66 of the Criminal Code of Ukraine [3]. However, it is not an exhaustive list of possible mitigating circumstances. The notion “sanction” is one of the most important in the research, because sanction depends on mitigating circumstances, which are the aim of the research.

One of the components of the problem of improving the effectiveness of the Criminal Code of Ukraine is connected with the clarification of the meaning of the term “sanction of an article of the Criminal Code of Ukraine”, which has been known in the Criminal Code of Ukraine since April 15, 2008, according to the Law of Ukraine “About the Amendments to the Criminal and Criminal Procedure Codes of Ukraine on Humanization of Criminal Liability” [7]. But the definition of this notion is provided neither at the legislative nor at judicial level.

Sanctions provided for by articles of the Special Part of the Criminal Code of Ukraine are parts of the norms that determines the type and measure of punishment for a socially dangerous act committed. This definition is coined by O. Kuznetsov in his work “Criminal Law of Ukraine” [4].

The term is interpreted differently by Yu. Filey: sanction is a necessary component of the norm, which contains a model of the type and amount of punishment, adequate to the public danger of the crime committed [5].

The differences in defining the term “sanction” are caused by different understanding of the notion “criminal law”, namely: as a branch of law, as a science, as a branch of legislation, and as an academic discipline.

We base our research on the interpretation of the notion “sanction” given by O. Kuznetsov, because we think that the definition fully reveals the meaning of the notion. The problem of clarifying the meaning of the term “mitigating circumstances” is being discussed by many scientists nowadays. The legislation does

not give the whole list of mitigating circumstances. Thus, courts sometimes use the legislation differently, applying diverse sanctions to similar cases. Such divergences lead to a lot of appeals to appellate courts. The situation would be better if the notion “mitigating circumstances” would be fully concretized at the legislative level.

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## **IMPORTANCE OF NON-MONETARY COMPENSATION FOR UKRAINIAN COMPANIES**

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Behavioral psychologists have examined monetary compensation to find out how employees perform based on their salary level. The results show that employees (here and after Es)

who feel that they are underpaid relative to their skill levels will not perform as well as they would if they felt that they were appropriately compensated. Not surprisingly, Es who are paid more are more satisfied with their work and less inclined to leave their companies, but up to a certain point. [1]. Thus, a high salary cannot be considered as the key factor for Es satisfaction, especially for the young working population - Millennials.

According to T. Taylor Millennials would rather stick to a position which can provide them with a better work-life balance and compensation and benefits (here and after C&B). A good benefits package includes not just such necessities as health and life insurance, paid time off and retirement accounts, but also development and wellness programs, childcare benefits, workplace perks, etc. [2]. Millennials are not just concerned about money, they are also in pursuit of job satisfaction. This, in turn, affects staff turnover, productivity and performance.

C&B's positive effect is revealed in Es' satisfaction who become highly productive and crave innovation - «companies like Google have invested more in Es support and Es satisfaction has risen as a result. For Google, it rose by 37% ... making workers happier pays off» [14]. A. Wilson states that aside from necessities, a lot of the enterprises have something unique in their C&B, e.g. nap rooms/yoga studio are available in Hootsuite. The Campbell Soup Company, similar to Google, provides daycare centres, kindergartens, after-school programs for kids. By encouraging its Es to pursue further education, Amazon defrays 95% of the tuition cost. Propellernet even has a “fun fund” for different activities so that Es have an opportunity to entertain [4].

Ukrainian companies are far from being successful in their C&B. Certainly, significant changes have been observed for the past few years, mostly in a private sector. Nonetheless, these are just rare cases, as most business organizations only cover the basic

needs of their workers, forgetting that nowadays they are not enough. [13]. It contributes to the fact that Es, Millennials in particular, often tend to “hop” from job to job. B. Guia made research on the problem of so-called job-hoppers in an intercultural context and provides strong arguments why Millennials are so unstable, one of them - “a chance to develop professionally is one of the top drivers of engagement for Millennials” [5]. By utilizing on-line platform Thomsonreuters, a state-of-the-art environment for economic analysis, we were able to define that very few Ukrainian companies can offer to cover their workers mentoring or development expenses or provide them with courses for further qualification [15]. Ambitious people always desire to progress [10], and when are not given this possibility they “hop” to another job. Obviously, having no room for skills development is not the only problem for Ukrainian enterprises. Others include programs for leisure activities, opportunities for fitness/sport, office perks, programs for employees’ children, etc. State companies are the ones which suffer from a lack of all these compensations and advantages the most, except of few guaranteed benefits required by law [9]. The main reason for the dissatisfaction is the lack of standards for work compensation [12, p. 44].

Anyway, some Ukrainian companies develop their C&B and could well be role models for other national companies, e.g. SoftServe offer medical/life insurance, an onsite gym/partial sport card reimbursement, anniversary gifts, discount cards, etc., they also do prioritize professional growth [6]. Joooble is another excellent example of a Ukrainian company that enables its Es to get better by covering 50% of the cost of training inside as well as outside Ukraine, apart from all the other benefits [7].

Thus, we conclude that Es performance and productivity depends both on the salary and benefits they get. The highly paid are not always highly motivated. When Es are shown that the

company is not only concerned about money, but also does everything for their well-being, they truly want to do a great job. If Es do not feel that an organization is treating them fairly with respect to basic needs, then they are likely to be less satisfied with their jobs, perform at a lower level, or leave [1]. We share the opinion that 'monetary rewards do not always lead to these desirable outcomes' [7]. Proper C&B helps Es become happy, loyal, boost their productivity and performance, enhance their motivation, making companies successful and thriving. Moreover, fair and transparent compensation policy is an important factor in socio-economic stability and development not only of the enterprise but also of the economy as a whole, as well as the formation of social healthy society [11, p.204].

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## VICTIM OF CRIMES AGAINST PUBLIC SAFETY

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Public danger of a number of crimes against public safety is determined by the content of the characteristics that characterize the victim. Despite the use of the term "victim" in many provisions of the Criminal Code, its definition in the Criminal Code is missing. A large number of applied problems cannot be solved without determining the criminal nature of the victim. Thus, clarifying the nature and degree of public danger of the crime, solving the issue of criminalization and decriminalization of the act, differentiation of criminal liability, differentiation of crimes, their qualification, sentencing - all these issues can not be clarified without the victim.

In the theory of criminal law there are several positions on the definition of the victim: 1) one group of scholars believes that the victim can only be an individual: the victim is an individual who is a direct victim of a crime whose rights and legally protected interests have been violated or threatened by criminal encroachment committed against them; 2) the second group of scholars allow the possibility of considering a legal entity as a victim; 3) the third group defined the victim as any kind of social entity (association of people, state).

The victim (individual) is not present in all *corpus delicti*, but in those where it is provided by the norms of the Criminal Code. And then it is possible to talk about the victim as a mandatory element of *corpus delicti*, i. e., in cases where the victim is directly named in the text of the article of the Criminal Code, he plays the role of a mandatory element of the crime. Establishment of the general victim allows us to define clearly generic object of the crimes containing in section IX of the Special part of Criminal Code, to distinguish crimes against public safety from other crimes [1]. Sometimes the legislator directly points out individual victims when determining a crime against public safety. In these cases, they act as a mandatory feature of such crimes.

Usually, physical (gender, age, disability), social (social origin, nationality, position), legal (Ukrainian citizen, foreigner) characteristics of a person are not important for defining the concept of "victim", but each of them in some cases plays an important role in establishing the signs of a specific *corpus delicti*, i.e. the legislator specifically emphasizes the importance of certain characteristics of a person, considering them as such that form the subject of the crime motivation to commit a criminal act [2].

To sum up, some crimes against public safety are characterized by the presence of a victim. The victims of the crimes against public safety in most cases are individuals who has suffered

moral, physical or property damage, as well as a legal entity who has suffered property damage. The state, society or other social entity cannot be recognized as victims of crimes of this group due to the lack of common characteristics of the victim in these associations.

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## **ADMINISTRATIVE MEASURES FOR OFFENCE: CONCEPT AND CLASSIFICATION**

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The research analyses measures of administrative responsibility for the committed offence applied by courts in cases of administrative violations, due to the need to improve administrative and procedural activities of bodies vested with administrative and jurisdictional authority. Article 23 of the Code of Ukraine on Administrative Offences states that the measure of responsibility of a person who has committed an administrative offence, in the spirit of compliance with the laws of Ukraine, respect for the rules of cohabitation and prevention of new offences.

Instead, measures of administrative responsibility are measures of administrative and legal coercion applied to persons who commit administrative offences. Such measures must be distinguished from administrative precautionary measures, administrative procedural measures and administrative remedial measures [1].

The exhaustive list of measures of administrative responsibility is established by the Code of Ukraine on Administrative Offences and they are the following: 1) imposition and implementation of measures of administrative liability provides for the offender a term of repayment of administrative liability. Article 39 of the Code of Administrative Offences stipulates that if a person on whom administrative penalty has been imposed has not committed a new administrative offence within a year from the date of completion of penalty, this person shall be deemed not to have been subject to administrative penalty; 2) measures of administrative responsibility are not applied at the time of the offence, they are always used only after the commission of administrative offence; 3) measures of administrative liability are imposed in the case when administrative offence has caused irreversible damage. Administrative liability measures are intended to compensate for such damage;

The measures of administrative responsibility listed in the Code of Administrative Offences can be classified on various grounds, revealing their features. Firstly, administrative penalties can be divided into the types of sanctions applied: 1) warning; 2) fine; 3) confiscation: an object that has become an instrument of commission or a direct object of administrative offence; money received as a result of committing administrative offence; 4) deprivation of a special right granted to a citizen (right to drive vehicles, right to hunt); 5) deprivation of the right to hold certain positions or engage in certain activities; 6) public works;

7) corrective work; 8) administrative arrest; 9) arrest with detention on guard duty; 10) administrative expulsion of foreigners and stateless persons from Ukraine [2].

Administrative penalties of a personal nature: warnings; fine; penalty points; deprivation of a special right granted to a citizen (right to drive vehicles, right to hunt); deprivation of the right to hold certain positions or engage in certain activities; public works; corrective work; administrative arrest; arrest with detention on guard duty; administrative expulsion of foreigners and stateless persons from Ukraine;

Secondly, administrative penalties can be divided depending on the type of entity to which they are applied, taking into account their features: 1) administrative penalties applicable to both individuals and legal entities: warnings; fine; of the object that has become an instrument of commission or a direct object of administrative offence; confiscation: an object that has become an instrument of commission or a direct object of administrative offence; money received as a result of committing administrative offence; 2) administrative penalties, which due to their specificity are applied only to individuals: deprivation of the special right granted to a citizen (right to drive vehicles, right to hunt); deprivation of the right to hold certain positions or engage in certain activities; public works; corrective work; administrative arrest; arrest with detention on guard duty; administrative expulsion of foreigners and stateless persons from Ukraine [3].

Summarizing the above, we can state that the overlap administrative penalty is the final measure (form) among other measures of administrative coercion, as it materializes the legal assessment given to the offence and the offender in the process of consideration of the case and the issuance of a relevant resolution.

As a result of the application of an administrative penalty, the guilty party is burdened material or moral consequences.

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## **ADMINISTRATIVE PROCEEDINGS IN UKRAINE**

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Until recently, the procedural legislation of Ukraine did not define the concept of “judicial proceedings”. According to A.A. Selivanov, regarding the Code of Administrative Procedure of Ukraine (CAS) of Ukraine, the title of the Code reflects the theoretical and legal concept that has been actively developing over the last decade regarding the administrative process as a complex phenomenon. These are the components available in it: administrative proceedings, administrative proces (according to the composition of administrative offenses), and administrative-procedural (procedural) consideration of cases.

There is no consensus among scholars in the field of administrative law on the meaning of "administrative justice". O.V. Kuzmenko who notes that currently in the legal literature there are three main trends, according to which administrative proceedings are defined as: 1) a special procedure for resolving administrative and legal disputes by courts; 2) an independent branch of justice, the purpose of which is the resolution by courts

of disputes between citizens and governing bodies (administration) or between the governing bodies themselves; 3) not only a special type of proceedings, but also a system of specialized judicial units that carry out administrative proceedings.

A.O. Selivanov, on the other hand, defines administrative proceedings as a system of principles and administrative procedural norms that determine and regulate the procedure for court proceedings in cases of public law disputes that arise in the field of administrative relations between legal entities (individuals and legal entities) in realizing the power management functions. Administrative proceedings have become an important form of protection of public rights and freedoms of the person and citizen, as well as the legitimate interests of public figures. Such an approach is being criticized, because the judiciary is primarily the activity of the court to consider and resolve administrative cases, which is governed by administrative procedural rules and is carried out on the basis of certain principles. Besides, not only individuals and legal entities can be participants of public relations, but also subjects of power, because in administrative relations the executive body, local government, another entity endowed with state power powers can be the obligatory party.

Another determination is given by Y.S. Pedko, who proposes to understand the term “administrative proceedings” as an order, in which administrative courts consider disputes and make resolutions [6]. V.B. Pchelin understands the notion of administrative proceedings as proceedings regulated by the rules of administrative procedural law, the activities of the administrative court, carried out within the consideration and resolution of administrative cases, aimed at protecting and restoring the rights, freedoms and interests of the individual in public relations [3].

In general, these approaches to the definition of the term “administrative proceedings” have found their objectification in the

current legislation, namely paragraph 5 of Part 1 of Article 4 of the CAS, according to which administrative proceedings are the activities of administrative courts to consider and resolve administrative cases, established by this Code [1].

Radically different opinions that go beyond the legislative definition of administrative proceedings are suggested by V.K. Demidenko, D.V. Rozhenko, A.V. Rudenko, M.G. Kobylyanskyand [4-5] and others.

D.V. Rozhenko notes that administrative proceeding is a form of judicial work, which consists of comprehensive and complete consideration of claims and making resolutions by the administrative court in the order determined by the CAS of Ukraine.

Administrative disputes that arise between natural and legal persons, on the one hand, and the subject of power (public authority, local government, officials, other subjects of power in the exercise of government management functions on the basis of legislation), on the other hand, are considered by the administrative court in the order determined by the CAS of Ukraine.

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## **FEATURES OF LEGAL CONSCIOUSNESS OF THE JAPANESE THROUGH THE PRISM OF FOLKTALES**

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Folktales is a type of literature known all over the world. Tales were created for several purposes: to share the knowledge with children, to help kids to deal with their emotions, such as fear and uncertainty, or to express national wills and goals. Every folktale consists of a few very important parts, which make it at the same time interesting and instructive. Easy-to-understand plot is one of the basic parts of the folktale. Usually it is about a clash between the good and the evil. This part of a tale forms an inner understanding of what is “good” and what is “bad”. This part of the story is the base of the conflict not only because everything would “grow from it”.

The character is a mirror of the nation. It has to be sympathized by the reader and at the same moment a main hero has to show that he is right in a certain case, therefore young readers would be able to inherit his “proper” behaviour and deeds. The minds of the main hero is an important part of the story as well. At this point, the folk try to create a proper understanding of justice, law, order and other things. However, the team gathered during the story is an optional thing, which is not available in many folktales but this part allows readers to figure out how interpersonal relations work and why is it important to implement “proper” features in

your relationships with others. In their folktales Japanese implement things they wished to be true. They tried to set a certain case, which would be solved “in a fair way”.

For instance, in the folktale “Poisonous cupcakes” teaches us to find the peaceful way to get on with people and not to conflict with them. The story is about a mother-in-law, who always complained about daughter-in-law’s behaviour and generally treated her badly. Once, the daughter-in-law decided to kill her husband’s mother and she went to the doctor and asked him for a poison. The doctor understood her intention and gave her sugar powder. After all the attempts of murdering the mother-in-law, the woman returned to ask for another poison but the doctor explained to her that the powder he had given to her was not poisonous and showed her that because she cooked her opponent sweet cupcakes, their relations had improved.

You can get a lot of information about Japanese legal consciousness by reading their tales. Japanese people respect honour and wisdom, they think that hard work is the way to get all the best in your life and disagree with unfair ways of reaching your goal.

Taking into consideration everything mentioned above, studying folktales in order to understand the legal consciousness of the nation, culture and civil relations is a good idea, hence making these stories, people try to put as much knowledge and experience as they can, so that the next generations will have this base to start with.

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## **BOHDAN KHMELNYTSKY AS A FOUNDER AND PROMINENT STATESMAN OF THE HETMANATE**

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History is the foundation of the formation of each country. Because in life of every nation there are significant, fateful events that marked a real turn in the history of the country, prominent personalities, politicians and statesmen of national scale, whose activities were important not only in the history of a nation but also around the world. Ukraine can be proud of many personalities who have changed and developed the Ukrainian statehood. There were hetmans, scientists, fighters for the Ukrainian independence and other prominent statesmen. Moreover, we can observe the Ukrainian history for a long time, but the topic of my research is an important and historic event - Khmelnytsky Uprising. That was a Cossack rebellion that took place between 1648 and 1657 in the eastern territories of the Polish-Lithuanian Commonwealth, which led to the creation of a Cossack Hetmanate in Ukraine. Under the command of Hetman Bogdan Khmelnytsky, the Zaporozhian Cossacks, allied with the Crimean Tatars and local Ukrainian peasantry, fought against Polish domination and against the Commonwealth forces.

The uprising has a symbolic meaning in the history of Ukraine's relationship with Poland and Russia. It ended the Polish

Catholic Szlachta's domination over the Ukrainian Orthodox population at the same time, it led to the eventual incorporation of Eastern Ukraine into the Tsardom of Russia initiated by the 1654 Pereyaslav Agreement, whereby the Cossacks would swear allegiance to the Tsar, while retaining a wide autonomy.

The uprising reached such an unprecedented scale mainly due to the military and state art of Bohdan Khmelnytsky. His life and participation in this uprising deserve to be mentioned. Born to a noble family, Bohdan Khmelnytsky attended Jesuit school, probably in Lviv. At the age of 22 he joined his father in the service of the Commonwealth, battling against the Ottoman Empire in the Moldavian Magnate Wars. Passed through Turkish captivity and after returning home he had to deal with even greater injustice after settling in his khutor Subotiv Daniel Czapliński openly started to harass future hetman on behalf of the younger Koniecpolski in an attempt to force him off the land. On two occasions raids were made to Subotiv, during which considerable property damage Khmelnytsky moved his family to a relative's house in Chyhyryn.

Having received no support from Polish officials, Khmelnytsky turned to his Cossack friends and subordinates. He often told like-minded people "This is how they treat not only me, this is how they treat the entire Ukrainian people!" It was a popular cry. And when Bohdan Khmelnytsky called: "Let us unite, brothers, let us stand up for the Orthodox faith, restore the will of our people and be united!" - he was supported. Together with his son Timothy and close friends, he went to Zaporozhyya in December 1647. And it was from here, from the original Cossack land, that he began to organize an uprising. Here, on April 19, 1648, he was elected the hetman, from where he appealed to the people to fight against the nobility. During 1648-1657 one man who managed to unite the whole nation cohesive around the idea of a national freedom and inflict a devastating blow to the powerful

state of the Polish-Lithuanian Commonwealth which couldn't endure after the Cossack uprising also he created his own majestic country called Zaporizhian Host.

Summing up all mentioned above, it is necessary to understand that Bohdan Khmelnytsky realized the whole scale and danger of the war, but, nevertheless, chose a free and sovereign state. Thanks to his leader skills, which combined tradition and innovation, he was able to unite all patriotic forces around the idea of national liberation, he directed all his efforts to build a majestic and independent country. All in all, we can say that he is one of the founders of the principle of Independence of Ukraine, for which we live to this day.

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## **EMERGENCE AND ACTIVITY OF REACTIONARY (RACIST) ORGANISATIONS AND PROCEDURE IN THE USA**

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Racism is a system of views stating that the human race has a decisive influence on the intellect, ability, morality, behaviour,

traits of each person individually. This phenomenon has profoundly influenced the history and society of the United States of America. A great number of manifestations of racism were connected with the Negroid race (African Americans). Racism has become an ideology of plantation owners and slave traders who benefited from slave labour and were interested in maintaining slavery as an institution. At the same time, theories about supremacy of the white race over the black were developed to introduce indisputable arguments in favour of slavery. The plantation owners and slave traders have set up special secret organizations in the southern states to crack down on blacks and abolitionists themselves and to convince society of the inevitability of the use of slaves.

The most famous and widespread of them was the Ku Klux Klan. In one of the small towns of Pulaski, Tennessee, six soldiers of the Southern Army formed this secret organization between December 1865 and June 1866. Four of them were young lawyers. Since 1868, the KKK was headed by former Confederate General Nathaniel Forrest who received the title of "Imperial Wizard". The Ku Klux Klan was a high-powered organisation. Various members of society (judges, lawyers, wealthy landowners, ordinary farmers, former soldiers of the army of the South) joined it. They committed violence in prisons, attacked democratic organisations (especially Negro), burning and destroying their property, newspaper editorial offices, killing or maiming people. The victims of the Ku Klux Klan were not only black Americans, but also federal soldiers and white Republican politicians who advocated racial equality. The Ku Klux Klan is strongly associated with racism, but in reality the brutal extermination of the African American population and the restoration of slavery were not offered by the Klan. First of all, the main aim of the first KKK was to fight against the antagonistic North. They agreed to guarantee certain rights to black minorities, but insisted that they were in no way equal to their rights and

opposed giving former slaves the right to vote in elections and hold weapons. On May 31, 1870, Congress issued the Act against the KKK, which criminalized the deprivation of black suffrage and other people's political rights. In January 1871, Congress set up a special commission to investigate the activities of Ku Klux Klan. Nathaniel Forrest announced the dissolution of the organisation after that.

Another reactionary structure that emerged in the southern states was lynching. It became a vicious tool of racial control by victimizing the entire African American community in the USA during the late XIX and early XX centuries. It was also a widespread procedure used by the Ku Klux Klan. Most terror lynching can best be understood as having the features of one or more of the following: lynching that resulted from a wildly distorted fear of interracial sex; lynching in response to casual social transgressions; lynching based on allegations of serious violent crime; public spectacle lynching etc. Racial terror lynching was a tool used to enforce Jim Crow laws and racial segregation. Some researches confirm that many victims of terror lynching were murdered without being accused of any crime; they were killed for minor social transgressions or for demanding basic rights and fair treatment. Lynching played a key role in the forced migration of millions of Black Americans out of the South. Thousands of people fled to the North and West out of fear of being lynched.

On the whole, several ethnical groups and races including African Americans, Native Americans, Chinese immigrants and others experienced discrimination on the basis of their physical appearance and traditions. Racist organisations opposed to giving them equal rights by using the tools of racial terror and committing violence. Those actions affected especially African Americans because a plenty of them were lynched during the XIX and XX century. The effect and consequences of these racial problems in

the USA can be seen there even nowadays.

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## **INHERITANCE ACCORDING TO THE LAW**

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Inheritance is provided according to law if a person has not left a will, a will has been invalid, there are no conditions specified in the conditional will, the heirs have not accepted an inheritance, or the person has been disposed of only part of his property. This means that the person's estate (property) is distributed to others

according to the state law. Thus, inheritance according to the law takes place when there is no will.

Prerequisites for inheritance according to The Civil Code of Ukraine are kinship, family relations, marriage, adoption, being in the alimony of the testator for at least 5 years before his death [3]. When inheriting according to the law, the property passes to the heirs in accordance with the established order, i.e. a precisely defined circle of persons who simultaneously receive the inheritance. Each subsequent turn of heirs receives the right to inherit in the absence of heirs of the previous turn, their removal from an inheritance, their non-acceptance of the inheritance, or refusal to accept it.

The Civil Code of Ukraine [3] provides for five turns of inheritance, which in the manner prescribed by law are called upon to inherit alternately. Within the same turn, the heirs inherit the property of the deceased in equal parts.

According to the first turn, the testator's children have the right to inherit, including those who have been conceived during the testator's lifetime and born no more than 10 months after his death, the surviving spouse and the parents. According to the second turn, the right to inherit has the brothers and sisters of the testator, his grandparents, both on the father's side and on the mother's side. Brothers and sisters are the heirs of the deceased, regardless of whether they are full-blooded (have both parents together) or half-relatives (have a common father or a common mother). However, step-siblings do not inherit one after the other if they do not have common parents.

According to the third turn, the right to inherit has the uncle and aunt of the testator. In the fourth turn, the right to inherit has persons who lived with the testator as the family for at least 5 years before the opening of the inheritance. The person claiming the

inheritance must prove that he/she lived with the testator as the family.

The Supreme Court of Ukraine noted that the obligatory condition for the recognition of persons as family members is the presence of: joint budget, purchase of property for common use, participation in joint expenses for the maintenance of housing, its repair; mutual assistance, oral or written agreements on the use of housing; other circumstances [2].

In the fifth place, other relatives of the testator up to and including the sixth degree of kinship (great-nephew, cousin's nephew, granduncle and grandaunt, etc.). In this case, relatives of closer kinship are excluded from the right to inherit relatives of more distant kinship.

To clarify the key points of inheritance, it is necessary to summarize the information provided above: 1) inheritance – the transfer of rights and responsibilities from the deceased (testator) to other persons (heirs/beneficiaries). Beneficiaries refer to individuals named in a will, while heirs refer to people who are entitled to receive a decedent's property according to a set of rules created to sort out inheritance matters, in the absence of a will. There are five turns of inheritance, provided by The Civil Code of Ukraine and the specific order of its regulation [3].

There are two ways to change the order of obtaining the right to inherit: by agreement of the heirs (contractual) and judicial. The contractual method is to enter into an agreement to change the order between the interested heirs. Such an agreement is subject to notarization. Judicial procedure consists of filing a lawsuit by the heirs of the next turns against the heirs of the turn that directly calls for inheritance if there are sufficient grounds.

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## **THE NOTION AND CONDITIONS OF REPAYMENT OF THE CRIMINAL RECORD**

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The importance of the notion “criminal record” is caused by the fact that a criminal record is not just a statement of the fact of a person’s conviction for a crime, but also (and it is most important) the existence of the connection of certain legal relations between the state and the offender. The person’s criminal record is always specific. It is closely connected with a certain crime, the degree of punishment for it and has a concrete meaning. Legal consequences arise after the person is proved guilty, but their actual scope for each convict is different and depends on the type, severity of the crime, the social status of the person, etc.

Conviction as the legal status of the person indicates the existence of the person’s relations with the state, which are filled with certain content. The scope of the notion comprises rights and obligations, restrictions of individual freedoms. The state, on the one hand, distances itself from persons who have criminal records, and, on the other hand, it seeks the ways of their correction and reintegration into the society, though it is associated with considerable objective and subjective difficulties.

This term was considered in the text of the Decision of the

Plenum of the Supreme Court of Ukraine (December 26, 2003) – [No 16: On the Practice of applying the law "On repayment and removal of convictions"]. The criminal record is defined as the legal status of a person arising from his/her convictions, which have caused certain negative consequences to him/her [1].

I.I. Mytrofanov defines the characteristics of a criminal record as follows [2]: 1) it constitutes a special legal status of a person; 2) it is conditioned by the committed crime; 3) it is a consequence of a conviction for a crime; 4) it arises from the moment a court conviction comes into force; 5) it is always the result of a sentence and has clearly defined time limits established by criminal law; 6) it has a personal character and is associated only with a specific person; 7) it means the possibility of certain legal consequences; 8) it is repaid after the end of the term specified by the Criminal Code of Ukraine, or it is removed in the manner prescribed by law.

This term is interpreted differently in many references. The Criminal Code of Ukraine contains Section XIII "Criminal Record", where criminal record is an element of control: institute of criminal record; criminal record as a fact of convicting a person for the crime he committed; criminal record as the legal status of the convict; state of criminal records in society; the public mind concerning convicted persons. The article examines the content and purpose of mentioned structures, their relevance to modern state in fighting crime. Institute of criminal record is a set of rules provided by the Criminal Code of Ukraine, which regulates relations arising in the implementation of criminal responsibility: the moment of criminal record emergence, the timing of its course, the conditions of its expunging and canceling, and its general social penal consequences. Despite a huge number of legislative imperfections, within the strategy of intimidation it serves to achieve and maintain the goals of punishment.

There is no definition of the term “repayment of the criminal record” in the law, though there are a lot of different interpretations suggested by scientists. We base our research on the definition given by A.O. Rasiuk [4]: “repayment of a criminal record is an automatic termination without a special court decision of a person's criminal record due to the fact that he was convicted by a court for committing a crime to a certain type and measure of punishment associated with its actual serving, and consists in releasing (relieving) him from restrictions of criminal or other legal nature under the conditions of expiration of the terms established by law, and failure of the convicted person during these terms of a new crime, and in the presence of other conditions established by the criminal law.”

To sum up, conviction is a legal status of a person that is the result of his/her conviction by the court to any type of punishment for a crime committed. Redemption of a criminal record means that a person's criminal record has lost its legal significance and such a person may not be the subject to criminal and general law restrictions in the future.

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## **ACCOMPLICE OF A CRIMINAL OFFENSE**

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Issues of group crime have long attracted the attention of legal scholars. However, special interest in the problems of criminal groups has emerged in the last decade, which undoubtedly has objectively existing socio-political and economic reasons.

Group crime currently accounts for a significant share of the total number of criminal offenses committed. Approximately every third crime is committed by a group of individuals, and certain difficulties in the criminal law assessment of such criminal offenses dictate the need for further careful study of this problem.

The negative consequences of the changes taking place in the socio-economic, spiritual and other spheres of society have caused, in addition to the general increase in crime, a change in its quality indicators. In the structure of the criminal offense, the dominant position was occupied by criminal acts committed in complicity, and there is a clear tendency to complicate the ways of committing crimes and increase the cohesion of criminal groups.

Identifying all members of a criminal group, in particular an accomplice, specifying his role in criminal offenses is a complex process. The peculiarity of group criminal activity, its dynamism and variability, require adequate means to combat this phenomenon, which, unfortunately, are not always done by law enforcement agencies.

The purpose of the research is to study this type of accomplice in a criminal offense as an accomplice. In the theory of criminal law was a common view, according to which the institution of complicity was completely identified with Art. 19 of the Criminal code of Ukraine of 1960 (the maintenance of this

norm is partially reproduced in articles 26 and 27 of the current Criminal Code of Ukraine). Gutorova notes that the institute of complicity extends its action to all cases of intentional joint commission of a criminal offense, establishing objective and subjective signs of complicity, limits of criminal liability of accomplices and peculiarities of sentencing.

The General Part of the Code covers not only the provisions that constitute a generalized description of the same nature of criminal activity, but those which, in combination with the provisions of specific articles of the Special Part are organically included in their system of features, as well as provisions formulating general principles of criminal law. conditions of criminal law and sentencing.

It is worth noting the reasoning of Telnov. He believes that the definition of complicity contained in the General Part is the key to understanding the legal characteristics of joint criminal acts provided for in various articles of the Criminal Code. According to its content, according to Telnov, complicity can be discussed only when the fact of intentional joint participation of two or more persons in the commission of a criminal offense.

Also in the theory of criminal law it is widely believed that to define a criminal offense as committed in complicity requires the presence of at least two persons who have reached the age of criminal responsibility and are sane (this position is fully reflected in Article 26 of the Criminal Code).

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**CONSTITUTIONAL SUBMISSION ON RECOGNITION OF  
LEGAL ACTS UNCONSTITUTIONAL: ANALYSIS OF  
CONTENT AND PROCEDURAL COMPONENTS**

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Man's desire to achieve justice is a crucial regulator of social relations, one of the universal dimensions of law. This is the activity of the Constitutional Court of Ukraine, which consists in ensuring the supremacy of the Constitution of Ukraine, priority of human and civil rights and freedoms in all spheres of public life.

Constitutional submission as a form of appeal to the Constitutional Court plays an important role in constitutional proceedings, which cannot be neglected and therefore the constitutional submission is the topic of my research. The legislator highlights several forms of appeals to the Constitutional Court, namely: constitutional submission, constitutional appeal and constitutional complaint [2-3].

«Constitutional submission is a written request to the Constitutional Court on the recognition of the legal act (individual provisions) unconstitutional, the definition of constitutionality of an international treaty or the need for an official interpretation of the Constitution and laws of Ukraine. According to the Constitution of Ukraine, the subjects of the right to constitutional submission are: the President of Ukraine, at least 45 deputies of Ukraine, the Supreme Court, authorized by the Verkhovna Rada of Ukraine on Human Rights, the Verkhovna Rada of the Autonomous Republic of Crimea. The application of the People's Deputy of Ukraine on the recall of his signature under the constitutional submission has no legal consequences» [1-2].

«The decision to initiate constitutional submission in a case on a constitutional petition is ruled by: 1) the Board. 2) The Grand Chamber (in case of disagreement with the decision of the Board on the refusal to open constitutional proceedings in the case.) The grounds for refusal to open constitutional proceedings in Article 62 of the Law of Ukraine "On the Constitutional Court of Ukraine". This problem can be studied more profoundly by analyzing the decisions of the Constitutional Court» [2].

Analyzing the decisions of the Constitutional Court with constitutional submissions of certain subjects, we notice that acts are recognized unconstitutional due to the discrepancy between the Constitution of Ukraine or because of the violation of the procedures established by the Constitution of Ukraine. Opinions of judges are added in order to help to take a look at the problem from different points of view and make our own conclusions.

The Constitutional Court satisfies the submission by recognizing: 1) certain articles, part of the law unconstitutional; 2) a violation of the procedure of accepting an act. The submission may be waived if the Constitutional Court decided to recognize a certain legal act constitutional.

Therefore, after studying this topic, we can conclude that due to the constitutional submission it is possible to solve the problems of unconstitutionality of certain legal acts or violation of the procedure for their adoption and consideration, and therefore improve our legislation and be sure that we adhere to Constitutional law.

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## **NEW TERMINOLOGY IN FILM INDUSTRY**

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The Oxford English Dictionary, undoubtedly the most famous English language dictionary in the world, provides represent an exhaustive record of all English words from the start of the second millennium to the present day. And it continues to expand. Neologisms, or newly coined words, are added to it annually. These new terms appear in completely different fields of life. The editors of the dictionary paid the most attention to cinematography in 2018 [1]. These new terms were descriptions of cinema according to specific styles of acting and cinematography. Most of them were dedicated to the famous film directors [4].

For example, the new term from the dictionary, "**Tarantinoesque**" corresponds to the works of the famous film director Quentin Tarantino and the word was first used in 1994 after the release of his film "Pulp Fiction". The term describes the director's style, which involves the use of graphic and stylized violence, non-linear plots and sharp dialogues. The similar ones are the new terms "**Kubrickian**", which is used to describe the work of director Stanley Kubrick, or "**Lynchian**" - in honor of David Lynch [2]. The dictionary also includes adjectives

**"Bergmanesque"**, in honor of the Swedish director Ingmar Bergman; **"Spielbergian"** - Steven Spielberg and **"Keatonesque"** in honor of comedian and director Buster Keaton [4].

Such terminology is quite valuable for the entire film industry. Firstly, it makes it easier for young directors to follow a certain style of a famous director. It will be easier for film directors to understand what to focus on in their film, with the help of these words and their definitions [2]. Moreover, these neologisms are to some extent the motivation for developing their individual style. It is clear that every young director would like to remain forever in the history of the Oxford Dictionary. Secondly, it will be easier for the viewers to find the desired film with new terminology. Furthermore, these words can be added to the description of the film.

To sum up, it is a real pleasure to witness your favourite industry becoming more and more diverse and dynamic. New words and explanations appear and it opens new history page every time. We also believe that one day Ukrainian directors will be able to become so famous as to start coinage of their terms in the film industry.

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## **MOBBING IN LABOUR RELATIONS**

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Today, non-observance of generally accepted norms of relationships in work collectives has become widespread, accompanied by moral harassment in the workplace. In most countries of the world, as well as in Ukraine, working conditions are gradually improving and wages are growing. These two factors, together with the unstable economic situation, lead to the fear of losing their jobs. This situation often causes inappropriate behaviour towards colleagues.

**Mobbing** (from the English “mob” - crowd) - systematic bullying, psychological terror, a form of pressure on an employee in the team, usually to dismiss him.

The phenomenon was first described in the early 1980s. German industrial psychologist Heinz Leimann, after conducting research in the Scandinavian countries, described mobbing as a psychological terror, involving the systematic repeated hostile and unethical behaviour of one or more people directed against another person.

British anti-bullying researchers Andrea Adams and Tim Field believe that mobbing is typically found in work environments that have poorly organised production or working methods and incapable or inattentive management and that mobbing victims are usually "exceptional individuals who demonstrated intelligence, competence, creativity, integrity, accomplishment and dedication".

The term "mobbing" is a generic term that describes several types of psychological aggression in the workplace. The most common types of mobbing are: - *vertical mobbing* – is a type of psychological aggression carried out at the level of “leader - work

collective”. It can manifest itself in two forms: collective pressure on the leader from subordinates or pressure from the leader on the entire team or its individual member; - *horizontal mobbing* – is a type of psychological aggression, which causes collective pressure on one of the colleagues, ignoring and bullying him.

How to prevent team mobbing? You need to constantly take care of the formation of a “healthy culture” of communication, to establish collective rules and norms that would respect the individuality of each person, his dignity and uniqueness, and, at the same time, condemned gossip, intrigue, and denunciations. Workers should be able to openly and honestly discuss their sympathies and claims, and then mobbing will be excluded. Avoiding mobbing will also help established feedback between the manager and the subordinate.

Until recently, mobbing in Ukraine did not have any significant social and scientific analysis and clear legislative definition. On March 4, 2019, the Supreme Council of Ukraine submitted a bill №10118 "On Amendments to Certain Legislative Acts of Ukraine Regarding Countering Mobbing", which provides liability for bullying at work.

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**HUMAN RIGHTS:  
GENERAL THEORETICAL CHARACTERISTICS**

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Human rights are a complex phenomenon that has been studied by many legal scholars. The world community began to show a special interest in human rights after the proclamation of the Universal Declaration of Human Rights in 1948. Since then, every state that has sought to be recognized as democratic at the international level has considered it necessary to enshrine human rights in the highest legal acts.

The purpose of this work is to define the concept of human rights, their legal nature, generalize their characteristics, as well as to perform a legal analysis of the Ukrainian legislation and international human rights standards. Achieving this goal is possible by performing the following tasks: to find out approaches to understanding human rights and on their basis to formulate definitions of personal human rights, to identify signs of such rights; to investigate the feasibility of legal regulation of the so-called "fourth generation" of human rights in the Ukrainian law; to investigate the legal nature and criteria for determining the legitimacy of restrictions on human rights; to define the concepts, features and meanings of international standards and guarantees of human rights.

In order to clarify the legal nature of such a phenomenon as human rights, it is necessary to formulate its definition and identify the most significant features. In the theory of human rights law, as a legal category, is considered in several senses: - as opportunities necessary for the existence and development of man in certain historical conditions; - as human demands addressed to the state

and society; - as certain benefits, needs and interests of man, etc.; - how freedom is normalized in a certain way; - as a certain kind, part (form of existence, mode of manifestation) of morality.

However, it is most appropriate to consider human rights as the legal possibilities of a person necessary for his or her existence and development, which are inalienable, common and equal for everyone, and are provided, protected and guaranteed by the state through national and international levels.

Having analyzed the different approaches to understanding rights and freedoms, we highlight the following main features: - they must be established by the state, i.e. legitimized in the appropriate legal forms; - the provision of these benefits must be real in the context of human progress; a claim that is objectively impossible to satisfy cannot be recognized as a subjective, legal human right; - they must be common and equal for everyone. They should apply to all persons as subjects of law, regardless of race, sex, nationality, religion, political opinion, etc.; - they are integral because they form a significant part of a person's personality, are his/her legal property.

Summing up all abovementioned, we can state that human rights are the legal possibilities of a person enshrined in the rules of law, which are necessary for its existence and development in certain historical conditions, are inalienable, universal and equal for everyone, and are provided and guaranteed by the state. Moreover, the modern international legal mechanism for the protection of human rights and freedoms is provided by a system of political, economic, social, spiritual and legal guarantees, as well as the activities of international institutions and organizations that address issues related to violations of human rights and freedoms.

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## **SHAM AND DECEPTIVE TRANSACTIONS (BASED ON MATERIALS OF JUDICIAL PRACTICE)**

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Nowadays the most common ground for the accrual of civil rights and obligations is transaction. This civil law institute was formed by ancient Roman lawyers. Modern scientists pay great attention to it as well, especially to invalid transactions. Sham and deceptive transactions may serve as examples of them.

The Ukrainian Civil Code defines in Article 234 that a sham transaction shall be the transaction effected without intention to establish the legal consequences stipulated by it. At the same time Article 235 has a definition of deceptive transaction, which shall be the transaction concluded by the parties to conceal another transaction that they actually concluded.

It is necessary to find a place of sham and deceptive transactions among the other invalid ones. Scientific literature counts at least three different points of view on this question. Two of them claim that they belong either to transactions with the defect of will or to transactions with the defect of content. This classification is based on the correspondence to general requirements necessary for validity of a transaction foreseen in Article 203 of the Civil Code of Ukraine. Thereby, transaction with the defect of will are inconsistent with Part 3, clause 203 of the Ukrainian Civil Code, which establishes the rule that the expression of the will of the party to the transaction shall be free and shall correspond to his/her inner volition. At the same time, transactions with the defect of content do not correspond to Part 1, clause 203 of the Civil Code of Ukraine, which proclaims that contents of a transaction cannot contradict the Civil Code, other acts of civil legislation and moral principles of the society. However, the aforementioned article has a provision that a transaction shall be aimed at realistic occurrence of legal consequences stipulated by it. Therefore, there can be made a conclusion that the Ukrainian legislator determines sham and deceptive transactions as a separate group of invalid transactions, which may be named as transactions with the defect of purpose.

Sham and deceptive transactions are similar in their legal nature, although they do have some differences. The main ones were highlighted in the resolution of the Plenum of Supreme Court of Ukraine. For instance, sham transaction does not cause any legal consequences. At the same time deceptive transactions themselves are sham in their core, nevertheless, they can cause some legal consequences if the hidden transaction (the one, which was actually concluded) is not illegal. In this case parties to a sham transaction may be accrued with civil rights and obligations. Generally, Ukrainian legal code is unique because very few European civil

codes differentiate sham and deceptive transactions. Most of them have provisions only relative to sham ones.

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## **GUARANTEES OF THE ACTIVITY OF A JUDGE OF THE CONSTITUTIONAL COURT OF UKRAINE**

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The problem of providing proper guarantees of the activity of a judge of the Constitutional Court of Ukraine occupies an important place in the sphere of constitutional law. This notion is a key one in the current research because the authority of constitutional judges is extremely influential in Ukraine especially in settling constitutional disputes.

The institute of constitutional judges is a body of constitutional justice that has the power to review government decisions for constitutionality and it exists in many countries. As far as each national body of constitutional justice has its own legal traditions, based on particular historical experience, challenges, and

threats, there are no common standards of such constitutional justice institutions functioning. These institutions are important because they are responsible for ensuring that both the legislature that adopts laws, and the executive branch that initiates and enforces them, do not exceed the limits set by the constitution. It is a safeguard against the usurpation of power and arbitrary violation of human rights and freedoms. The decision of the institutes of constitutional justice may often question the long-term work of state institutions, declare long-term reforms unconstitutional, and Ukraine is no exception.

In Ukraine, the body of constitutional justice is the Constitutional Court of Ukraine. According to the Constitution, the Constitutional Court of Ukraine does not belong to any branch of government. It should act as an arbiter between them, be independent and impartial in the consideration of cases, and consider the Constitution as the main reference point for its work, the protection of the Constitution as its main goal. It is the Constitutional Court of Ukraine that is the *de facto guarantor* of the observance of the Constitution, because, unlike the President, it has real powers to protect it from arbitrary decisions. Guarantees of independence and immunity, grounds for dismissal from the office stipulated by Article 126 of the Constitution, and the requirements concerning incompatibility as determined in paragraph two of Article 127 of the Constitution shall apply to the judges of the Constitutional Court of Ukraine [1].

Thus, the Constitutional Court of Ukraine is an independent institute that acts as an arbiter between the branches of government and the protection of the Constitution of Ukraine is its main goal.

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**KING DANYLO HALYTSKY AS A PROMINENT  
STATESMAN OF MEDIEVAL UKRAINE**

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Danylo Halytsky is one of the brightest historical figures of the Middle Ages. He was the first in the history of the Ukrainian king who was legitimated and recognized in Europe. Danylo lived in a turbulent, brutal era of strife and Mongol-Tatar raids. But he went down in history as a collector of ancient lands, the ruler of the Galicia-Volyn principality, a great reformer, far-sighted politician and wise diplomat. In addition, Danylo was the first among the ancient kings who tried to end dependence on the Mongol-Tatar conquerors. He laid the foundations of the ancient Ukraine, which lasted a century and a half.

The future ruler of the Galicia-Volyn state was born in 1201 in the family of the Kiev prince Roman Mstislavovich, who was considered to be the strongest of all ancient Ukrainian princes at the turn of the XII-XIII centuries. It was Danylo's father who founded the Galicia-Volyn principality in 1199, uniting the lands of Volhynia and Halych. After Danylo Halytsky turned 18, he enlisted the support of the city patricians, as well as the great nobility. He became the ruler, the prince of Volhynia. Danylo and his younger brother Vasylo had to fight with various rivals - Russian princes, rebellious Galician nobility, and then with the Poles and Hungarians. In 1223, together with other Ukrainian princes, he took part in the battle on the river Kalka against the Mongols. He was wounded in the chest and retreated from the battlefield. In the spring of 1238, Danylo Halytsky defeated the Teutonic Knights near the town of Dorogochyn. The Mongol invasion was a test for Daniel of his qualities as a commander and ruler.

When the Mongols demanded that Danylo Romanovych hand over his capital Halych to them, he went to Khan Batu. Visits of this kind have already been made by other Russian princes to swear allegiance to the Mongols and to obtain the khan's label - permission for the conditional right to rule their principalities. Danylo, swearing allegiance to Batu, was not going to keep this oath for too long. At the same time, the khan's label protected him from claims to its territory not only by rival princes, but also by aggressive western and northern neighbors. The ruler took advantage of the new atmosphere of political stability to begin the economic revival of his state. He focused his foreign policy on rebuilding relations with his western neighbours and forming alliances to have support in the event of a confrontation with the Mongol-Tatars. In addition, in his policy, the prince tried to adhere to the European vector. The main thing that was unacceptable for him to follow the path of Asian-Byzantine development. Of course, in this situation we had to act according to the circumstances. Here there is a problem of a choice of the way, search of allies. Prince Danylo addressed the Pope with a request to gather the Slavs for a crusade against the Mongol-Tatars. Innocent IV agreed and for encouragement of the prince, sent him the royal crown.

The coronation and granting of the status of a kingdom to the Galicia-Volyn principality significantly increased the authority of the Ukrainian state in Europe. In 1253, counting on the support of Central Europe, Danylo began hostilities against the Mongols. He soon recaptured part of the territories of Podillya and Volhynia, which were under their rule. It took the enemy 5 years to return to Galicia and Volhynia with a new army and regain control of these lands. At this stage, Western support was crucial. Therefore, Danylo was forced to break the union and fight with their own forces against the Mongol-Tatars. But he had little chance. The Mongol-Tatar military leader Burundai (who arrived in the Galicia-

Volyn principality at the head of a large army) demanded that Danylo destroy the fortifications built around the cities. Only Holm did not surrender and left his fortifications. In 1264 King Danylo died. The ruler was buried in Kholm, in the Cathedral of the Nativity of the Virgin, which was erected during his lifetime. After Danylo's death, the Galician-Volyn state was ruled for almost a century by his and Prince Vasylo's descendants.

Among the sons of Danylo Halytsky, the most energetic was Lev, who ruled from 1264 to 1301. He conquered Transcarpathia and the city of Mukachevo in Hungary, and the land of Lublin in Poland. Due to this, the territory of the Galicia-Volyn state became the largest in its history. In the memory of his descendants, Danylo Halytsky remained as a ruler who set an example of unity for the great goal of establishing statehood. His state, established in Europe in the XIII century, played a crucial role in the history of Ukraine. The greatest merit of Danylo is that he was a patriot of his land.

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## COLLECTIVE AGREEMENT

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A collective agreement (also called collective bargaining agreement) is a fixed-term agreement, the duration of which is determined by the parties. In the general provisions of the annex (Appendix A), the term of the agreement duration is written as well as a notice that if the term of the agreement validity has expired, then until the signature of another collective agreement, it continues to be in effect.

The collective agreement regulates the terms and conditions of employees at work - improving labor, socio-economic, and legal relations, specifies legislative regulations, provides additional guarantees to employees [2].

Thus, the full definition of a collective agreement is a normative act that has a local effect, that is, it is aimed at one enterprise or organization, it regulates relations (labour, socio-economic) that arise between the management of an enterprise, organization or department, on the one hand, and employees of the enterprise, on the other hand; it is a more detailed agreement of cooperation, which aims to achieve complete social compliance between the parties for progressive labour.

The parties to the collective agreement are the Head of the enterprise or an authorized person and the employees. The procedure for concluding the agreement is prescribed in the guidelines and has preparatory stages. Control over the implementation of the collective agreement shall be borne by the parties who conclude it. Responsibility can be: material, criminal, public, disciplinary, administrative.

Supervising the observance of provisions of the adopted collective agreement is directly imposed on the parties who

concluded it and to those representatives who signed it. In order to control its implementation, it is necessary from time to time to monitor the information provided by the collective agreement. Every year, the parties report on how the collective agreement is being implemented. State statistics bodies collect data on collective agreements [4].

To exercise the control over the implementation of the collective agreement, a special commission can be set up, and the work of this commission is completed by drawing up an act. The act describes both shortcomings and causes of these shortcomings, and what was done, why it was not done, what needs to be done under the agreement, suggestions, comments, refinements. On the basis of the act, it is possible to take measures for elimination of shortcomings. The inspection act reflects the state of work on the implementation of the collective agreement.

The act of inspection is discussed at a joint meeting of the parties. As a result of the discussion, the shortcomings need to be addressed and eliminated, the deadlines are discussed, it is also decided who will be responsible for this [5].

Responsibility for non-compliance with the collective agreement are the following:

1. Administrative responsibility. A fine for non-compliance with the conditions is up to 100 minimum wages. If the report was not submitted in time or the information that there are shortcomings was not submitted, then - a fine of 5 minimum wages.

2. Disciplinary responsibility. Announcement of reprimand or dismissal from work. Also, Article 45 of the Labor Code, at the request of the trade union body, if the obligations under the collective agreement are fulfilled, the employee is dismissed.

3. Material liability. For non-compliance with the collective agreement, a fine is imposed on the employee.

4. Criminal liability. If there is a criminal offence in that the collective agreement has not been executed.

5. Public responsibility. Labor collectives may apply to their members measures of public punishment such as friendly remarks, public reprimands, and submit materials for consideration by a community court [3, 6]. The community court, in turn, may oblige the guilty person to publicly apologize to the collective, announce a warning, public reprimand with or without publication in the press, raise an issue before the owner or his authorized body of dismissing the guilty employee in accordance with the current law.

To conclude, a collective agreement (also called collective bargaining agreement) is a fixed-term agreement, the duration of which is determined by the parties. In the general provisions of the annex, the term of the agreement duration is written as well as a notice that if the term of the agreement validity has expired, then until the signing of another collective agreement, it continues to be in effect.

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## **MEDIA GLOBALIZATION: THE ROLE OF THE MEDIA IN INTERNATIONAL RELATIONS**

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In the information society, the mass media are the main source of information about events that an individual cannot witness for objective reasons. The development of new media technology has played a decisive role in the globalization process, and the Internet, a truly global means of disseminating and receiving information, can be regarded as a symbol of media globalization.

Therefore, all national media in one way or another also act as a means of manipulating public consciousness, aimed at creating a certain perception of a particular phenomenon. In 1972, American researchers M. McCombs and D. Shaw of the University of North Carolina proposed a theory of the influence of all categories of news media on the public agenda [1], the essence of which is that the agenda proposed in them, i.e. a set of news and topics for discussion, automatically becomes the center of public attention. One of the first researchers of this process, J. Tuchman, wrote "News is a frame that gives the world a certain shape" [2].

On the whole, there are at least three main areas of media activity in the world politics. Firstly, the media is an instrument of political power, with the help of which the propaganda of the state ideology is carried out, the imposition of one's own cultural values, patterns of behavior, thinking patterns and demoralization of the enemy, the formation of public opinion regarding external government policies, etc.

Secondly, the media is a social institution, whose main task is to express public opinion on the most important foreign policy

decisions or actions. Moreover, the opinion expressed in the media may differ significantly from the government's point of view.

Thirdly, the media is a corporation or “institution of influence”. Currently, citizens prefer to receive political information from the media, guided by the news selection system, as well as the interpretation and assessments offered by the media. Thus, it can be concluded that media globalization can undermine local culture. However, some Scandinavian experts argue that the media meet resistance from viewers and listeners, as well as from local culture, part of which they themselves are [3].

However, not all content of the national media is equally suitable for global ownership, global control and distribution. According to Tunstall J., films, TV series and news are especially suitable for the global market. In this case, marketing and distribution will be more flexible than for newspapers or television channels that need more constant cash flow and have shown relative resistance to multinational owners [4].

As a conclusion, it seems that media globalization can lead to the emergence of a worldwide or global community, that knows no boundaries between nations.

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## **SUPPLY CONTRACT IN THE LEGISLATION OF UKRAINE**

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Reforming Ukraine's economy has led to significant changes in the legal mechanism for regulating economic relations. This also affected the supply contract. Scientific developments in supply contract problems have more than a century of history. Supply relations are market and property by its civil nature but economic in the mechanism of implementation. Consequently, it is expedient to consider the supply contract in the context of the Civil law.

The legal definition of a supply contract depends on economic and legal factors and has changed over time. Under Article 712 of the Civil Code, a supply contract is an agreement between the seller (supplier) and the buyer to transfer goods and pay for them within a certain period [1].

In the context of civil law characteristics, the supply contract is bilateral and consensual. The supply contract has the following features: 1) the purchase of goods is carried out for business purposes (resale, sales, etc.) and not for personal use; 2) the parties to the agreement are business entities; 3) the object of the contract is wholesale; 4) the moment of concluding the contract and the moment of its execution do not coincide [4].

After analyzing the legislation, we can conclude that the only essential condition of the supply contract is the condition of the object which includes the name of the product and its quantity. The term of contract is a common condition. The supply contract can be concluded for 1 year or more. If the term is not specified in the contract, it is considered concluded for 1 year. Price is also a common condition of this agreement. According to Art. 691 and 632 of the Civil Code, if the price is not set in the contract, it is determined on

the basis of prices that existed for similar goods at the time of the contract [4].

As for the form, a written form is mandatory for the supply contract. If this form is not followed, the contract will be declared invalid. The rights and obligations of the parties under the supply contract are provided by the Civil Code and the Commercial Code, as well as special regulations.

To conclude all the above, the importance of the supply contract in a market economy is growing steadily. The relevance of this topic necessitates its further study.

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## **THE CONCEPT OF ODIOS DEBT**

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Odious debt is a public debt, which is used by the regime of a particular country not for the benefit of the people, but for its own enrichment or financing personal interests. After the overthrow of

such regime, the new government may waive old obligations. Short of actual knowledge, the notion that the lender ought to have known the intent of the debtor raises the issue of the nature and extent of the burden imposed on creditors to take positive steps to inform themselves of the purposes of the loan, and to assess the credibility of assertions of state officials in that respect. Coverage of the odious debt issue is extremely important, because authorities may commit illegal acts taking advantage of their position. So, society should have a good understanding of this issue and not allow criminal actions of authorities in front of the people of Ukraine.

The notion of odious debt was first proposed after World War I by the Russian economist Alexander Nahum Sack, who defines it in his book «The Effects of State Transformation on their Public Debts and Other Financial Obligations». According to Sack, odious debt is a public debt on a loan, contracted by the predecessor State to serve purposes contrary to the major interests of the successor State under the full control of the creditor. Sack wrote that if a despotic regime uses the funds received on a loan, not for the needs or not in the interests of people, but for the sake of maintaining and strengthening its power or to repress its population that fights against it, this debt is odious for the population of the State. [1] Odious debt cannot be obligation for the nation. It is a personal duty of the authorities, therefore, it ceases to exist with the fall of the regime. The debts of the state should be taken and used for the needs and interests of the state. "Odious" debts that were used for the purposes contrary to the interests of nation, against their consent, are not legally binding for the nation if people manage to get rid of the despotic regime with the exception of the part that brought real benefits to the inhabitants of the country [2]. In terms of international community, odious debt can be understood as any debt contracted for purposes that are not in conformity with

contemporary international law and the principles of international law enshrined in the Charter of the United Nations [3].

Similar situation connected with the problem of odious debt took place in Ukraine. On December 20, 2013, the Russian State National Welfare Fund bought back the bonds of the government of Ukraine in the amount of \$ 3 billion, which later became known as "Yanukovych's debt." The money was received on December 24, 2013, although the buyback operation took place on December 20. This time the difference was due to the fact that the start of this operation was scheduled on 24th of December. As the former Prime Minister Mykola Azarov said, the money was enough only for three days, it was used to "pay off debts on social obligations." At the same time, he stated that future tranches of the loan would be spent on investment objectives and revitalization of economy by making credit resources cheaper. Subsequently, it became clear that there would be no future tranches of the loan, and by "social obligations" Mykola Azarov meant Gazprom's payment for the gas, supplied to Ukraine. "The Russian loan of \$ 3 billion, received by Ukraine, was immediately sent back to Russia as the payment for Russian gas, " - said the Chairman of the National Bank of Ukraine Stepan Kubiv on April 8, 2014, live on the First National TV Channel.

Therefore, such phenomenon as odious debt has a negative effect, because it is always incurred without a legit-imate public purpose and there is no single obvious legal means for the settlement of claims of odiousness. In my opinion, such claims can appropriately be settled in multilateral or bilateral negotiations on debt relief. Similarly, they can be adjudicated in the context of domestic litigation or arbitration.

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## **STATE AND LAW OF KNIGHTS TEMPLAR**

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After Christian forces captured Jerusalem in 1099, Europeans began making pilgrimages to the Holy Lands by the flocks. On the way, they were often attacked by thugs, or even crusading knights. To protect travelers and help defend the new Christian states in the Middle East, a small group of warriors formed The Poor Knights of the Temple of King Solomon, differently known as the Knights Templar. Over the next two centuries, the Order became a powerful political and economic power across Europe, making history in such dramatic fashion that some people are still trying to rival them today.

The purpose of the research is to research the material about the largest organization of devout Christians during the medieval age who carried out an important mission: to protect European explorers visiting sites in the Holy Land while also carrying out military operations. A rich, powerful and mystic order that has fascinated historians and the public for centuries, tales of the Knights Templar, their financial insight, their military skills and their work on behalf of Christianity during the Crusades still circulate throughout modern culture.

They created a brand-new model of holy warrior. They didn't joke around when it came to discipline. Breaking the rules could mean getting a beating, being banned from the brotherhood, or having to eat dishes on the floor. They refused to ever surrender. The Rule of the Knights Templar called for them to never retreat, surrender, or charge without being ordered to do so—excellent descriptions for any army that needs to remain disciplined. They were strategic thinkers as well as diligent fighters.

They just wanted to build up bigger armies so that they could effectively crush the Muslim forces. For poor knights, they were unbelievably rich. They were a full-service financial services group. The French Treasury also used the Templars for many of its functions. They understood how Islamic institutions worked. They were so powerful a king went to war with them.

Where the Church has previously stood behind the Order, Pope Clement V now sided against them. Their downfall was as dramatic as the rest of their story. Over the next several years, dozens of Templars were burned at the stake. The Pope formally dissolved the order in 1312. They remained influential long after they were gone.

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**LEGAL REGULATION OF THE STATUS OF  
THE UKRAINIAN LANGUAGE AS  
THE STATE LANGUAGE IN EDUCATION**

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The problem of using the Ukrainian language in education is very relevant, because for a long time this issue has been the subject of political speculation due to the legal controversy.

With the entry into force of the Law of Ukraine "On Education" dated by September 5, 2017, in particular Article 7 "Language of Education" [2], adequate legal opportunities were created in Ukraine for the implementation of Article 10 of the Constitution of Ukraine on the status of the Ukrainian language as the state language.

According to the provision of paragraph 5 of Article 53 of the Constitution of Ukraine, citizens who belong to national minorities, in accordance with the law, are guaranteed to have the right to study in their mother tongue or to study their mother tongue at state and communal educational institutions or in national cultural societies [1].

"The language of educational process in educational institutions is the state language", - is stated in paragraph 1 of Article 7 of the Law "On Education". This formulation is confirmed by the interpretation of Article 10 of the Constitution of Ukraine in the decision of the Constitutional Court of 14 December 1999, where paragraph 2 of the operative part states: "Based on the provisions of Article 10 of the Constitution of Ukraine and the laws of Ukraine on the guarantee of the use of languages in Ukraine, including educational process, the language of education in

preschool, secondary, vocational and higher state and communal educational institutions of Ukraine is the Ukrainian language ".

The formulation of the Law on Education is agreed with paragraph 12 of Hague Recommendations, which states that "... ideally, subjects in elementary school should be taught in the minority language. Teaching minority language as a subject should be carried out on the permanent basis. The official language of the state should also be the subject of continuous teaching... At the end of this period, some subjects of practical or non-theoretical nature should be taught in the state language "[3].

Information about the second level of elementary secondary education is declared in paragraph 13 of Hague Recommendations: "In high school, a large part of teaching materials should be taught in a minority language.

Teaching it as a subject should be carried out on the permanent basis. The state language should also be the subject of continuous teaching, preferably by teachers who speak two languages and are well aware of the level of cultural and linguistic preparation of the child. During this period, it is necessary to gradually increase the number of subjects taught in the state language "[3].

To integrate into Ukrainian society it is not enough to learn the Ukrainian language only as a discipline, but it is necessary to study in Ukrainian. Consequently, the state language should be the language of the educational process. To know the state language and to use it in all spheres of life it is necessary in order to be able to carry out professional activity in Ukraine, to be competitive in any sphere, to become a full-fledged citizen of Ukraine.

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## **CARELESSNESS AND ITS TYPES**

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Guilt is the mental attitude of the person to the acts committed by them, as well as to the consequences that follow. In the Criminal Code of Ukraine guilt occurs in two forms: intent and carelessness, which differ in awareness of the social danger of the nature of their actions and what consequences it may cause.

First of all, to start with, carelessness is a phenomenon that is a full-fledged element of crime as a socio-legal phenomenon, which entails logical establishment of the fact that carelessness is inherent in the signs of crime as a phenomenon. In particular, carelessness is subject to such characteristic criminal features as provisions on causes, conditions and warnings, its very origin, as well as the regularity of existence [4, p.125].

The Criminal Code of Ukraine does not provide the definition of carelessness, but discloses its meaning through two types of careless forms of guilt: criminally wrongful self-confidence and criminally wrongful negligence.

According to Part 2 of Article 25 of the Criminal Code of Ukraine, negligence is criminally wrongful self-confidence, if a person foresaw the possibility of socially dangerous consequences of his deed (action or inaction), but recklessly relied on their prevention [1]. This Part of the Article consistently reveals the intellectual and volitional moment of criminally wrongful self-confidence.

An important point is the distinction between self-confidence and indirect intent. With criminally wrongful self-confidence, there is no conscious assumption of harmful consequences because the culprit hopes, albeit carelessly, for certain specific circumstances that can avert them. While with indirect intent a person consciously assumes the onset of socially dangerous consequences, and even if he hopes for them not to occur, it is a vague hope without reason in the form of specific circumstances [3, p.92].

According to Part 3 of Article 25 of the Criminal Code of Ukraine, carelessness is a criminally wrongful negligence if a person did not foresee the possibility of socially dangerous consequences of his deed (action or inaction), although he should and could have foreseen them [1]. The culprit is not aware of the danger of his behavior, and therefore does not anticipate the consequences that may occur.

It is worth emphasizing the key difference between criminally wrongful negligence and other forms of guilt, namely direct and indirect intent, as well as criminally wrongful self-confidence. This difference lies in the fact that the person did not foresee socially dangerous consequences of his actions, despite obligation and opportunity to do so.

Negligent crimes, as a rule, in accordance with the definitions of criminally wrongful self-confidence and criminally wrongful negligence, enshrined in Article 25 of the Criminal Code of Ukraine, are qualified by the consequences of the committed actions (inaction). Accordingly, most *corpus delicti* that presuppose or involve a careless form of guilt are constructed as crimes with material *corpus delicti* [2, p.35-36].

Accurate determination of the type of carelessness is extremely important for determining the form of guilt, and

therefore essential for the correct qualification of the subjective side of the crime.

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## **CANCEL CULTURE AS A TOOL FOR GAINING PUBLIC JUSTICE**

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Cancel culture is a phenomenon of the globalized and digitalized world, which arose as a means of gaining public justice for all and the emancipation of minorities. Merriam-Webster defines this term as «the practice or tendency of engaging in mass canceling as a way of expressing disapproval and exerting social pressure» and connects its origin with the #MeToo movement going viral in 2017 [3]. However, today it is becoming more and more controversial.

On the one hand, cancel culture is a tool of democracy, which gave the society the power to enforce justice on those in authority and hold powerful people responsible for their words and actions. Moreover, it could have a deeper positive effect. For instance, canceling H.Weinstein raised public awareness of

harassment and sexual crimes, thus allowing women worldwide to talk about their own experiences within the #MeToo movement.

The other side of a coin is that cancel culture leads to radical moralism and absurd mobbing of any work, pieces of art, historical figures, movie or book characters. A vivid example of unfair society's reaction is *The Odyssey* being removed from some US school programs because of indulging and spreading sexism, racism, ableism, and Western-centrism [4].

Anyhow, this discussion is heard greatly overseas while in Ukraine we barely know what is cancel culture in practice. But looking through the recent cases of canceling in Ukraine, we will easily notice that almost all of them have some political background. The singer Nadia Dorofeeva was canceled for dancing at the memorial place, where Heavenly Hundred was criminally killed [1]. The tiktoker Taisiya Malaman was canceled for choosing Russia as a favorite country in a Tiktok challenge [5]. Olexiy Potapenko was confronted for his intentions to collaborate with Russian singer Buzova, who supports the Russian occupation of the Crimea [2]. Obviously, canceling in our country is a tool of political pressure on part of the society. There is an ongoing war against Russia in the East of Ukraine which is the most painful topic for us.

Thus, the cancel culture in our country is mostly targeted at anti-Ukrainian actions and appears to be a kind of political activism. While in the US it is more about silencing the problematic themes, the exceptional quality of our cancel culture is raising topics for public discussion. However, we should be aware of its possible consequences, create a constructive discourse and move society in the ethical direction.

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## **COMMUNICATION PRIVACY**

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The privacy of communication is a constitutional guarantee, which provides the freedom of personal idea and basic human rights. Communication privacy is the notion meaning that individuals should have the freedom, or right, to communicate information digitally with the expectation that their communications are secure, that is that messages and communications will only be accessible to the sender's original intended recipient. In the 31<sup>st</sup> article of the Ukrainian Constitution it is said that everyone is guaranteed privacy of mail, telephone conversations, telegraph and other correspondence. Exceptions shall be established only by a court in cases envisaged by law, with the purpose of preventing crime or ascertaining the truth in the course of the investigation of a criminal case, if it is impossible to obtain information by other means. In such a way the government

gives us the best tool to actualize the idea of democracy and at the same time to keep our communication between each other secure.

In the 17<sup>th</sup> article of “International Covenant on Civil and Political Rights” adopted and opened for signature, ratification and accession by the General Assembly resolution 2200A (XXI) of December 16, 1966 that came into force on March 23, 1976, in accordance with Article 49 it is noted that: 1) “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation”; 2) “everyone has the right to the protection of the law against such interference or attacks”. So, the international society thinks that there are also another important elements of privacy, such as: privacy of family, home, and correspondence, which form the privacy of our life. Besides, in this article it is marked that everyone can protect privacy against interference or attacks, but there are no real mechanisms of this protection and the ways of protecting our privacy depends only on the provisions of the national law. For example, the Ukrainian Criminal Procedure Code in article 14 says that “Interference in the confidentiality of communication shall be possible only upon court’s ruling in cases prescribed in the present Code, in view of preventing the commission of a crime of grave or especially grave severity, finding out its circumstances, and identifying the individual who committed the crime, if achieving this objective is impossible otherwise. <...> Information, which has been obtained as a result of interference in the confidentiality of communication, may not be used otherwise than for the purpose of criminal proceedings” [4]. So, in this way it seems a good tool to prevent committing crimes and to search new proofs of crimes against you.

It is interesting how the Criminal Procedure Code defines the communication, which is protected by privacy. Article 14 says that everyone shall be guaranteed confidentiality of

correspondence, telephone conversations, cable, and other correspondence and other forms of communication [4]. We can see that the legislator shows us different ways of communication (*letters, post materials, telephone conversations, cable* and other forms of communication). It includes also our digital communication in social media and different messengers. In the context of digital privacy, individual privacy is the notion that individuals have the right to exist freely in the internet, that they can choose what type of information to be exposed to, and more importantly, that unwanted information should not interrupt them [1]. An example of a digital breach of individual privacy would be an internet user receiving unwanted ads and emails/spam, or a computer virus that forces the users to take actions, which otherwise they would not. In such cases, the individuals do not exist digitally without interruption from unwanted information; thus, their individual privacy has been infringed upon.

Nowadays, the question of privacy is very important because the digital form of communication increases its covering too fast, and a lot of our data can be the target for a lot of cybercriminals. Communications can be intercepted or delivered to other recipients without the sender's knowledge, in multiple ways. Communications can be intercepted directly through various hacking methods, such as the man-in-the-middle attack. Communications can also be delivered to recipients unbeknown to the sender due to false assumptions made regarding the platform or medium that was used to send information. For example, the failure to read a company's privacy policy regarding communications on their platform could lead one to assume that their communication is protected when it is in fact not [2]. The Convention for the Protection of Human Rights and Fundamental Freedoms says in article 8 that everyone has the right to be respected for his/her private and family life, home and correspondence [3], it shows that

all members of society must respect the privacy and the best elements of this respectation is just not making the person any harm if his/her privacy is violated.

Therefore, the privacy of communication is not only a constitutional guarantee or the right to respect the individual's private and family life, home and correspondence, it is also a part of human nature, the main idea of socializing in our world, because it helps to provide the safety of our personality and develop ourselves through safe communication.

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## **OUTSOURCING AGREEMENT IN UKRAINIAN LEGISLATION**

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First of all, it should be noted that outsourcing contract belongs to the group of "unnamed" contracts, which are not expressly provided for by law but which are not contrary to its general principles and are more frequently concluded. [1]

An outsourcing agreement is a contract formed between a company and service provider wherein the provider promises to deliver specified services.

On the legislative level, the concept of outsourcing is defined in section 4 of the National Classifier of Ukraine "Classification of Economic Activities DK 009: 2010" of 01.01.2012, as an agreement whereby the contracting authority entrusts the contractor to perform certain tasks, in particular, part of

the production process or complete manufacturing process, recruitment services, support functions. An example of outsourcing is using services of call-center or professional cleaning services instead of creating a full-time cleaning position.

There is no mention of this contract at the legislative level, so it is worthwhile to refer to the works of scholars who have studied this issue. The contract is two-way, as the customer and the outsourcer have certain obligations to each other.

The subject is the essential condition of the contract. The subject of the contract may be work or services. If it is work, then it must be a materialized item, and if it is a service, it must be consumed while providing the service. The contract should detail the list of outsourcer services. [2, p 5-6]

The contract shall specify the procedure for the submission of works by the executing firm. As a rule, the document confirming the execution of works by the outsourcing company and their acceptance by the customer is a signed act of acceptance. Particular attention should be paid to the date of submission of the documents that are the basis for calculation of completed work. [3, p.124]

Although outsourcing contract does not have clear legislative regulation, it does not prevent it from being extended in a number of areas, namely: IT outsourcing market including software development and maintenance work; the outsourcing agreement is applied in the armed forces of different countries of the world. These include food supplies and other functions; outsourcing is also done at the level of individual banking processes: customer interaction, accounting, staff payment etc. In fact, such agreements are often concluded in order to avoid employment relationship.

In conclusion, we can identify certain features that distinguish it from other agreements. This contract is made to provide a service to perform a specific task (accounting, legal

services, etc.). Outsourcing usually eliminates the direct interaction of Company A with contractors assigned by agency B. The management of specialists lies with Manager B, who is dealt with by Representative A. In outsourcing employment, remuneration is often paid hourly or monthly. An employment relationship arises between the company that provides outsourcing services and a specific employee who performs the work. The work is performed on the territory of the outsourcer, because the main task is to provide service, to perform the task. In fact, such agreements are often concluded in order to avoid employment relationship.

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## **CONCEPT AND SYSTEM OF NON-CONTRACTUAL OBLIGATIONS**

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In most cases, civil law obligations arise from contracts. The name "non-contractual obligations" emphasizes that they do not arise from contracts or any other transaction, but from the unilateral action of any person. The reason for their occurrence may be a unilateral transaction or other property provision of one

party to another. The unilateral action from which such an obligation arose must be lawful in nature. Another type of non-contractual obligation arises from an unauthorized action causing harm (tortious obligations). Thus, non-contractual obligations are obligations that arise in the absence of a contract between the parties, due to certain legal facts, they arise because of various grounds, and this fact greatly complicates the possibility of their classification.

Although the legislation enshrines a system of non-contractual obligations and the grounds for their occurrence, their classification is not comprehensive, so, this issue is under study in the research of many scholars, namely: M.M. Agarkov, B.B. Cherepakhin, N.Y. Golubeva, P.D. Guiwan, V.M. Ignatenko, O.O. Krasavchikov, V.V. Luts, W.P. Makoviy, O.B. Nikolaenko, B.T. Smirnov, and others.

As far as the classification is concerned, most scholars suggest classifying non-contractual obligations on the basis of their origin. Here are some classifications: for instance, M. Samoilenko points out that the reasons for their emergence can be divided into two groups: obligations arising from the unilateral will of their participants and obligations arising from the occurrence of legal facts provided by law. Into the latter, he includes the so-called protective obligations – obligations saving the health and life of an individual, property of a natural or legal person, endangering of the life, health or property of a natural or legal person, compensation, acquisition and preservation of property without sufficient legal basis. This gives grounds for differentiating these obligations according to the type of legal basis for the relevant relationship. M.M. Agarkov noted that the problem of the grounds for the obligation is undoubtedly connected with the impossibility of accurate interpretation of the notion "obligation" and clarification of all its elements necessary to distinguish the obligation from any

other actions under civil law. He believes that until we establish a system of grounds that give rise to obligations, the notion of obligation itself will hang in the air. It is difficult to disagree with this statement, because most of the grounds for obligations arise from acts of lawful, permitted and socially useful activities of subjects of civil law, but at the same time they arise from illegal activities. If one person causes property damage to another person or without any legal grounds, is enriched at his expense, he commits illegal acts. An interesting classification system has proposed by V.M. Ignatenko. He believes that the classification of non-contractual obligations should use a system of division of civil law into protective and regulatory, and knowing that the main functions of civil law are regulatory and protective, we consider this approach appropriate. In his opinion, the most acceptable form is the classification of non-contractual obligations in two groups: regulatory and protective.

Non-contractual regulatory obligations may also be classified according to the purpose of the unilateral act. According to V.M. Ignatenko, they can be divided into obligations: a) from a public promise of remuneration; b) from actions committed without appropriate authority; c) from testamentary dispositions.

Summing up, we see that civil law lacks a complete classification of non-contractual obligations, so, taking into consideration different approaches of scholars to the classification of non-contractual obligations it is necessary to work out a comprehensive classification of non-contractual obligations. Thus, the issue of the systematization of non-contractual obligations remains most relevant in civil law research.

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## **PROTECTION OF SOVEREIGNTY AND TERRITORIAL INTEGRITY OF UKRAINE AS A CONSTITUTIONAL DUTY**

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The main content of the concept of territorial integrity of the state is the presence of a clearly defined territory, which is an essential feature of the state as a form of social organization, meaningful (physical) expression of its coercive power and authority.

The question of the territorial integrity of Ukraine, which is under threat since the occupation of Donetsk and Luhansk regions and Russia's annexation of the Autonomous Republic of Crimea and the city of Sevastopol is highly relevant now.

Some manifestations of separatism and invasion of Ukrainian territories by foreign entities can also be observed in other regions of the country. These events and phenomena testify to the urgent need to develop and implement a systematic and effective policy to ensure the territorial integrity and sovereignty of Ukraine.

The practical aspect of the implementation of the territorial policy of Ukraine is closely connected with the national theoretical

problems of security and scientific problems of modern political science and law. Thus, we can point out that it is necessary to study the issue of ensuring such a constitutional duty as the protection of sovereignty and territorial integrity. The works of D. Lloyd, L. Brillmeier, B. Meissner, P. Nandi, T. Tappe, K. McMillan and others are directly devoted to the problem of ensuring territorial integrity and sovereignty.

The tasks of the work are as follows: 1) to analyze the legal regulation of sovereignty and territorial integrity; 2) to consider guarantees of ensuring the sovereignty and territorial integrity of Ukraine; 3) to characterize the protection of sovereignty and territorial integrity as a duty of citizens.

It is important to identify the foundations established at the level of constitutional norms of unity and integrity of the territory of the state. This is the principle of unity of the state, which means that the common political, economic, social and intellectual system, historical moments, the system of state power, legislation, executive power, judiciary and other organizations, legal systems, citizenship, currency, state border, identity states in the international context are largely manifested together with other principles and factors of the existence of the principles of unitarity - one of the principles of territorial organization of Ukraine.

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## **FORMS OF PENAL RESPONSIBILITY**

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The commission of a criminal offense means the beginning of penal responsibility, and the latter one is a kind of legal responsibility in turn. Criminal liability is a phrase that inspires fear in everyone in spite of affiliation, nationality or even gender ... This definition means the highest degree of punishment and that is why it has an ambiguous attitude to "self". We are deeply convinced that the citizens of any state, or even some practicing lawyers, do not fully understand what they are (not) dealing with. Do you know something about positive, potential, retrospective penal responsibility according to modern penal codes? The above-mentioned types of penal responsibility are clearly related to our subject, because the forms of penal responsibility are reflected through their content, that is penal responsibility is fulfilled with forms. Forms of penal responsibility are precisely the achievements that have not been fully studied by scientists and that is why they

are relevant. Some aspects of the problem were covered by Y.A. Ponomarenko, V.M. Burdin, V.K. Grishchuk, M. Kondra, I.V. Krasnytskiy, Y.O. Baulin, V.O. Navrotskiy, O.O. Dudorov, T.A. Denisov, etc.

**The purpose of the research** is to characterize the forms of penal responsibility, its manifestations, types, scientific approaches / legislative interpretation of forms of penal responsibility through the prism of defining the concept of “penal responsibility”, as well as analysis of judicial practice and debates on forms of penal responsibility.

The concept of the form of penal responsibility is proposed to be understood as a possible variant of the combination of elements of penal responsibility, the application of which is united by a single purpose, provided by the criminal law.

Penal responsibility is implemented in forms that have a legal basis:

1. The first and most liberal form is condemnation with imposing the punishment and its actual serving. It should also be noted that the concept of "conviction" is reflected in each form of penal responsibility and, accordingly, is an independent and mandatory form of penal responsibility, which aims at finding a person guilty of a criminal offense and public official detection of negative public attitude towards it. .

2. The following two forms can be combined into a group called "exemption from penal responsibility": sentence with conditional non-fulfillment (release from serving) of the imposed punishment. This issue is governed by Art. 75, 79, part 2 of Art. 84, art. 104 of penal code of Ukraine. Another form of penal responsibility is a conviction with unconditional non-execution (release from serving) of the sentence.

3. The last form of penal responsibility is a conviction without sentencing. This form is confirmed by Art. 74 Part 4 of the

Criminal Code: “A person who has committed a criminal offense or a felony, except for corruption offenses, may be released from punishment by a court verdict if it is recognized that given the impeccable conduct and conscientious attitude to work this person at the time of consideration cases in court cannot be considered socially dangerous”.

To sum up, the allocation of forms of penal responsibility is possible only at the law enforcement level and such forms should differ depending on the content of penal responsibility of a particular person by its individual measures. Considering all it, the criminal law policy of the state should be conducted at the level of lawmaking and application of criminal law.

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## **CHARACTERISTICS OF THE OBJECTIVE SIDE OF THE CRIMINAL OFFENSE “HUMAN TRAFFICKING”**

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Article 149 of the Ukrainian Criminal Code says that the human trafficking is sale, as well as entrapment, movement, concealment, transfer or receipt of a person for the purpose of exploitation, using coercion, abduction, deception, blackmail,

material or other dependence of the victim, his/her vulnerable condition or bribery of a third part who controls the victim to obtain consent for this exploitation [2]. General investigation of the problem was made by A. Artyomova, V. Samokrov, Y. Nagachevskaya, Y. Alexandrov, P. Serdyuk, V. Pidhorodynsky, M. Havronyuk, and others.

The importance of the notion “human trafficking” is very important in the sphere of criminal law, because it determines the essence of criminal offense. This term has deep historical roots, closely related to slavery. The notion “slavery” or “slave trade” is a key one in the current research for its origin and similarities to the name of article 149 of the Criminal Code of Ukraine. The Ukrainian word “slave” comes from an Old Church word, which the Slavs used to name a worker. Slavery can also be described as the possession, buying and selling of human beings for the purpose of forced and unpaid labour. This practice is mentioned in the Koran and the Bible. In our research, we understand the term “slavery” as modern human trafficking.

The next term I would like to consider is “debt bondage”. This term is also known as peonage, debt slavery or bonded labour. This notion is interpreted differently depending on the political type of the society, historical period and other factors. For example, some scholars consider the debt bondage, severe dependence. In feudal Moscow debt bondage since the 16<sup>th</sup> century was registered in writing and could be sold or inherited. We base our research on the definition, given in the Forced Labour Convention of 1930, where debt bondage is defined as the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt if the value of those services is not applied towards the liquidation of the debt, or the length and nature of those services are not respectively limited and defined [6].

Summing up, modern times have brought new forms of slavery and trafficking-in-people is developing as one of the most profitable businesses, thus, the terminological basis of the criminal law in the sphere of human trafficking needs further thorough research.

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## **REAL ESTATE PROPERTY CONTRACT OF PURCHASE**

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The contract of sale is not new to civil law doctrine, as it is known since Roman private law, where the circulation of things was carried out mainly through emptio-venditio that is in the form of sale. At the present stage, in a market economy, the contract of sale plays an extremely important role in regulating civil relations, and it is the main regulator of relations between producers and consumers.

The main feature of the contract of sale of real estate is special subject matter – real estate, which under Article 182 of the Civil Code includes land parcel, as well as objects located on the land parcel, the movement of which is impossible without their depreciation and change of their purpose.

Legal regulation of the contract of sale is carried out firstly by the Constitution of Ukraine; The UN Convention on Contracts for the International Sale of Goods of 1980; Chapter 54 of the Civil Code of Ukraine; Economic Code of Ukraine; The Law of Ukraine "On Consumer Protection", as well as the Law of Ukraine "On State Registration of Real Rights to Immovable Property and Their Encumbrances", as well as other acts of civil legislation.

Under Art. 655 of the Civil Code *a sales contract* is an agreement, under which a party (a seller) shall transfer or take an obligation to transfer property (goods) into possession of the other party (a buyer) and the buyer shall accept or take an obligation to accept the property (goods) and to pay a certain amount of money for it. From the definition given by the Civil Code, it is possible to characterize the contract of sale as the payment contract on transfer of property into the ownership. The contract of sale can be both real and consensual, bilaterally binding.

This agreement has its own special features, and that is its *subject matter* and, consequently, its *form*. Under Art.657 of the aforementioned code, a sales contract of a land parcel, an integrated property complex, a residential building/flat or other real estate shall be concluded in writing and subject to notarization.

An ownership right and other property rights to immovable things, restrictions thereof, their emergence, transfer and termination shall be subject to state registration.

It's determined by the law that this agreement shall be concluded in writing and subject to notarization. The rules of notarization are contained in the Law of Ukraine "On Notaries" and

Instruction on the procedure for performing notarial acts by notaries of Ukraine. *Notarization* of real estate purchase and sale agreements is carried out at the location of this property or at the location (place of registration) of one of the parties to the agreement. According to the third part of Article 640 of the Civil Code of Ukraine, a contract subject to notarization is concluded from the date of such certification.

Summarizing all the aforementioned, it's worth saying that this kind of the sales agreement should be considered as a separate agreement, which needs special legal regulation. Unfortunately, the issue of the subject matter of the contract of sale of real estate, especially the specifics of concluding such an agreement, notarization isn't well studied. We definitely agree with those experts in the Civil law, who consider it is a gap in the legislation that contract of sale of real estate does not have particular legal regulation in the Civil Code of Ukraine and therefore, we suggest supplementing the Civil Code of Ukraine with a separate paragraph.

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**EXPERIENCE OF COLLECTIVE BARGAINING LABOUR  
RELATIONS OF THE EUROPEAN UNION FOR UKRAINE  
(Administrative discretion in the activities of public administration)**

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In practice, public administrators have a few situations in which they do not apply discretion. High-ranking administrators such as heads of educational districts and city managers are aware that sometimes during operational activities and program implementation processes situations may arise in which existing administrative regulations or legal procedures are inadequate or inappropriate. The use of discretion becomes necessary, especially in situations in which immediate action is needed. For the most part, officials at the front or district levels work in situations where discretionary powers allow them to choose their own decision within the current legislation.

The object of our studies is the administrative discretion in the activities of public administration while the subject of the study is the legal evaluation of administrative discretion in the activities of public administration in modern law system.

The purpose of the study is to explore the essence of administrative discretion in the activities of public administration.

Our studies are the attempt to specify the nature of administrative discretion and outline approaches for improving legal regulation of it. It is proved that big number of decisions of administrative agencies emerges through the exercise of discretion. We try to focus on the importance of not only reducing the size of administrative discretion, but also ensuring the proper monitoring of the exercise of such powers on the basis of law, justice, and expediency.

The discretion of a public administration entity is a legal fiction, as it is in fact the discretion of those who take decisions on behalf of and in the exercise of the authority of that body. In view of this, administrative discretion, as a legal phenomenon, should be regulated at the legislative level. The quality of its regulation depends on submission to the will of private actors, is one of the guarantees of the rule of law. We propose to define the administrative discretion as an objective possibility, supported by factual conditions and authorized by law, of the authorized person of the state administration body to choose his or her reaction from the legitimate "alternative" options for his possible conduct to exercise the powers conferred by law to decide a particular case and to achieve the objective of securing such a right.

Administrative discretion is analytical, intellectually determined and manifests itself in the assessment of the facts of the case, in the determination of the level of its competence, in the interpretation of the law applicable in these circumstances, when there is no authentic or other equivalent to it, but in choosing the most appropriate, fair, reasonable, rational solution, the option of enforcement (administrative act, administrative action or inaction).

Thus, discretionary powers may be exercised in the political, diplomatic, military or public service of an official, in the setting of retail prices as part of the general regulation of pricing. As the renowned French scholar G. Breban points out, even in the formal existence of a discretionary right, the freedom of the administration is constrained by a number of restrictions, it is exercised within the framework of the rule of law and is therefore not complete and uncontrolled. In modern conditions, the widespread practice of exercising discretionary powers of executive bodies often creates difficult situations, in connection with which there is an urgent need to establish mechanisms to control their implementation, especially when they relate to the

rights and freedoms guaranteed by the Constitution of Ukraine. After all, the executive authorities by their acts specify the rights and freedoms of citizens, legal entities and impose certain responsibilities on them.

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## **ACQUISITION OF PROPERTY RIGHTS UNDER THE CONTRACT**

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The Ukrainian Constitution deals with eight general issues on property (articles 13-14, 41, 85, 92, 116, 142-143), besides, private property is considered in Art. 41. According to the latter everyone has the right to own, use, and dispose of property. No one may be unlawfully deprived of property rights. Compulsory alienation of private property rights may be used only as an exception for reasons of public necessity, on the basis and in the manner prescribed by law. Confiscation of property may be applied only by court decision in cases, to the extent, and in the manner

prescribed by law [1]. Such are the provisions on property in the Constitution of Ukraine.

According to Article 319 of the Civil Code, the owner owns, uses and disposes of his property at his own discretion. He himself decides what to do with his property, guided solely by his own interests, carrying out in relation to this property any actions that should not contradict the law and do not violate the rights of others and the interests of society.

The subjects of private property rights are individuals and legal entities. Individuals and legal entities may be the owners of any property, except that one, which cannot belong to them by law.

The objects of property rights are things (property). According to art.190 of the Civil Code, property as a special object comprises a separate thing, a set of things, as well as property rights and obligations. Property rights are material and recognized as property rights. Things are objects of the material world, in regards to which civil rights and obligations may arise [2].

The contract as an agreed expression of the will of two parties is the basis for the emergence of property rights in cases where there is an intention to transfer such a right from the alienator to the acquirer. It can be a sale, a gift, a mine, etc. If the parties do not have such an intention, and it is a question of transferring the property for temporary use or preservation, etc., the property right does not pass to another person [3].

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## **PROPAGANDA AND MISINFORMATION IN UKRAINIAN MEDIA**

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Our world is defined by constant development, the transition from the old to the new, despite various obstacles. With the development of the media, the expansion of *misinformation* and *propaganda* has raised some concerns all over the world, as they pose threat to democratic countries. Ukraine has not found a way to counter false information effectively yet.

The Russian-Ukrainian *cyber war* has been a crucial part of the confrontation between Russia and Ukraine since the loud collapse of the Soviet Union. The direct and indirect use of force by the Russian Federation against Ukraine began long before the tragic events of February 2014. Now Ukraine continues to be one of the main topics in the Russian information space. Nevertheless, the most horrible and upsetting thing is that hostility to Ukraine is fueled not only by the Russian, but also by the Ukrainian media.

Experts of the Institute of Mass Media conducted monitoring in February, 2019. According to the results, the news with Russian narratives was distributed by the Ukrainian websites

such as "Country.ua", Newsone.ua, "Vesti", 112.ua and znaj.ua. Moreover, a so called *Copy/paste process* for these sources of information is completely commonplace. They duplicate the articles of Russian journalists who work for the international broadcasting website «Russia Today» [2].

On October 22, 2020, Media Detector published an article with another monitoring, confirming that the main source of pro-Russian propaganda in our media comes from the political party called "The Opposition Platform - For Life"[3].

In addition to these two surveys, Radio Liberty published another article where the Pylyp Orlyk Institute for Democracy monitored the scale of misinformation in Ukrainian media too. According to S. Yeremenko, the observation of regional media shows that some Ukrainian media glorify the Kremlin and legitimize the power of LNR and DNR groups. Moreover, the Donetsk News website was spreading fake news in Donetsk media - 16.2%, propaganda - 10% and pro-Russian messages - 15.2%[1].

Ukraine badly needs the truth as lack or complete absence of it forms a blind society willing to follow the trodden path. The media must get rid of the stigma of lies and propaganda. It should exist independently of the authorities, and those who are in that field should never give up on their own moral principles, remain responsible for every word spoken to the public.

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## **CRIMINAL QUALIFICATION OF CONTINUED EVASION OF TAXES, FEES (MANDATORY PAYMENTS)**

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One of the main social institutions of the state, which determines efficiency of economy, is its financial system. Tax evasion is one of the types of economic criminal offences. Unpaid taxes reduce the state and local budget revenues, which exacerbates the problematic deficit of funds in the state. This problem causes great harm to society, disrupting normal relations of the state with business and citizens.

The object of criminal offence under Article 212 of the Criminal Code of Ukraine is the procedure for taxation of legal entities and individuals, established by law, which ensures the formation of state and local budgets, as well as state trust funds, by receiving taxes and fees (mandatory payments). The subject of this criminal offence is money that is to be paid as taxes and fees (mandatory payments), which are included in the taxation system and registered according to the law. "Tax, fee (mandatory payment)" should be understood as a mandatory contribution to the budget of the appropriate level or state trust fund, made by taxpayers in the procedure and under the conditions determined by tax law.

The objective side of this corpus delicti is characterized by the combination of three features: 1) action - evasion of taxes and

fees (mandatory payments) belonging to the taxation system; 2) socially dangerous consequences in the form of actual underpayment into budgets or state trust funds in significant (part 1 of Article 212), large (part 2 of Article 212) or especially large (part 3 of Article 212) amounts; 3) the causal link between the act and consequences. [3]

St. 212 does not specify the method of tax evasion, fees and other mandatory payments. The most common methods of this crime include: failure to submit documents related to the calculation and payment of taxes, fees and other mandatory payments; concealment and understatement of the object of taxation. Liability is not implied for the fact of non-payment of taxes, fees and other mandatory payments in due time, but for intentional evasion of their payment, when the person intends not to fulfill (in whole or in part) tax obligations imposed on him.

Evasion of taxes, fees and other obligatory payments is recognized committed in a significant, large or particularly large amount, both when the amount of unpaid payment exceeds the amount specified by law for one of its types, and when this amount is the result of non-payment of various types of taxes or other mandatory payments. If tax and fee evasion has occurred in different periods, the amount of unpaid mandatory payments should be set separately for each period. At the same time, it should be taken into account which tax law and non-taxable minimum income of citizens were in force at the time of the incriminating act.

Crime under Art. 212, shall be deemed completed from the day following the date by which the tax, fee or other obligatory payment was to be paid, and when the law connects this term with the performance of a certain action - from the moment of actual evasion of their payment. In practice, there may occur the situation

when the act of tax evasion has a continuing character and is not limited in time to one year.

According to Art. 32 of the Criminal Code: 1) repetition of criminal offences is the commission of two or more offenses, prescribed by the same article or the same paragraph of the article of the Special Part of this Code; 2) repetition prescribed by paragraph 1 of this Article shall not be present in commission of continuing offence comprised of two or more similar acts connected by one criminal intent.

A continuing crime is similar to the repetition of crimes because it consists of several identical actions, but while committing a continuing crime a person has a single criminal intent that covers a goal (set in advance) and a single intention that unites all of the committed by the person deeds. [2]

The continuing criminal offence has the following characteristics: it consists of two or more independent, distant from each other in time, identical criminal acts; all these actions are united by the same intention and desire to achieve an ultimate goal; a continuing crime excludes repetition and the whole act of a person qualifies as a single criminal offence, according to one article of the Criminal Code of Ukraine.

The beginning of a continuing crime is the commission of the first of several identical acts. "Identical" means the same on the grounds of *corpus delicti*. The end of a continuing crime is the moment of committing the last of the planned criminal acts, the achievement of a common, single goal, which the perpetrator aimed to achieve [4].

Thus, evasion of taxes, fees (mandatory payments) is quite possible to be committed in the form of a continuing criminal offense. When the perpetrator, for example, originally intended to evade payment in size, which is a particularly large amount, according to the note to Article 212 of the Criminal Code. And

realization of this intention took place by separate acts of evading the payment of specific amounts of money, which together constitute the amount to which the intention of the perpetrator was directed. Therefore, such acts will be qualified as the continuing criminal offence under the relevant part of Article 212.

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## **VICTIM BLAMING: HOW TO DEAL WITH IT**

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Modern society is proud to be called progressive. And indeed it is. Technology is impressive, because sometimes it is hard to believe that humanity has come so far in its development. But there is a fly in the ointment. Despite the fact that tolerance is widely promoted, society continues to blame people even for the things that are beyond their control.

Victim blaming is the plague of the XXI century. So what does it mean? According to Harvard Law School victim blaming – is the attitude which suggests that the victim rather than the perpetrator bears responsibility for the assault [3]. In Ukraine it's normal to turn a blind eye to acts of violence, because it's easier to

ignore the problem than solve it. Another possible reason for such blaming is that people, especially women facing violence, often hide acts of abuse, as they are made to feel at fault for their partners abusive behavior.

But why do victims stay? The most common reason is the fear that abuser will become more cruel. Also it could be the absence of support from friends and relatives, which is so vital for such people. Besides, abusers effectively manipulate victims. For example, the abuser may threaten his wife in the event of a divorce to take the children, or even kill them. Such ultimatums prevent cold-blooded thinking and fleeing to safety [5].

The only way to escape is to go to the service for victims of domestic violence. There is a network of help centres throughout Ukraine and anyone can call a hotline whenever they need (such as EdEra) [1]. However, the first step towards leaving the abuser seems to be the most daunting.

Here are some statistics from online resource Global Database on Violence against Women. According to it, the most common ways of violence in Ukraine are: lifetime physical and/or sexual intimate partner violence: 26 %, physical or sexual intimate partner violence in the last 12 months 76%, lifetime partner sexual violence 5%, Child Marriage 1%. “According to UNDP, 1.8 million women in Ukraine suffer from physical domestic violence. The shocking statistics are steadily increasing. According to official figures, in 2017 about 600 women were killed by rapists”, - said Elena Strijak, head of the BO "Positive Women» [2].

In fact, not only victims of domestic violence, but also victims of street violence face disapproval. According to the BBC article “Victim blaming: Is it a woman's responsibility to stay safe?” police give advice on how to behave to avoid attack instead of protecting potential targets: «Always stick to well-lit streets. ... always be alert in your surroundings, so don't use earphones or

handheld devices" [4]. In other words, they instruct women not to provoke attackers. Such tips just indicate a totally wrong approach. Police should not give instructions on street behaviour, but had better make sure that women can move safely in the street.

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## **LEGAL RESPONSIBILITY: THE CONCEPT, FEATURES, FUNCTIONS**

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Legal responsibility is the most important mechanism for guaranteeing and ensuring the rights and freedoms of the subjects of legal relations, the study of issues related to it is an actual phenomenon and have important theoretical and practical meaning. The formation of the constitutional state necessitates the study of the problems of determining legal responsibility, its features and functions, because this institution demonstrates the level of legal culture of society and the state of its legal consciousness.

It should be noted that there is no single definition of this legal phenomenon. P. M. Rabinovych points out that legal responsibility is an additional legal obligation of the offender

enshrined in the law and provided by the state to be deprived of certain values due to him [1, C. 190]. At the same time, O. F. Skakun notes that legal responsibility is a type and measure of state-authoritative (compulsory) recognition by a person of losses of personal, organizational and property benefits for a committed offence [2, C. 464]. The variety of definitions of this concept presupposes the existence of several approaches to understanding legal responsibility. There are two types of legal responsibility: long-term (positive) and retrospective (negative) ones. Positive legal responsibility is the conscientious performance of one's duties to civil society, the rule of law, the people and the individual. The features of positive (prospective) legal responsibility are the following: 1) it arises from the legal obligation conditioned by the legal status of the relevant subjects of law to perform positive, beneficial to society, the state, the collective of people and the individual; 2) honest, responsible attitude of a person to the performance of his legal duties; 3) is a form of implementation of the incentive rule of law, a means of public persuasion and legal incentives and can be expressed in certain positive consequences of property, organizational and personal nature.

Retrospective legal responsibility is a specific legal relationship between the state and the offender, characterized by the conviction of an illegal act and the subject of the offence, the imposition on the offender of the obligation to suffer deprivation and adverse consequences of personal, property and organizational nature for the offence. The features of negative (retrospective) legal responsibility include: 1) the reaction of government agencies or officials to the offence; 2) the emergence of legal relations arising from the fact of illegal behaviour of the subject (subjects) of law as a reaction of the state to such behaviour in the form of establishing an obligation for such subject (subjects) to suffer the consequences

of personal, property or organizational character; 3) it occurs only for the committed offence; 4) it relies on state coercion [3, C. 238].

Besides, the legal responsibility is characterized by a number of basic features such as: enshrined in legal documents; the duty of the offender to suffer negative consequences for himself; provided by the state; the basis for the application of legal responsibility is the composition of the offence; used only by specially authorized entities; one of the means of state coercion [4, C. 355]. Legal responsibility is based on certain principles formulated in the theory of law. Principles of legal responsibility are provisions and ideas that are enshrined in law and determine the independent and real nature of responsibility as a means of guaranteeing and protecting objective and subjective law and public order.

Legal responsibility as a legal phenomenon has functions that reflect the main directions of its impact on society and the individual, characterize its essence and purpose in society. The fundamental functions include: a) penalty (punitive) reflects the direction of punishment of the guilty person, which indicates a negative assessment of the offender by the state and the intention of the state to prevent new violations; b) educational aimed at the perception of all citizens of the value of law, the education of respect for it by society, the growth of legal activity to prevent delinquency; c) compensatory aimed at restoring illegally violated rights [5, C. 302 ].

Therefore, legal responsibility is one of the fundamental legal phenomena, without which the existence and functioning of law as a normative system is impossible. Legal responsibility is not only an important means of ensuring the protective function of law, but also reveals the degree of culture and spirituality of the population, the true embodiment of the rights and freedoms of citizens, the level of civilization of society.

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