State University
"Zaporizhzhya National University"
Ministry of Education and Science of Ukraine

Founded
in 2009

Certificate of state registration
of the print media
Series КВ № 15436-4008 ПР
June 22, 2009

Address of editors office:
Ukraine, 69600,
Zaporizhzhya, MPO-41
Zhukovsky Street, 66

Telephone
for inquiries:
(061) 289-12-98

Fax: (061) 289-12-98

Zaporizhzhya National University

Journal

Law Sciences

№ 1, 2014

Zaporizhzhya National University
Zaporizhzhya 2014

Zaporizhzhya National University Journal: Collection of scientific papers. Law Sciences. – Zaporizhzhya, Zaporizhzhya National University, 2014. – №1. – 40 p.

Recommended for publication and distribution via Internet by the Academic Council of Zaporizhzhya National University (minutes № 7 of 25.02. 2014)

According to the Decree of the Presidium of the Higher Attestation Commission of Ukraine № 1-05/1 of 10.02.2010, the collection is included in the List of professional publications (law sciences).

EDITORIAL BOARD:

Chief Editor – Kolomoiets T.O., Doctor of Law Sciences, Professor

Deputy

Chief Editor – Kolpakov V.K., Doctor of Law Sciences, Professor

Executive Editor – Liutikov P.S., Doctor of Law Sciences, Associate Professor

EDITORIAL BOARD MEMBERS:

Anufriiev M.I.	–	Doctor of Law Sciences, Associate Professor
Bevzenko V.M.	–	Doctor of Law Sciences, Associate Professor
Byrheu M.M.	–	Doctor of Law Sciences, Professor (Republic of Moldova)
Vikhliaiev M.Y.	–	Doctor of Law Sciences, Associate Professor
Zaiets A.P.	–	Doctor of Law Sciences, Professor
Dolnytskyi B.	–	Doctor of Law Sciences, Professor (Republic of Poland)
Duhenets A.S.	–	Doctor of Law Sciences, Professor (Russian Federation)
Ibrahimov S.I.	–	Doctor of Law Sciences (Republic of Tajikistan)
Komziuk A.T.	–	Doctor of Law Sciences, Professor
Kuzenko L.V.	–	Candidate of Law Sciences, Associate Professor
Kuzmenko O.V.	–	Doctor of Law Sciences, Professor
Kurylo V.I.	–	Doctor of Law Sciences, Professor
Kuts V.M.	–	Candidate of Law Sciences, Professor
Lukashevych V.H.	–	Doctor of Law Sciences, Professor
Mann Thomas	–	Doctor of Law Sciences, Professor (Germany)
Melnyk R.S.	–	Doctor of Law Sciences, Senior Scientific Associate
Pietkov V.P.	–	Doctor of Law Sciences, Professor
Pyrozhkova Y.V.	–	Candidate of Law Sciences, Associate Professor
Pryimachenko D.V.	–	Doctor of Law Sciences, Associate Professor
Sabadash V.P.	–	Candidate of Law Sciences, Associate Professor
Samoylenko H.V.	–	Candidate of Law Sciences, Associate Professor
Sylchenko M.V.	–	Doctor of Law Sciences, Professor (Republic of Belarus)
Skvirskyi I.O.	–	Doctor of Law Sciences, Associate Professor
Tykhomyrov O.D.	–	Doctor of Law Sciences, Professor
Shevchenko A.Y.	–	Doctor of Law Sciences, Professor
Shyshka R.B.	–	Doctor of Law Sciences, Professor
Yarmysh O.N.	–	Doctor of Law Sciences, Professor

© Zaporizhzhya National University, 2014

CONTENTS

SECTION I. TOPICAL ISSUES OF THEORY AND HYSTORY OF STATE AND LAW

SECTION II. CONSTITUTIONAL AND MUNICIPAL LAW

SECTION III. CIVIL LAW AND CIVIL PROCEDUR; FEMILY LAW

SECTION IV. ECONOMIC AND AGRARIAN LAW

SECTION V. ADNINISTRATIVE AND FINANCIAL LAW

SECTION I. TOPICAL ISSUES OF THEORY AND HYSTORY OF STATE AND LAW

TARGET PROGRAMMING AS THE MAIN FORM PLANNING IN SCIENCE IN UKRAINE

Mosondz S.O.,
Doctor of Law Sciences, Associate Professor

University of modern knowledges

The article is devoted determination and improvement of the state target programming as a basic form of planning in the field of science on the modern stage of development of world concord.

At the present stage of development of Ukrainian society there is the lack of conceptual understanding of the meaning of public policy research, the mechanisms of its formation and implementation. Its goals, objectives, principles and priorities are not clarified either, and effective standards are not established. Because of the absence of clear strategic guidelines state activities in science has become unsystematic, uncoordinated and fragmented. Development programs are based on dubious hypotheses and inaccurate calculations, are pursuing contradictory unreasonable goals, and are breaking the determinants of science from the point of subjective evaluation.

The validity of state regulation, its focus, the reality and the effectiveness of the realization of state scientific policy of Ukraine depend on the quality of target programming in science.

Despite the great potential effectiveness of national target programs as a tool for public policy research, the lack of nomothetic united rules of formulation and approval of national target programs, which is evident in the content and legal status of existing programs relating to the areas of science, blasts their efficiency, effectiveness and value.

In our view, in 2015 and following years the state target programs will be formed only for urgent scientific, technical, industrial, economic and social problems that are found during the development of long-term and medium-term government forecasts of socio-economic development of Ukraine, which will closely bind the state target program with solution of key tasks of socio-economic development.

Considering the above mentioned, we conclude that the legal basis for target programming in science in Ukraine is today declarative, because there is no corresponding practical mechanism and appropriate strict measures of control over its implementation and enforcement. It is therefore advisable to amend the Law of Ukraine "On scientific and technical activity" in which the basic form of planning in the field of scientific and technical activity is to determine the development of national target programs aimed at solving the most important problems of science.

FORMATION OF INDIVIDUAL LEGAL CULTURE: ASPECTS OF THE THEORY

Gansenko A.A.,
Candidate of Law Sciences, Associate Professor

Zaporizhzhya national university

The article analyses the concept of the legal culture of the person. It indicates that the formation of the legal culture of the person is influenced by a row of objective and subjective factors such as the family education, the social personal environment, the nature of the activity, the mass media influence, the communicative experience with the agents of the authorities, the availability of the legal information, the social activities in the sector of the rights and freedoms' protection and other factors. It proves the necessity of creation the moral basis of the legal culture of the society and of the person, in connection with it there is a necessity of consulting philosophy and natural sciences. The article offers a version of the philosophical moral-legal theory of the environmental and inner world structure of the person, that can be a base of the formation of the legal culture of the person. Familiarization with the subject of the theory proposed below, its discussion in educational establishments will contribute to the formation of the legal orientation to keep rights and freedoms of the person followed, inadmissibility of signs of illegal behaviour. Categorical imperative, according to which "each person must be taken as the biggest value, that can't be used as a way of achieving one's own aims", must be formed in the legal conscience of the person. Besides, the conception pointed out gives to such a categorical imperative a scientific basis, confirmed by well-known laws of nature. The proposed theory doesn't agree with religious and moral convictions of representatives of the main world religions and can become one of the efficient instruments of the legal education.

CONCEPTUAL APPROACHES TO THE POLICE

Loshytskyy M.V.,
Candidate of Law Sciences, Associate Professor

National academy of internal affairs

The article presents the current conceptual approaches to police activity of the state as an object of administrative and legal regulation and highlights the most efficient and effective use of them for a legal democratic state. Based on the analysis of the conceptual approaches the characteristics to be met by modern policing are formulated.

The article defines policing under which to understand the state security activity that has as its object the protection of public order, as well as existing benefits, personal and property rights. Policing aims to protect all forms of public order and directed primarily against excesses in public areas. Besides the apparatus of the State, whose main responsibilities are of the protection of public order and the rule of law in all states, is a universal tool of coercion and in most countries called "police".

The author offers basic concepts of policing in modern society. Crisis approach of police work is usually defined as a permanent repressive policing in which its employees are focused on maintaining order and the control of violence. Authoritarian police usually acts in authoritarian political systems, but may persist even after the transition to democracy. As a rule, the priority areas of police work are determined by the police or the government, despite the population’s needs and preferences of citizens.

Community policing can be defined as the joint efforts of the police and the public, aimed at identifying the problems of crime and disorder and the involvement of all components of society to seek solutions to these problems. Problem-oriented policing involves collecting information about problems of the concrete area, unlike the investigation of a particular crime committed by a particular offender. A comprehensive approach to the problem-oriented activity requires a systematic identification of problems and their analysis, and after that intervention and follow-up evaluation go.

Having in mind the study completed the author has made such conclusions as the police should monitor changes in society and adapt working methods, critically assessing the possible impact of any changes in the light of human rights. For this it is necessary to monitor constantly the changes in society and their impact on the population’s expectations regarding the activities of the police. Further study of conceptual approaches to police activity of the state will contribute to the future development of scientific research and justification of the optimal model of a police for a particular state, which, in turn, will strengthen public order and public attitudes towards the police.

HISTORIOGRAPHY RESEARCH OF PROFESSIONAL LEGAL CULTURE OF JUDGES

Bozhynova I.M.,
Postgraduate Student

Zaporizhia national university

The article describes that legal culture is one of the categories of human values and belongs to the inalienable attributes of legal and democratic state, whose primary purpose is to maximize the protection of human rights. This legal culture is an important factor that contributes to the formation of the legal system of state and civil society. Professional legal culture is a form of legal culture of society inherent in the community of people professionally engaged in legal activities and requires special education and practical training. The judges, as representatives of legal profession, have their own peculiarities of professional legal culture formation. In this regard, the role and importance of professional legal culture of the judges is increasing.

The article aims to present a theoretical analysis of the historical research process of professional legal culture of the judges and theoretical investigation of the evolution of legal views on this concept. The article highlights the basic research, views and historical aspects that influenced the formation of legal culture of judges.

The article describes the basic views of scientists on the concepts of "legal culture" and "professional legal culture". The article analyses the definitions of "legal culture" by A. Vengerov and O. Skakun. Much attention is given to views of ancient philosophers, scientists of the Middle Ages, Renaissance and Modern Time, such as Platon, Aristotle, Seneca, Thomas Aquinas, Jean Bodin, Hobbes, John Locke, Spinoza, Charles Montesquieu, J-J. Rousseau and others. They made a significant contribution to the theory of legal law, human rights and freedoms, the ratio of law and state.

Special attention is given to the opinion of domestic scientists, as P. Yurkevich, B. Kistyakivsky, I. Vishensky, P. Orlik, M. Kozachynskiy, Ya. Kozelskiy, F. Prokopovych, G. Skovoroda, who devoted a significant role to legal state, rules of law, as well as the ideas of legal culture, social justice, democracy, had the essential importance for rebirth and development of Ukrainian political and legal thoughts.

The article describes the research of legal culture during the Soviet Union period, when attention was paid to subjective psychological characteristics: knowledge of laws, awareness of the content and direction of laws and regulations and their respect, justice and equity. These years are noted by the observation of extreme ideological legal culture.

The article provides a detailed analysis of legal culture research in independent Ukraine carried out by the following scientists: V. Babkin, O. Zaychuk, N. Onishchenko, P. Bilenchuk, S. Slyvka, Yu. Shemshuchenko, V. Lemak, V. Kopyeychykov, Yu. Todyka and others. They have made a major contribution to the study of legal culture, justice and professional legal culture of judges in general. They have determined that the professional culture of the judge is intended to delimit the spread of moral standards in judicial activity, have reproduced human values, Ukrainian traditions and customs, have theoretically justified their necessity, nature and specific manifestations in practice, have reflected the standards of conduct for judges, giving a critical analysis, have contributed to the principles of behavior and professional ethics.

Finally the article formulated six periods of historiography research of professional culture of judges: ancient, medieval, of modern times, of XIX-XX century, in the soviet period and period of Ukraine's independence. They explain the evolution of scientific opinions on legal culture and professional legal culture of judges.

In conclusion it was determined that professional legal culture of judges incorporates all the knowledge, skills and abilities that have been formed over the long period, undergone many changes and resulted in current views and perspectives. These studies provide a basis for further investigation of this phenomenon. Currently, there is still a problem of determining the professional culture of a legal sphere employee generally, because it is often confused with the categories of legal or professional ethics.

«RECEPTION» OF THE RUSSIAN SOVIET LEGISLATION IN THE REGULATION OF INHERITANCE AT THE UKRAINIAN LANDS (1918-1919 YEARS)

Polovinkina R.Y.,
Assistant Lecturer

Zaporizhzhya national university

The main context of this article is historical and legal analysis of the provisions of inheritance at the Ukrainian lands (1918-1919 gg.). The author of this article on the basis of historical study made an independent conclusion about the «reception» of the Russian legislation on inheritance property in Ukrainian law in the aforementioned period.

There are many legal acts today in Ukraine which are affecting property interests of citizens, not the exception, and it became a question of succession. However, the problem of regulatory consolidation genetic relationship is still valid. Chapter 6 of the Civil Code of Ukraine, in 2004, dedicated to the succession law, but in practice there are many questions about the practice of these provisions. To implement inheritance rights as the decedent and the heirs, there are notaries public and private notaries, who are led by the laws of Ukraine and subordinate regulatory acts. Some provisions of legal acts were adopted from the Soviet decrees, such as Agenda notarial acts notaries of Ukraine, approved by the Ministry of Justice of Ukraine.

The relevance of the study of historical and legal issues of inheritance caused by the growing importance of private property and public order of succession, the need to develop a legal mechanism that would adequately protect the rights and interests of citizens of Ukraine. Review the history of succession is essential not only scientific but also of practical importance, as it allows to trace the particular material complex processes of formation and development of the basic features and institutions of succession and the possibility of perception of the best historical and legal structures in civil legislation of Ukraine.

The subject of inheritance law is a part of many scientific works in law, especially in Soviet period, which are presented by such authors as B.S. Antimonova, I.N. Asimov, S.N. Bratus, M.N. Boguslavskiy, N.V. Gordon, K.A. Grave, D.C. Joffe, T.P. Kovalenko, A. Nyemkova V.I. Serebrovsky, R.Y. Halfinoyi and others. There are number of modernspecialists in this area – V.V. Vasil'chenko, O. Zeri, I.V. Zhylinkovoyi, Z. Romovska, N.A. Saniahmetovoyi, S.J. Furs, A.I. Kharitonov and others.

SECTION II.
CONSTITUTIONAL AND MUNICIPAL LAW

REALIZATION OF PRINCIPLE OF UNDISCRIMINATION ON INTERNATIONAL AND NATIONAL LEVELS

Zhuravlyova G.S.,
Candidate of Law Sciences, Associate Professor

Zaporizhzhya national university

In the article the general approaches to understanding the principle of non-discrimination and identification of priority activities of international and domestic nature for its implementation.

Discrimination – one of the most serious and widespread human rights violations in the world today. Millions of people continue to suffer from isolation, poverty, ill-treatment and even violence only because of what they believe or who they are or what they believe. Equal treatment for all – not, just a matter of common sense and ordinary courtesy.

Discrimination can take many forms, from insults and assaults to the deprivation of basic goods, services and other rights. Victims of discrimination may infringe upon during employment or limit their access to education, shelter and necessary medical care. Disadvantaged groups can also get rid of the right to participate in public life, to freely form associations, to practice their faith or maintain their cultural characteristics. Discrimination can be present in both the private and public sector. Typically it is a phenomenon, encompassing social structures, institutions, social relations and attitudes. As a result, victims of discrimination are often caught in a vicious circle of exclusion, inequality and prejudice that creates a new discrimination.

International legal regulation of human rights is now fairly complete, but there are still gaps in the regulation of the rights of certain categories of people experiencing today the worst forms of discrimination. A major shortcoming of the international legal system is also no single universal international act aimed at eliminating all forms of discrimination.

Some aspects of discrimination in light of the implementation of the basic principles of law, the rights and freedoms of man and citizen and state legal foundations of international law considered in famous Russian and Ukrainian lawyers: S.S. Alekseeva, B.D. Babaev, M.I. Eytina, V.M. Baranov, P. Baranova, A.M. Vasiliev, M.A. Vlasenko, V.B. Isakov, V. Kartashov, V.J. Kikot, T.K. Kerimov, U.V. Lazarev, K.B. Levchenko, A. Malko, M.I. Matuzova, V. Velvet, U.D. Perevalova, A.S. Piholkyna, S.B. Poleninoy, T.N. Radko, R.A. Romashova, V.P. Box, I.N. Senyakina, V.M. Sinyukov, M.N. Tarasova, Y. Tikhomirov, V.A. Tolstyka, T.I. Habriyevoy, A.F. Cherdantseva, B.S. Yebzeyeva A.I. Ykimova, and more. However, a large amount of international legal acts, directly or indirectly, to the problems of discrimination, and the presence of contradictions in the interpretation of rules specific to non-discrimination, require more detailed investigation of this issue.

FEATURES OF THE ENJOYMENT AND EXERCISE SELF CONTROL IN THE SPHERE OF TURNOVER OF NARCOTIC DRUGS

Shevchuk O.M.,
Candidate of Law Sciences, Assistant Lecturer

National law university named after Yaroslav the Wise

The local authorities with specific functions of control over observance of legislation in the sphere of turnover of narcotic drugs, psychotropic substances and precursors. The implementation of village, settlement and city councils and their Executive bodies of control functions in the sphere of turnover of narcotic drugs, psychotropic substances and precursors in the current legislation, has called self control.

The study of the problems of the governmental control in the sphere of turnover of narcotic drugs today are almost absent that, in its turn determine the topicality of the selected scientific search of this study. Noting that the control is the ability to observe, test, detailed analysis of specific situations and phenomena with the possibility of interference in the activities of the controlled object has the purpose of observance of legality and discipline, identify deviations from established norms, prevent violations, and bring those responsible to justice.

In Ukraine recognizes and guarantees local self-government (article 7), and Art.5 of the Constitution of Ukraine stipulates that the people exercise their power directly and through bodies of state power and bodies of local self-government. In the Main Law of Ukraine stipulates that local self-government is the right of a territorial community-residents of a village or a voluntary Association into a village community, residents of several villages, towns and cities independently resolve issues of local significance within the Constitution and laws of Ukraine.

The local government is exercised by territorial communities in villages, settlements, cities, both directly and through the village, settlement, city councils and their Executive bodies, as well as through regional and district councils that represent common interests of territorial communities of villages, settlements, cities.

The system of local self-government includes: territorial community; village, settlement, city Council, village, settlement, city Chairman; Executive bodies of village, settlement, city Council, district and regional councils that represent common interests of territorial communities of villages, settlements, cities; the population self-organization bodies.

Given the above, you can specify that the supervision by local authorities in the sphere of turnover of narcotic drugs, shall be constructed in accordance with the structure of such bodies and include: 1) control of the territorial communities, 2) control of the representative bodies of local self-government; 3) control from the side of village, settlement, city head, 4) control of the Executive bodies of respective councils, 5) control of the organs of population self-organization. Self control in the sphere of turnover of narcotic drugs is as collective entities - councils, their Executive committees, standing committees of the boards, audit committees, house, street, quarter and other collective bodies of self-organization of population and individual subjects, which include: to local councils of deputies, the Chairman of the Board, Secretary of the Council, chairmen of the Executive committees, heads of divisions, departments and other Executive bodies of the Council, chairmen of commissions and leaders of parliamentary factions.

The function of control in the sphere of turnover of narcotic drugs are also characterized by district and regional councils as bodies of local self-government, intended to represent common interests of territorial communities of villages, settlements and cities within the authority defined by the Constitution and laws of Ukraine, and the authority delegated village, settlement, city councils.

Considering the above it is advisable to select the following features of the governmental control in the sphere of turnover of narcotic means: 1) the subjects of such control is the local community, the councils of different levels and their heads; the Executive bodies of councils; the population self-organization bodies, 2) implementing control authorities, local authorities interfere with functional activities of interest such control, 3) local authorities shall exercise control over compliance by the bodies of legality located within their jurisdiction, the acceptable level of risk for the population, 4) local governments perform their own (self-governing) and delegated oversight powers, the list of which is determined by the current legislation and the last of them is characteristic of public authorities, 5) management decisions of normative nature, including those, which have implemented the control powers of the councils and their Executive committees are mandatory for all located on the corresponding territory's Executive authorities, unions of citizens, enterprises, institutions and organizations, officials and citizens, permanently or temporarily residing in the respective territory.

SECTION III. CIVIL LAW AND CIVIL PROCEDUR; FEMILY LAW

FEATURES OF REGULATORY AND CONTRACTUAL REGULATION OF LEGAL RELATIONS ON THE CARRIAGE OF PASSENGERS

Samoylenko G.V.,
Candidate of Law Sciences, Associate Professor

Zaporizhzhya national university

The topic of the article is devoted to the analysis of standard and contractual regulation of legal relationships of passenger's transportation, their ratio, role and importance in the mechanism of legal regulation of the studied relationships. The topicality of the article is conditioned on the low level of their standard regulation and the priority of the fulfillment of contract's freedom principle, and therefore the prevelance of contractual regulation of legal relationships of passenger's transportation.

By the author's opinion, the specificity of the studied legal relationships and their legal regulation makes a conflict that results into non-classical fulfillment of contract's freedom principles and equality of members of civil relationships. So, a passanger is a week side with no possibility to influence the creation of contract's conditions in the transportation contract (which is a public contract about affiliation). It involves the necessity to use imperatives, contributing restrictions to fulfillment of subjective civil rights (as a rule, carrier's ones) and thereby balancing direct authorities of sides.

The statement of the problem. Transportation area in general and passenger transportation in particular is little explored in science and poorly regulated in positive law. Though life is dictating its terms. Transportation of passengers is fulfilled everywhere and at all times. They are massive. Infringements of passenger's rights are also massive. It requires analysis of the existing level of legal regulation of legal relationships of passenger's transportation and working out of scientific approaches to the mechanism of legal regulation of passenger's transportation. The purpose of the latter is to provide a high level of fulfillment of subjective civil rights mechanism, create guarantees of violations' prevention of passengers' rights, especially as the latter are recognized as carriers of secured private moral rights of physical individuals.

Working out an effective mechanism of legal regulation of legal relationships (and for passengers' transportation in particular) is impossible without their deep scientific understanding and analysis of legal and contractual regulation.

Of course, the researches in the passengers' transportation area were held, but currently there is no single concept focused on the legal regulation of passengers' transportation.

We should name some works of scientists-specialists in civil law, whose researches are concerned to the chosen topic.

In Ukraine there is A.M. Nechipurenko «Civil-law regulation of taxi transportations» (2008), A.A. Minchenko «Contract of passenger and luggage transportation by railway transport in Ukraine» (2011).

LEGAL GROUNDS CIVIL LIABILITY OF THE CARRIER UNDER THE CONTRACT OF TRANSPORTATION OF THE PASSENGER

Abrikosov D.S.,
Degree Seeking Applicant

Zaporizhzhya national university

The topic of the article is devoted to topical issues of civil liability of the carrier under the contract of the carriage of passengers. The urgency is due to several factors, including irresponsible violations passengers rights on the part of carriers that caused deficiencies and gaps of positive law and special traditions of transport, which contain a limited civil liability carriers.

Despite the existence of fundamental research Kanzafarova I.S. "Theoretical foundations of civil liability in Ukraine" theory of civil law continue discussion about essence of civil liability as such (contract and tort) essentially contractual liability as a consequence of an obligation or a separate accessory obligation which has perform the debtor. Its requires careful, researches of civil liability of carriers for breach of contract of the carriage the passenger in the context of transportation the different types of transport, as the latter has its own characteristics, due to the technological specifics of different types of transport and the level of regulatory carriage of passengers by different types of transport.

Background is due the growing role of contracts to regulate civil relations, and relations of passengers in particular However, analysis of civil cases decided by the courts of Ukraine indicates exaggeration of the role of self-regulation of contractual relations with separate types passenger vehicles. It can be noted that at present often have been the violation of the rights of passengers by carriers. Thus the compensatory function of civil law, which must be a manifestation of civil liability, doesn't work. Despite existing regulation carriage of passengers, formalized in the Rules of passenger different types of transport, the mechanism of regulation of legal subjects is ineffective.

This preliminary conclusion is due to the inefficiency of the structural element of the mechanism and regulation, namely the protection of violated civil rights and interests. Thus performance of subjective rights depends on the efficiency of their protection in case of violation.

Most of these Regulations contains neither the size nor reason, nor the limits of civil liability, or the mechanism of its imposition.

This requires the study and analysis of positive law, which carried the legal regulation of transport of passengers, research and intelligence relationships with passengers.

Should be noted that researching on civil liability studied such scientists as: M.M. Agarkov, O.C. Joffe, S.S. Alekseev, A.O. Sobchak, R.O. Halfina, D.V. Bobrova, T.V. Bodnar, V.I. Borisova, M.I. Braginsky, S.M. Bratus, V.V. Vitryanskyy, V.P. Gribanov, O.V. Dzera, I.V. Zhylinkova, V.M. Kossack, I.S. Kanzafarova, N.S. Kuznetsova, V.V. Lutz, R.A. Maidanyk, N.O. Saniahmetova, M.M. Sibilov, I.V. Spasibo-Fateevf, R.O. Stefanchuk, E.O. Haritonov, A.I. Kharitonova, J.M. Shevchenko et al.

CONTRACT OF FREIGHT FORWARDING SERVICES: CIVIL NATURE AND ESSENCE

Netesa E.G.,
Postgraduate Student

Zaporizhzhya national university

The article investigates relationships freight forwarding services and control of contractual construction. The author comes from a position that the basis for the legal regulation of relations is a specific type of relationship. According to the author, as the subject of civil law in recent times introduced rightly, except property and personal non-property relations, organizational relationship, in determining the legal nature and essence of the contract freight forwarding services should pay attention to the last.

Contract of freight forwarding services is an independent civil contract (sui generis), fixed in a separate chapter of the Civil Code of Ukraine, because it has its own unique thing to him – execution or arranging certain legal services in it and / or the actual nature associated with shipping. In the transport process, it has an auxiliary character, since it contributes to the goal of a contract of carriage.

The global economic crisis requires a new approach to solving the economic issues, and to rethink the specific direction of the global economy, to rethink national economy and regulation of relations in the sphere of economic activity.

Significant role in the transport arteries of the economy plays freight forwarding services. Unfortunately, the researchers did not pay enough attention to the research contract of freight forwarding, not for regulation relations. Establish an adequate mechanism for regulation of legal relations is directly dependent on understanding the essence the regulated relations.

Therefore, we will explore the legal nature and essence of the relationship freight forwarding of services and contract structures that they regulate.

To achieve the stated goal of the article delivered for the following tasks:

– To explore the nature of relationships freight forwarding services;
– To research the legal nature and essence of the contractual design freight forwarding services;
– To research the legal nature of the obligations arising under the contract of freight forwarding services;
– To analyze the positive law, this regulates freight forwarding services and makes proposals for the improvement of the regulation of freight forwarding.

Agreements and separate the contractual structures, including the contract of freight forwarding services in the legal literature are given some attention. Among scientists should be noted: O.S. Joffe, S.S. Alekseev, A.O. Sobchak, R.O. Halfina, O.O. Krasavchykov, E.V. Bogdanov, D.V. Bobrova, V.S. Borisova, M.I. Braginsky, S.M. Bratus, V.V. Vitryanskyy, O.V. DZera, V.M. Kossack, N.S. Kuznetsova, V.V. Lutz, R.A. Maidanyk, N.O. Saniahmetova, M.M. Sibilov, I.V. Spasibo-Fateeva, E.O. Haritonov, Y.M. Shevchenko, R.B. Shyshka, E.O. Michurin, L.K. Weretelnyk, S.V. Ryeznichenko et al.

In 2008 defended PhD thesis Kuzhko O.S. «The contract freight forwarding services», but it attention devoted exclusively contractual structures apart from the actual relationships that are not in favor of the formation of an effective mechanism of legal regulation freight forwarding services.

Therefore, among other tasks, we set the goal to explore the legal nature and essence of the contract of freight forwarding services as part of the mechanism of legal regulation of the relationship.

According to the traditional understanding of the structure of society and its structure, it has its economic base and superstructure. They are interconnected phenomena that are in dialectical relation. This connection is not stable.

MECHANISM OF LEGAL REGULATION OF PASSENGER TRANSPORTATION: CIVIL ASPECTS

Sumkin S.A.,
Degree Seeking Applicant

Zaporizhzhya national university

The problem of providing adequate social adjustment, and including civil relations are quite complicated. The problem is compounded by the tendency for the isolation of some areas of sectoral differences. As a result, young researchers, jurists, mainly focus on its contractual regulation of legal structures. Undoubtedly, an agreement in the field of self-discretionary public relations is the basis of relationships, the way they formalize and control the rights and obligations of participants.

Background of our study is due to the specifics of a particular contract of carriage of passengers (passenger transportation contract is a public treaty of accession) and the need to ensure the implementation of the principle of equality of arms. This creates a situation in which a passenger is unable to influence the terms of the contract, he is entitled to, or enter into a contract on the terms offered by the carrier or refuse their installation. In the absence of legal guarantees, the carrier forms a relationship with his passenger, limiting the amount of the duties and establishing limited liability of a company, or even excludes it not in favor of either passengers or stability of civil relations.

The author supports the view that in situations where the parties of the contract can not or do not want to self-regulate their relationship, or when self-regulation is at odds with those who the public authorities must protect, possible and necessary to the legal regulation of contractual relations with the state.

SECTION IV. ECONOMIC AND AGRARIAN LAW

CONCERNING OF SEPARATE ASPECTS OF STANDARD REGULATION OF ENSURING FIRE SAFETY OF THE WOODS IN UKRAINE

Gulac O.V.,
Candidate of Law Sciences, Associate Professor

National university of bioresources and nature of the use of Ukraine

This article has research of separate aspects of standard regulation of ensuring fire safety of the woods in Ukraine, ranks of factors and tendencies which influence on formation of state mechanism in the sphere of public relationships.

It is noted that now ensuring of fire safety of the woods is extremely topical and important issues not only for our state, but also all world community. It is well-known that the woods are one of more important natural resources which ecological value is caused not only and not so much by their natural functions and their weak and long renewal.

However, we receive facts about those cases of forest fires with large-scale catastrophic consequences more often almost from all continents. As a result, there are a lot of emergency situations of forest fires which are unique and needing rather long time for updating natural properties of the woods come under destructive influence.

It is necessary to mention that the most common reason of emergence of forest fires is human factor. Unfortunately, the increased danger for preservation of forest fund creates as activity of the person as simple being in the wood. However, the right of free being of citizens in the wood is one of more important rights in the forest exploitation sphere, though at the same time, it is rather often connected with negative influence of human activity, first of all, creation of the increased fire danger.

The part 3 of article 41 of the Constitution of Ukraine notes that citizens for satisfaction of the requirements can use objects of the right of the state and municipal ownership according to the law. At the same time, use of property can’t do harm to the rights, freedoms and dignity of citizens, to interests of society, to worsen an ecological situation and natural qualities of the earth (the part 7 article 41 Constitution of Ukraine).

According to the Forest code of Ukraine (Articles 89 91) and Provisions about state forest, direct functions of forests protection including fire, first of all rely on the State protection.

According to loss of action of the Law of Ukraine "About fire safety" on the first of July, 2013, points of Fire safety regulations in the woods of Ukraine constantly refer to its situation (in particular, item 1.2; item 2.2 Rules and so on) and already old profile name of central executive authority, namely State Forest of Ukraine (for example item 2.2 Rules).

Consequently, bringing is offered to conformity with a current legislation, revision and corresponding addition questions that was examined in the scientific article, first of all such normatively-legal acts, as: Statute about the state forest guard of Ukraine and Rule of fire safety in the forests of Ukraine.

SOME QUESTIONS IN RELATION TO REALITY OF CONTRACT OF DELIVERY

Tyshchenko Y.V.,
Candidate of Law Sciences, Associate Professor

Educational-scientific institute of right and psychology
of the National academy of internal affairs

In the article an analysis is carried out normatively legal acts which regulate the contract of delivery. The conditions of the contract are considered deliveries which determines his reality.
An contract of delivery is derivatives from the contract of purchase-sale. The value of delimitation of contract of purchase-sale from the contract of delivery consists in their different legal adjusting (presence of excellent composition of substantial terms, and as a result, possibility of confession of contract uncelled and others like that).

In obedience to part second of the article 180 of Economic code of Ukraine, any economic contract, contract of delivery, in particular, it is considered celled, if between sides in statutory order and a consent is attained a form in relation to all him substantial terms. In accordance with part of the third articles 180 of Economic code of Ukraine, at the conclusion of economic treaty of side obliged in any case to co-ordinate an object, price and term of action of contract.

In obedience to part fourth of the article 180 of Economic code of Ukraine, condition, about an object in an economic contract must determine the name (nomenclature, assortment) and amount of products, and also requirements, to their quality.

To the next substantial condition of contract of delivery a legislation takes the terms of his action. If in the contract of delivery the term of his action is not certain, he is considered celled on one year. Coming from the resulted position, even if by sides the term of his action will not be certain in an contract, then this contract will contain a substantial condition in relation to the term of his action (one year), based on this norm of the Economic code of Ukraine. However, it conflicts with part the third articles 180 of Economic code of Ukraine, where sides at the conclusion of economic treaty obligation in any case to co-ordinate an object, price and term of action of contract.

The term of action of contract it is followed to distinguish from delivery dates. The economic code of Ukraine does not contain a norm which would determine a condition in relation to delivery dates as substantial in this type of contracts. Will remind, that the substantial are consider the conditions of the contract confession such after a law or necessary for the contracts of this kind, and also condition, in relation to which on call of one of sides there must be the attained consent. Analysing normatively legal base of adjusting of contract of delivery, it should be noted that his condition is in relation to the terms of realization of delivery, certain as substantial in point of a 17 Contract about the general conditions of supplying with commodities between organizations of states-participants of the CIS from March, 20, 1992, in point of a 19 Statute about supplying with the products of the industrial and technical setting and in point of a 16 Statute about supplying with the commodities of folk consumption, which approval by the decision of Council of Ministers of the USSR from July, 25, 1988, № 888.

Another substantial condition of contract of delivery is a price. If sides between itself did not co-ordinate the cost of contract and it can not be certain coming from his terms, then, in accordance with part of the fourth articles 632 of the Civil code of Ukraine, a price is determined going out from ordinary prices, which was folded on analogical commodities, works or services, in the moment of conclusion of treaty.

GENESIS STATE CONTROL OVER LAND USE AND PROTECTION IN INDEPENDENT UKRAINE

Rozhenyuk O.O.,
Degree Seeking Applicant

National university of the state tax service of the Ukraine

In this article the author deals with the notion state control over land use and protection, highlights the issues delimitation of the concepts "control" and "oversight" because we believe that the supervision and control of the administrative and legal aspects are are significant differences that are not allow to apply them as synonyms, determines the essence and peculiarities of state control over land use and protection in Ukraine, is to analyze of the genesis control in land relations, experience of legislative activity in this area, allowing you to identify the shortcomings of legal regulations and take them into account in the future.

Thus, state control over land use and protection is carried out by totality public authorities organizational and legal measures aimed at prompting the subjects of land relations to the execution of rules and compliance with land legislation, with the objective ensure the rational and efficient use and protection of land. Along with this, the regulatory framework regulating the order the implementation of control over land use and protection is imperfect. It contains a significant amount of blanket norms that complicate their application and substantially reduces the effectiveness of their regulatory power, there are many fuzzy addressless and of declarative formulations of provisions that have little impact on the state control over the use and protection of land and some norms are not appropriate implementation mechanism.

SECTION V. ADNINISTRATIVE AND FINANCIAL LAW

LEADING SCHOLAR OF ADMINISTRATIVE LAW ALEXANDER FEDOROVICH EVTIKHIEV: LIFE, WORKS, BASIC SCIENTIFIC PRINCIPLES (THE 135 TH ANNIVERSARY OF HIS BIRTH)

Kolomoets T.A.,
Doctor of Law Sciences, Professor

Zaporizhzhya national university

The article analyzes the creative and way of life of scientist of administrative law Alexandra Fedorovicha Evtikhieva, the bright representative of the national legal and administrative sciences end of the 19th – early 20th centuries.Noting the complexity of the environment, which was formed, and subsequently worked a scientist in the article focuses on his active life position, successfully combining research, teaching at the Kharkov Institute of National Economy, with normative while working in the institutions of justice, specialized institutions of the Council of national commissioners of the Ukrainian SSR? Noting the huge contribution A.F. Evtikhieva to the formation and development of the legal and administrative science, focuses attention on the main provisions of his works, which have not lost their significance until today.There are enough substantiated his suggestions regarding the division of administrative law on the general and specific parts, which later served as the foundation for the industry to appropriate research.Very original for its time it was formulated provisions on administrative acts, their classification, and the delimitation of the adjacent legal institutions.These provisions do not lose relevance even today.The contribution of the jubilee problematic issues in the study of object, the subjects of administrative law, the law in administrative activity, the rationale for the formation of the state of administrative justice. Jubiljar directly participated in the preparation of the Administrative Code of the Ukrainian SSR in 1927, scientific and practical commentary to it, its official publication with additional material.

Cardinal reformation doctrinal legal processes significantly affected the fate of A.F.Evtihev actually predestined harsh criticism of his work in the 30s XX, scientific oblivion, the lack of accurate facts about the last years of his life.
However, his scientific heritage, the result of design rule, interpretive activities are an integral part of Ukrainian better scientific legal heritage and today they are a part of the scientific foundation for the normative and practision activities.

LEGAL REGULATION OF COOPERATION FUNCTIONING IN THE CONDITIONS OF INTERNATIONAL STANDARDS FORMATION FOR ITS PROMOTION DEVELOPMENT

Lavryk H.V.,
Doctor of Law Sciences, Associate Professor

Higher educational establishment of Ukoopspilka «Poltava university of economics and trade»

The article is devoted to the research of the place and role of international norms and standards in the process of institutional, primarily legal ensuring of cooperation development support, cooperative system functioning as the whole.

Legal regulation of cooperation (cooperative system) development assistance in Ukraine is closely interrelated with the legislative and normative and legal regulation of those spheres, in which legal relations are regulated by the European Union law. Despite the making and adoption at the national level a number of normative and legal acts, those provisions are to some extent related to manufacturing or industrial cooperation of the Commonwealth of Independent States member states, the legislative and normative and legal regulation improving of cooperation (cooperative system) development assistance in Ukraine takes place simultaneously with similar processes in member states and candidate countries for membership in the European Union. It is about the compliance with the requirements according to the approximation to EU norms and standards, that are established to regulate the cooperative movement components, and the norms, governing the cooperative system functioning as a whole. It is important to take account of strategies and priority complementary directions for further comprehensive development of industrial cooperation; support of serving, primarily agricultural, cooperation; entrusting the state represented by the relevant state executive authority to achieve objectives, perspectives and priorities of social and economic development of consumer cooperation, building on developed system of credit cooperation, as well as consideration of patterns and trends of modern multifunction (universal) cooperatives development.

That approach is becoming the guaranty to approximation of the legal regulation of cooperation (cooperative system) with the best international practices and ensuring compliance with the constitutional rights of all property rights and economic activity subjects, social orientation of the economics of Ukraine, the equality of all subjects of property rights under the law.

THE LEGAL ENTITIES AND THEIR LEGAL AND ADMINISTRATIVE STATUS

Lyutikov P.S.,
Doctor of Law Sciences, Associate Professor

Zaporizhzhya national university

In this article the author through the prism of a generalized analysis of the scientific literature by legal attempt to describe the features of administrative and legal status of entity, its structure and propose architectural variant definitions "administrative and legal status of entities". The research of legal entities as subjects of administrative law is impossible without clarifying the nature and content of their administrative and legal status ("status" – from the Latin «status», mean position, status, condition of someone or something). This category determines the nature and features of the mentioned subjects which are participating in administrative relations. Before moving on in fact to the analysis of the issues, it is worth noting that in the legal literature along with the term "legal status" can often find other term – "legal position". There is no unanimity of scientists opinions on this issue, as the A.V. Ivanov said. Some authors, in order to specify and clarify the terminology suggests a difference between the terms "legal status" and "legal position". Others believe that the use of this term is necessary for the general characteristics of the subject position, because the term "legal position" often used to describe the subject in a certain range of public relations, and legal status covers all types of bonds. At the same time, most authors believe these terms are similar that it would be more appropriate and true approach.

ORGANIZATIONAL FORMS OF PUBLIC CONTROL: ESSENCE AND CONTENT

Skvirskiy I.O.,
Doctor of Law Sciences, Associate Professor

Zaporizhzhya national university

An attempt to conduct a complex and systematical analysis of existing organizational forms of public control is made. The essence and peculiarities of public control as a type of social control is found out in the article. The author's definition of public control is formed. The author proposes his own classification of organizational forms of public control; special organizational forms of public control; indirect organizational forms of public control. The content of each mentioned group of organizational forms of public control is analyzed briefly.

The problems of public control have been one of the most pressing topics for scientific discussions of representatives of legal science for quite a long time. This is understandable, since the public control is not only necessary element of civil society, but also the prerequisite for the implementation of individuals enshrined in the Constitution of Ukraine the right to participate in public affairs. It cannot be mentioned also about the importance of public control for democratic reforms in the country, because it is the last in the most fully manifested constitutional thesis that all state power emanates from the people. This point, in fact, is confirmed by constant scientific interest of the mentioned institute by scholars such as N.L. Boiko, S.H. Bratel, S.F. Denisiuk O.V. Jafarova, O.M. Muzychuk, V.S. Shestakov and others. At the same time we note that the named scientists in their works did not pay due attention to the question about the organizational forms of public control in Ukraine that is indicating the relevance of this area of scientific research.

Thus, the purpose of this article is to determine the essence and content the organizational forms of public control. To achieve the named objective is seen necessary: to formulate a definition of public control, to show the features of public control in comparison with other types of public control, in the light of the analysis of regulations governing the organization and public control in Ukraine, to identify the organizational forms of the latter.

ADMINISTARTIVNYE REGULATIONS AS A MEANS OF CORRUPTION PREVENTION

Zabroda D.G.,
Candidate of Law Sciences, Associate Professor

Krim faculty of the Odessa state university of internal affairs

The aim of the article is to examine the major approaches for understanding the essence of administrative regulations and the implementation of their systematization, highlighting gaps in the legal and organizational support of their introduction, and analysis of the preventive influence of the regulations on corruption when the administrative services are provided.

Based on the study of scientific and normative sources the following characteristics of the administrative regulations have been identified: this is a type of normative-legal act containing the relevant public administrative decision; it is a consequence of public relations regulations; there is a certain procedure of their development, adoption and introduction; the objective of their adoption is the regulation and specification of the activities of the organs (officials) in the process of their assigned tasks performance; their purpose is to increase the efficiency of the public authorities to ensure the implementation of citizens' rights and freedoms, legal interests of individuals and legal entities; their result is the administrative procedure; possibility to arrange legal-normative acts in the summary form.

It is established, that proposed administrative regulation means the administrative regulation in force and the objective is to regulate and effect detailed elaboration of the activities of the bodies (officials) in their assigned tasks performance, the normative legal act of public authority, which establishes administrative procedures, and its implementation is aimed at provision of the rights and freedoms of citizens, legal interests of physical and legal persons.

It is grounded that while developing the draft of the Administrative procedural code of Ukraine, it is necessary to include as a separate part "Prevention of corruption while performing the administrative procedures" and include the anti-corruption component, which sets : the principles of administrative procedure – principles of anti-corruption and decency; provisions on the administrative act, taken as a result of corruption, are invalid; order of restoration of rights and legitimate interests of physical and legal persons, violations due to that were violated the adoption of the illegal act.

The following activities are suggested: they are aimed at the prevention of corruption in the process of administrative services provision by public authorities and local self-government: to increase the level of professional training of public authorities as for information and explanation to the citizens the relevant information about definite service; develop the stimulating methods for the citizens and encourage their activity concerning the content of services issues and initiatives on direction of appeals to the authorities regarding the provision of services in the sphere of public order; develop and implement collections of algorithms on each service and to ensure their integration in the curricula for specialists training, who will provide in the future; strengthen internal control over provision of services including the use of surveillance of premises; employ contactless communication between service consumers and officials, including the introduction of electronic forms of the control over the process of passing decisions concerning the particular treatment of person; encourage the officials efficiently, honestly and provide good services to the population etc.

THE MAIN WAYS OF ORGANIZATIONAL AND LEGAL FUNDAMENTALS IMPROVEMENT OF THE LEGAL EDUCATION MANAGEMENT IN UKRAINE

Martynov M.P.,
Candidate of Law Sciences, Lecturer

Zaporizhzhya national university

The particular ways of organizational and legal fundamentals improvement of the legal education management in Ukraine, that should be enshrined into the new law of Ukraine “On Higher education” in the context of the extension of the normative legal regulation of academic, regulatory, institutional, personnel and financial fundamentals of the autonomy of higher education institutions, harmonization of the Ukrainian system of lawyers training to the appropriate systems of European countries taking into account the features of the national legal education are suggested in the article.

Modern problems of the quality of legal education mean that the current legislation of Ukraine on education (for example, the Law of Ukraine dated 23.05.1991 "On Education”,State National Program "Education. Ukraine of XXI century", approved by the Resolution of the Cabinet of Ministers of Ukraine № 896 of 03.11.1993, the National Doctrine of Education Development, approved by the Decree of the President of Ukraine of 17.04.2002 № 347, Convention on the Recognition of Qualifications concerning the Higher Education in the European Region of 01.04.1997 p., ratified by the Law of Ukraine of 03.12.1999, № 1273) [1] slightly reflects the content of social relations in this area on their rule of law. Therefore, the public administration legal education becomes inefficient with such a rule of law. The situation of the legal education in Ukraine and its trends require deep deliberation, an objective assessment and new approaches on the part of the bodies of power that are able to the reform of education on the principles of democratization, humanization, entering on the equal rights in the European and international living space of high standards. As A. Halchynskiy fairly said "The inability of the authority to form a structural transformation strategy makes itself futureless".

RETROSPECTIVE ANALYSIS OF REGULATORY AND LEGAL ACTS ON COMBATING DOMESTIC VIOLENCE IN UKRAINE

Omelyanchyk S.V.,
Candidate of Law Sciences, Lecturer

Zaporizhzhya national university

Article is devoted to the retrospective analysis of regylatory and legal acts on combating domestic violence in Ukraine. The author carried out a fundamental analysis of the Ukrainian legislation and international legal acts that are relevant to the problem, defines the essence of family violence and identifies the subjects that are engaged in its prevention.

The problem of domestic violence is not new for the Ukrainian society. For many centuries, parents have used (and are still using it now) violent parenting practices and control of their children, the men through the use of violence against wives showing their marital status, and maintained themselves as head of the family. The use of violence in the family, taking into account previous experience has become the norm for the Ukrainian society. And if you had seen this situation for granted before, so that after the declaration of Ukraine’s independence, the recognition Rights as highest social value, provision and guarantee of rights and freedoms, a democratic, humane, legal and civil society and the state, the initial recognition of the family unit of society on which depends the further formation, development and establishment of a complete personality – the theme of domestic violence has gained special importance for Ukrainian society. The attitude toward domestic violence has radically changed on the part of the public, as evidenced by the many NGOs that deal with this issue, adopted a number of legal acts, confirming recognition of domestic violence as socially negative phenomenon, against which require compulsory intervention by State.

PROTSESSUALNE RESPONSIBILITIES PARTICIPANTS THE ADMINISTRATIVE PROCESS

Pavlenko N.G.,
Candidate of Law Sciences, Senior Research Scholar

National academy of Internal Affairs

This article analyzes the legal literature and provisions of legal acts concerning procedural duties of the administrative process. Analyzed the steady implementation by the parties of their procedural obligations relevant to the implementation of all judicial procedures required by law, which in turn ensures a full installation of the case and an objective assessment of the evidence. The essence of fulfillment member of the administrative process of their judicial duties is his desire to avoid the negative consequences that may result in their failure.

Also considered the issue that each party must prove the facts upon which its claims and objections. Failure to comply with this procedure may result in the obligation of non-recognition by the court of the circumstances and evidence of neglect in making decisions.

Parties are required during the proceedings to inform the court of a change of residence (stay, location) work life (Part 1 of Art. Ukraine 40 banks). Failure to comply with this procedural obligation may result in failure of the website administration process hearing his fault, because in accordance with Part 1 of Art. Ukraine 40 banks in the event of failure to notify change of address notice is sent over the last awarded at and considered.

Also in this study made an opinion that the exact and strict compliance with the procedural obligations of members of the administrative process necessary for a comprehensive, full and objective consideration of the case. Failure to comply with specified responsibilities leads to an incomplete installation of the case by the court, and such actions concerned parties (the plaintiff, defendant, third parties) leads to an underestimation of the court their procedural position and possible negative consequences of a judgment for their rights, freedoms, interests and obligations.

BRINGING PEOPLE TO ADMINISTRATIVE LIABILITY FOR VIOLATIONS OF FISHERIES AND FISHERY CONSERVATION AS A MEANS TO IMPROVE THEIR HEALTH

Salmanova O.Yu.,
Candidate of Law Sciences, Associate Professor

Kharkiv national university of internal affairs

The paper identifies the main shortcomings of the content and procedures of administrative liability for violations of fisheries and protection of fish stocks, the ways to improve it. It is noted that the improvement of material and procedural norms of legislation on administrative liability for violations of fisheries and protection of fish stocks will help solve the problem of violations in this area and ensure respect for the rule of law and protect the rights of persons to whom the applicable administrative responsibility. Also, this topic has always been a very topical and important. Because the relevance of the topic, is that administrative violations in the field of fisheries and protection of fish stocks are a big part of administrative environmental crimes: namely fisheries and other aquatic biological resources often become the subject of such offenses. It is currently an important concern of public authorities and non-governmental organizations are promoting ekolohozahysnyh reduce violations in this area, the education of the citizens and leaders of enterprises and institutions engaged in fisheries and culture fisheries and other uses and extraction of animals. Bringing citizens and legal persons to administrative liability for violations of fisheries and protection of fish stocks - is one of the most effective means of combating violations in this area. Therefore, improvement of material and procedural norms of legislation on administrative liability for violations of fisheries and protection of fish stocks will help solve the problem of violations in this area and ensure respect for the rule of law and protect the rights of persons to whom the applicable administrative responsibility. The purpose of this paper is determined that determine ways to improve the protection of fish stocks by applying those responsible administrative liability for violations of fisheries and fishery conservation. To achieve this goal it is necessary to solve the following problem: set the main shortcomings of legislative regulation of the content and procedures of administrative liability for violations of fisheries and protection of fish stocks, to identify ways to improve them. Also in this proposed ways to improve the protection of fish stocks means of administrative liability for violations of fisheries and protection of fish stocks will help: preventive functions of administrative responsibility, compensation for damage, the reduction of official abuses and violations. However, along with the proposed amendments certainly reduce violations of fisheries and fishery conservation contribute explanatory work among the population, instilling in them the culture of rest and use of flora and fauna.

LEGAL BASIS OF SECURITY IN THE MARKET OF NON-BANK FINANCIAL SERVICES IN UKRAINE

Chernyey V.V.,
Candidate of Law Sciences, Associate Professor

National academy of internal affairs

The author has identified the main causes and conditions that will prevent effective security system on the market of non-bank financial services in Ukraine and zaproponovanoryad measures to improve the operation of certain financial institutions. Also, this topic has always been a very topical and important. Because the relevance of the topic, is that security on the market of non-bank financial services has been one of the priorities of national security in the financial sector. Financial institutions are exposed to a number of risks that are inherent in the economy: investment, foreign exchange, credit, interest rate, inflation, tax etc. Financial risk management policy should form the basis of financial sector development strategy and include the development of measures for the detection and prevention of high risks and negative effects caused by them. According to the Concept of national security in the financial sector on august 15. 2012 national security in the financial sector include security issues in the public sector in the management of public debt, guaranteed debt and the debt of the corporate sector, taxation, finance and insurance real economy, banking, foreign exchange market and the functioning of the stock market and non-bank financial sector. Characteristic features of national security in the financial sector is the balance, resistance to internal and external threats, the ability to ensure the effective functioning of the national economy and the economic growth of the country. The problem that needs solving is not effective enforcement mechanisms to neutralize, minimize the impact and eliminate phenomena and factors that lead to the creation of external and internal security threats in the financial sector. Also the analysis of the main provisions of the Concept of prudential supervision shows that their implementation will help improve the capitalization of domestic insurance companies (which opens up prospects of new insurance products, insurance of large risks) and their financial stability, improve the quality of assets of financial institutions, to ensure the safety of pension assets to restore and increase public trust, to increase the share of assets of non-bank financial institutions in the total assets of the financial sector in Ukraine, which will have an overall positive impact on the security market for financial services.

EFFICIENCY OF CONTROL ACTION ON TRAFFICKING OF DRUGS

Bardakova L.V.,
Postgraduate Student

National law university named after Yaroslav the Wise

The Article is concerned with topical issues which characterize efficiency of control action after circulation of drugs, non-admission of hit in circulation and an exclusion from circulation of deficient and harmful drugs, improvement of legislative provisions which regulate elements of implementation of such control, ensuring the observance of requirements of regulations in the sphere of regulation of trade activity.

Efficiency of control action on trafficking of drugs is one of priority tasks of the state and is aimed first of all on providing the rights of citizens on safe and qualitative medicines and promotes for development of the pharmaceutical sphere as the integral compound of national economy.

Application of administrative and legal actions in this sphere in crease the role and value of the state control in the sphere of trafficking of drugs. Thus, the main aspect connected with trafficking of drugs is ensuring efficiency of implementation of such control.

The purpose of this article is research of problems of determination of efficiency of control on trafficking of drugs and its differentiation on stages with help of which the controlis performed, application on practice of provisions of regulations existing in Ukraine concerning questions of the use of qualitative and safe medicines, and also justification of conclusions directed on current legislation improvement in this sphere.

The concept of efficiency of control is closely connected with concept productivity, as the end result of control- it is the key factor of determination of its efficiency. It is impossible to draw conclusions about results of control without identification of practical consequences which affected on the content of activity of object which is checked. From criterion of productivity inseparable is the criterion of effectiveness of control which displays that positive influence, which control exercises on the under control object, ability of the subject of control to provide timely and full implementation by object of control of recommendations, instructions and requirements.

In our opinion, there is an imperfection of the legislation and continuous changes which leads to legal lack of proper regulation on control of circulation of drugs which negatively influences on condition of pharmaceutical provision of the population with qualitative and safe medicines.

The conducted research of administrative legal support of efficiency of control on the circulation of drugs at the present-day stage of development, allows to come to the general conclusion about importance of changes both as the organizations and legal support of such trafficking.

THE ISSUE OF ADMINISTRATIVE LEGAL REGULATION OF STATE-PRIVATE PARTNERSHIP ACCORDING TO LAWS OF UKRAINE

Bondarenko D.S.,
Senior Lecturer

Berdyansk institute of state and municipal administration of Classic privatnyy university

The author analyses theoretical basis, contents and peculiarities of administrative legal regulation of state-private partnership in Ukraine. The author reasons the thesis that the state-private partnership is a key mechanism of public administration in the economic field; the administrative legal regulation makes a core of normative legal regulation, added with civil, business and finance legal regulation.

The author supports the concept of A.E. Sazonov – «the concept of two keys» according to which a certain project of state-private partnership can be realized only through mutual cooperation and mutual responsibility of all partners. The administrative-legal nature of state-private partnership is based on a priority of public interests and the necessity for a state and private partners to act towards the same direction.

The author analyses the existing administrative legal modes in the field of state-private partnership and offers to define state-private partnership as an integrated administrative legal mechanism of cooperation of an entity of public administration (state bodies and local government bodies) with private partners for the sake of public interests that is characterized by multi-structural functional consolidation of financial, property, managerial and other resources of state and private partners; the goal is to reach social and economic effect on the basis of creating, modernizing and functioning public infrastructural objects or providing public services.

ADMINISTRATIVE AND LEGAL DESCRIPTION OF THE OBJECT OF ADMINISTRATIVE VIOLATIONS IN THE FIELD OF LAND RELATIONS

Fedorchak I.V.,
acting head of department

Ministry of internal affairs of Ukraine in Kirovograd region of Ukraine

Analysis of administrative and tort law and administrative law doctrine in the context of the definition of the object of administrative violations in the field of land relations. The general, generic and direct object of administrative violations in the field of land relations. On the basis of the study proved that the object of administrative violations in the field of land relations is an important element of the offense, and this is of great theoretical and practical significance for the implementation of correct classification of illegal (action or inaction). It is noted that during the authorized persons of public administration qualification of an act of the offender define a common, generic, basic and immediate additional (mandatory and optional) objects.

The general object of administrative violations in the field of land relations is a set of social relations arising from the ownership, use, disposal and land management at the national, economic and levels of farm protected administrative tort rules.

It is noted that according to the generic object of administrative and legal protection of all administrative violations in the field of land relations can be roughly classified as follows: 1) administrative violations that infringe on protected land relationship with the ownership, use, disposal of land, their rational use and protection; 2) administrative violations that infringe on protected public relations on proper land management.

When the subject of an administrative offense shall mean the things of the material world, affecting an offender who has a direct assault on the object of administrative violations in the field of land relations. It was found that the subject of administrative violations in the field of land relations: 1) land resources; 2) plot of land; 3) documentation of land management; 4) information that may be made to the State Land Cadastre.

PROCEDURE OF DEFINING MONOPOLISTIC (DOMINANT) POSITION OF BUSINESS AGENT ON THE MARKET AS A SPECIFIC KIND OF ADMINISTRATIVE PROCEDURES

Filipova T.L.,
Judge

Rovnenskiy Appellate Commercial Court

The article is to research the procedure of defining monopolistic (dominant) position of a business agent on the market as a specific kind of administrative procedures.
The author offers to understand the term "the procedure of defining monopolistic (dominant) position of a business agent on the market" as acts which are regulated by the administrative laws that are executed by the bodies of the Anti-Monopolistic Committee of Ukraine to establish and record in an administrative acts the facts of occupying a business position which allows independently or with other business agents decide the conditions for circulation of commodities on the market owing to absence of economic competition.

Such a kind of procedures in the field of protection of economic competition can be both organizational and functional; declarant or interruptive; jurisdictional or non-jurisdictional.

The author characterizes material-legal and administrative-procedural norms regulating the ways of establishing a monopolistic (dominant) position on the market, defines and details seven stages of such a procedure. The author emphasizes that a monopolistic (dominant) position is not violation of law, but can result in some definite administrative-legal consequences.

The author points to the necessity of unification of the conceptual apparatus, the necessity to exclude the term of "establishing monopolistic (dominant) position" from all the legal acts in the field of protection of economic competition and implement the notion "defining monopolistic (dominant) position" (as a process) and "recognizing monopolistic (dominant) position" as a statement.

SECTION VI. LABOUR LAW

THE LEGAL NATURE OF EMPLOYEE PARTICIPATION IN THE LOCAL LEGAL REGULATION OF LABOR

Semich N.I.,
Candidate of Public Administration

Poltava state agrarian academy

Determined that it is the right of workers to participate in enterprise management is the basis for authorizing employees and their representatives in the legal regulation of labor. It was established that the disadvantages of the state regulation of collective bargaining lies in the fact that they are provided only for the conclusion or amendment of a collective agreement, but not for the settlement of collective disputes. Also noted that regulations usually do not establish specific procedures, and determine only the general principles on which the process of collective bargaining. Attention is paid to the participation of employees in the local normative legal regulation of labor relations, which is caused by the need to ensure full consideration and best interests of employees in the workplace, prevention of labor disputes in enterprises, which contributes to maintaining stability in society. The organizational and legal forms of implementing of its authority by employees on participation in local normative legal regulation of labor relations are proposed.

Legally regulated forms of ownership led to various forms of collective labor, which differ in the nature of relations between workers and owners of capital goods, and the degree of employee participation in enterprise management. In this regard, a significant number of office labor groups were regarded as a violation of the owner of means of production and the principles of civil law. Labour legislation has tended to a significant reduction in the powers of the staff to ensure the principles of industrial democracy. Worker participation in local normative legal regulation of labor relations due to the need to ensure the fullest and take account of the interests of workers in the workplace, prevention of labor disputes in enterprises, which contributes to maintaining stability in society.

The right to be represented in terms of local legal regulation of labor is another element of a comprehensive law in question. Its meaning is that each employee may be able through representative bodies (representative) or trade union organization realize its interest in regulating in the enterprise.

The novelty of the proposed approach is to transfer to the local level of the issue resolving andinstalling all the powers of the participation of employees in enterprise management. The above authors excluded under market conditions the need for the law on the rights of employees on participation in the process of publishing an employer of local regulations, recognizing them only the right to collective contract labor regulation. Since the relations connected with the management of the enterprise and with participation in it of workers find their expression in relationships governed by labor law, we consider it justified fixing mentioned rights in the draft of the Labour Code of Ukraine on the list of basic (statutory) rights of workers.

ECTION VII. TOPICAL ISSUES OF CRIMINAL LAW AND CRIMINOLOGY; CRIMINAL-EXECUTIVE LAW

SOCIAL AND PSYCHOLOGICAL ASPECTS OF DECISION-MAKING ON COMMISSION OF CRIME WITH DIRECT INTENTION

Kashkarov O.O.,
Candidate of Law Sciences, Senior Research Scholar

Crimean faculty of the Odessa state university of internal affairs

The decision-making problem on implementation of that or other action including the criminal person in activity is represented by essential interest and arrests interest of researchers. In essence it is very difficult and multidimensional. Depending on methods and an object of research of a problem of decision-making on behavior the special type of decision-making on the beginning and implementation of criminal activity is studied by psychology, sociology, management science, except the specified sciences the criminology and criminal law carry out, however it should be noted that by sciences of a criminal and legal cycle of special attention to problems of decision-making wasn't given.

In article the questions connected with processes of formation and making decision on the beginning of criminal activity are considered the attention to such structural elements decision-making as Is paid: motive of commission of crime, motivation of criminal activity, purpose of commission of crime. The analysis of the existing points of view concerning definition of essence of stages, stages and elements is carried out at making decision on the beginning of criminal activity, on the basis of existing points of positions, author's definition of elements of their filling is given.

In article it is noted that making decision on the beginning of criminal activity, is a hot topic of researches of such sciences as psychology, criminology and criminal law. Has important as theoretical, for establishment of psychological communications in the course of formation of criminal intention, and practical value for definition of degree of public danger of a crime and according to purpose of punishment. Provisions of article can be used at a statement of legal subject matters and special courses, such as: General and Special parts of criminal law; criminology; criminal psychology; criminal sociology; operational search psychology.

THE DISCONTINUATION OF RESTRICTION IN THE PERSONAL NON-PROPERTY RIGHTS BY PERSONS, CONVICTED TO IMPRISONMENT: SPECIAL QUESTIONS OF THE THEORY AND PRACTICE

Prasov A.A.,
Candidate of Law Sciences, Associate Professor

Zaporozhye district administrative court

The problem, that is devoted the article, in a general way can be defined as the improvement of realization of the personal non-property rights persons, convicted to imprisonment. It's decision has a large theoretical and practical value. It relates to such tasks as: finding out of the personal non-property rights for persons, convicted to imprisonment, discovering of possible way of their progress, improvement of providing of realization of these rights.

The last researches and publications in Ukraine concerned with the decision of this problem are analyzed. This analysis testifies that different specialists in the law field have already got considerable results in the decision of this problem. At the same time author defined the insufficiency of illumination of question how we can stop the limitation of personal non-property rights for individuals, convicted to imprisonment. Consequently the aim of the article is to answer on this question.

In the article practice related with the realization of criminally-executive legislation norms is studied. Also different factors that impacts on the restriction of personal non-property rights for individuals, convicted to imprisonment, are explicated.

Investigating the main question of the article, author came to the next conclusions:

- people that are convicted to imprisonment differently behave to the volume of limit personal non-property rights - somebody satisfies with it and somebody – no. The character of their stipulation is caused by economic or social reasons;
- stopping of limitation of the personal non-property rights for convict to imprisonment depends on their behavior and can be both a speed-up and detained by them;
- on stopping of limitation of the personal non-property rights for persons, convicted to imprisonment, can be positive or negative influenced by official persons of establishments of implementation of punishments, courts and other subjects, participating to the questions releases from serving.

The results of the article have general basic character and can be useful for all researchers who concern problems of the personal non-property rights for persons, convicted to imprisonment.

THE PROBLEM OF DETERMINING THE LEGAL BASIS OF SENTENCING IN THE DEPRIVATION OF THE RIGHT TO OCCUPY CERTAIN POSITIONS OR ENGAGE IN CERTAIN ACTIVITIES

Shiyan D.S.,
Candidate of Law Sciences, Associate Professor

Institute of management and law Zaporizhzhya national technical university

The article deals with the problematic issues determining the legal basis of sentencing in the deprivation of the right to occupy certain positions or engage in certain activities under the criminal law of Ukraine.

Its solution will facilitate maximum individualization deprivation of the right to occupy certain positions or engage in certain activities, the correct installation procedure and limits its application to identify those features of the purpose of the punishment that should be considered by the court in its application.

Paying tribute to the work of scientists who are engaged in this issue, it should be recognized that the level of scientific research legal basis sentencing appears to be insufficient. In the theory of criminal law on some of them expressed conflicting points of view, not fully resolved the issue in law, in connection with this Litigation experiencing serious difficulties. Therefore there is a need to explore and summarize the expressed opinions and offer their own position on this problem.

The objective of the paper is to solve the problem for determining the legal basis of sentencing in the deprivation of the right to occupy certain positions or engage in certain activities.

A common reason for any of the penalties, including deprivation of the right to occupy certain positions or engage in certain activities, the person is committing a socially dangerous act, which appear to constitute a crime under the Criminal Code of Ukraine, which contains all the elements of the offense and mandatory signs. Also, the legal basis for the appointment of deprivation of the right to occupy certain positions or engage in certain activities as the main penalty is mandatory sanctions in anticipation of his article (sanction of the article) of the Special Part of the Criminal Code of Ukraine or the appointment of a more lenient sentence than provided by law pursuant to Part 1 Article 69 of the Criminal Code of Ukraine. It is proposed to define in Article 55 of the Criminal Code of Ukraine legal basis for punishment in the form of deprivation of the right to occupy certain positions or engage in certain activities not only as an extra, but the main punishment. In both cases, the reason must be the same: the offense is committed with the use of his position, or in connection with a particular activity. Mandatory legal requirement for sentencing in the deprivation of the right to occupy certain positions or engage in certain activities, when it is not provided by the relevant article (sanctions of the article) of the Special Part of the Criminal Code of Ukraine, the Court is impossible for saving sentenced to hold certain positions or engage in certain activities. Deals with a form of punishment as a primary or supplemental may be appointed only in cases where the crime was linked to the position held by the offender, or the activity which he is engaged, and the perpetrator during the commission of a crime actually and lawfully occupied that position, which he used to commit a crime or engaged in that activity in connection with which the offense was committed.

PENAL MEASURES FOR CRIME PREVENTION EDUCATIONAL COLONIES

Volyanuyk O.D.,
chief inspector

National academy of internal affairs

The article analyzes the penal measures to prevent crimes correctional facilities. Indicated that juvenile delinquency has a high degree of social danger, defined by negative trends today. Specified the need to improve correctional facilities in the penal measures to prevent the crimes that are committed in correctional facilities.

Stressed the importance of the subject so that is that the current Criminal Code of Ukraine at the legislative level in the near future ended the diverse views on the definition of priority between the correction and rehabilitation. Article 50 of the Criminal Code of Ukraine states that punishment is intended not only punishment, but correction and prevention of new crimes by prisoners and others. Article. 1 CEC of Ukraine, which defines the purpose and objectives of penal legislation provides that the penal legislation of Ukraine regulates the procedure and subject to criminal penalties and serving to protect the interests of individuals, society and the state by way of providing correct and resocialization, prevention of new criminal offenses as prisoners, and others. A problem of penal legislation of Ukraine is to define the principles of execution of criminal penalties, the legal status of prisoners, guarantees protection of rights and legitimate interests of their duties, order application of enforcement measures to correct and prevent antisocial behavior, identification of the bodies and institutions penal, their function and activity, supervision and control over the execution of criminal penalties for public participation in this process, regulation agenda and terms of reference and serving criminal sentences, exemption from punishment, assistance to persons exempt from punishment, control and supervision of .

Also carried out the analysis methods of socio-educational work with inmates in correctional facilities makes it possible to conclude that the modeling method of educational work with minors, we have outlined only way to overcome any need to move in the development of technologies of social and educational work in correctional facilities.

THE EXPERIENCE OF CRIMINAL LEGAL COUNTER TO CONTEMPT OF COURT IN COUNTRIES OF ROMANO-GERMANIC LEGAL FAMILY: COMPARATIVE ANALYSIS

Shmarin I.O.,
Postgraduate Student

Institute of Law after V. Stashisa of Classic Private University

This article analyzes the experience of criminal law combating contempt of court in the countries of Romano-Germanic legal family on the basis of comparative analysis.
The selected theme is actual, because of its research determine the legal nature of contempt of court as a negative social phenomenon in the countries of Romano-Germanic legal family and using foreign experience, to formulate proposals to improve domestic legislation on criminal justice.

The objects of research are public relations related to the liability for crimes that infringe on the established order of administration of justice in the countries of Romano-Germanic law family.

The subject of research is the experience of criminal law combating contempt of court in the countries of Romano-Germanic law family.

The purpose of the article is the research of features of the criminal law combating contempt of court in the countries of Romano-Germanic legal family and determine the prospects of improvement of domestic criminal law in the area of justice.

According to this purpose the following tasks have been formulated:

– to clarify the extent of scientific research of the subject;

– to examine the international experience of criminal law combating against contempt of court in the countries of Romano-Germanic legal family;

– to characterize responsibility for contempt of court as a crime against justice in the countries of Romano-Germanic legal family;

– taking into account the achievements of criminal jurisprudence in the countries of Romano-Germanic legal family to formulate theoretical principles and practical recommendations to further its development, to make proposals for the criminalization of Ukraine in contempt of court as a crime against justice.

A comparative research of international experience in the field of criminal law combating contempt of court in the countries of Romano-Germanic legal family led to the conclusion that in the majority of countries surveyed established criminal penalties for contempt of court in connection with what justified by the need to introduce criminal liability for a wrongful act referred.

SECTION VIII. CRIMINAL PROCEDURE AND CRIMINOLOGY; OPERATIONAL SEARCH ACTIVITY

CALL JURORS

Karpov N.S.,
Doctor of Law Sciences, Professor

Scherba V.M.,
Degree Seeking Applicant

National academy of internal affairs

This article analyzes the legal literature and provisions of legal acts, and discusses what an important tool in carrying out their tasks is to involve ordinary citizens into consideration together with professional judges certain categories of cases. Also developed appropriate conclusions and suggestions on call jurors. The current Criminal Procedure Code establishes the procedure for criminal proceedings by a jury, and determines that the judge-a chairman, vice-chairman, Judge of the Supreme Court of Ukraine, the High Specialized Court for Civil and Criminal Cases, the Court of Appeal of ARC, the appellate courts of oblasts, cities Kyiv and Sevastopol, district, borough, city and city district courts, which under the Constitution of Ukraine on a professional basis authorized to administer justice, and jurors (article 3. Definitions of key terms of the Code). Also the jury as representatives of the people involved to the administration of justice, are carriers of the judiciary in Ukraine and administer justice independently of the legislative and executive branches. Jurors, like the judges, in the exercise of justice independent and subject only to the Constitution of Ukraine and the law. Ukraine needs to consciously approach the question exactly how it implement the constitutional guarantee of a jury trial. If Ukraine inkvizytornu system combines with the jury system similar to that which exists in the United States, there is a great risk that the active role of the judge jeopardize the impartiality of the jury. This is contrary to the rights of the accused and accurate investigation of the case. If Ukraine will follow the adversarial system it is necessary to understand the judicial system of procedural and evidentiary rules to ensure the equitable rights of the accused, the trial justice, impartiality of the jury. Thus, it is difficult to overestimate the importance of future legislation for implementation of constitutional guarantees. Be the jury-it's hard work and high responsibility as a juror duties associated with the solution of human destiny, often for many years.

SEVERAL PROBLEMATIC ISSUES OF GRAPHLOGICAL STUDIES UNDER MODERN CONDITIONS OF NEW PROCEDURAL LEGISLATION OF UKRAINE

Uzunova O.V.,
Candidate of Law Sciences, Associate Professor

Zaporizhzhya national university

Kaliuga K.V.,
Candidate of Law Sciences, Associate Professor

Classical Private University

The article is devoted to integrated investigation of special features of graphological studies under the conditions of new criminal procedural legislation of Ukraine. The author pays attention to certain groups of difficulties that experts have to face. These difficulties are caused by insufficient preparation of materials for carrying out the studies. The article analyzes the notion of expert's conclusion and its contents taking into account new provisions of procedural legislation. This paper dwells on the innovations in the letter of negotiations between experts which is enclosed to the copies of investigation.

The authors point out that under modern conditions of the development of independent state of Ukraine we witness a considerable growth of importance of criminal examination in legal proceedings in the process of clearing-up the way of crime commission and getting scientifically grounded evidence. The conclusion of an expert directly influences the process of proving a suspect's guilt. Modern methodology of carrying out graphological studies in Ukraine is still being formed, the processes of its improvement and further development are still in progress. Methodological guidelines and legislative base that reflect these processes are rather young and leave much to be desired. The improvement of legal settlement of fighting against crime gains much importance in this process. A special role in counteracting crime is played by forensic examination as a special form of introducing the achievements of scientific and technological progress into legal proceedings.

Thus, the objective of the article is, firstly, to throw open the information about the realization of judicial reform in Ukraine in the sphere of place and role of graphological studies/examination in legal proceedings (civil, criminal, etc); secondly, to discuss practical issues of the problem; thirdly, to contribute to formation of students' scientific and practical conception of their 'senior colleagues' who study the legal sphere mentioned above; fourthly to investigate the ways of fulfilling the tasks of establishing the actual performer of handwritten notes/signatures; fifthly, the role of a graphologist under new conditions of criminal code of practice of Ukraine. The aim is also to attract the students' attention to modern state of rules of appointing and carrying out graphological investigations under conditions of 'settlement' of this procedure. Because it is at this stage of education a lawyer, or more precisely a legal procedure specialist and criminalist, can be directed towards a correct understanding and skilful use of the resources of graphology, its methodology and methodological guidelines and the processes of appointing, carrying out and implementing results in legal proceedings.

We should stress that the activity of an expert in the process of problem solving is consistent, effectuated according to a certain hierarchy of levels, phases, stages which make up the contents of the methods of investigation. The information about the possibility of carrying out such investigations will help future lawyers (who want to get another advantage as an experienced specialist) to master the 'art' of clearing up the truth to the full extent. To identify an actual performer of a handwritten note/signature one should address an appropriate specialist. And when it is not just interest or counseling but a necessity to establish a certain jural fact, one should turn to an accredited graphologist, a forensic expert, in a procedural form and with adherence to all the requirements.

Special attention is drawn to the fact that in the process of crime investigation there often arises the necessity of forensic examination of documents which are material evidence, which were used as a means of crime commission or as a means of concealing traces of a crime or other documents which contribute to clearing-up other circumstances of legal proceedings.

CONCEPT «OTHER CIRCUMSTANCES A CRIMINAL OFFENSE» AND WHEN MAKING DOKAZIVANIYA FRAUD AT THE RAILWAY

Bosak O.A.,
Adjunct

National academy of internal affairs

The paper identified and investigated the circumstances of the subject of proof referred to in paragraph 1 of Part 1 of Article 91 of the Criminal Procedure Code of Ukraine as "other circumstances of a criminal offense." The features and the importance of proof of these circumstances in the investigation of fraud in railway transport.

Crime is understood as an element of the objective side of the crime, which occurred in a particular time and place in a certain sense. Proceeding from the above, that scientists are not fully taken into account the other circumstances of the criminal case. In particular, in the proof in the criminal process, especially must be installed in the circumstances pertaining to the crime. This refers to the object and purpose of the following signs of crime, which determine is the action or inaction in accordance with the criminal law, and if you have time, place, method and conditions, conditions under which they occur.

In terms of studying віктимологічних aspects of fraud in railway transport are of significant interest for socio-moral and moral-psychological characteristics of not only the behaviour of the victims, but also their personality. This characteristic is relative in connection with a limited amount of information contained in the criminal proceedings against the victim. During the study the inner world suffered from fraud attention should be emphasized typology of victims. In some cases, the victim for a long time was familiar with the accused and, handing him his property, did not suspect about his criminal intentions. In other cases, on the contrary, the victim recently met with the accused and could predict the intent of the crime of fraud, however, a few hours of communication trustingly transfers its property.

Furnished commit fraud on objects of railway transport is closely connected with the method of fraud. Committing fraud, Scam creates the necessary environment that’s conducive to achieving the goal of taking possession of property or right of that property by deception or abuse of confidence. This seeming familiarity with influential people (presentation of business cards, photographs, autographs), demonstration of awareness in certain matters, the offer of friendship, a story about yourself. Deception can be conclusive actions, which include: the use of uniforms by a person not entitled to wear the change in appearance, shape or properties of different objects when they are issued for other items to take possession of the property.

Collection of scientific papers

Zaporizhzhya National University Journal

Law Sciences

№ 1, 2014

Technical Editor – M.H. Shyvanova

Passed for printing 20.03.2014. Format 60 x 90/8.
Paper Data Copy. Typeface “Times New Roman”.
Conventional printed sheets – 28,3
Order №. 66, 100 copies.

Zaporizhzhya National University
69600, Zaporizhzhya, MPO-41
Zhukovsky Street, 66

Certificate of registration of subject of publishing
in the State Register of Publishers, Manufacturers
and Distributors of Publishing Products
ДК № 2952 of 30.08.2007