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THEORY AND HISTORY OF STATE AND LAW

Zamorska L. I.,
Doctor of Law Sciences, Associate Professor,
Associate Professor of Theory and Philosophy of Law Faculty of Law,
Yuriy Fedkovych Chernivtsi National University

THE REGULATORY SYSTEM OF SOCIAL REGULATION: THEORETICAL ASPECTS

Normativity as an important phenomenon in the society is always associated with the phenomenon of social regulation. Regulation is a way to maintain equilibrium in the object, by means of a self-sustaining system.

Society at any stage of its development cannot do without special social mechanism, whose functions are that it regulates public relations, social supports discipline, contributing, thus, focus on the functioning and development of society as a whole and its separate elements, most important of which is the personality of the person.

In its tendency regulatory controllers as concepts of social regulation are (accumulated) in the regulatory system. The regulatory system is though important but not the only one in the system of social regulation. Thus, social regulation – the category of specific historical.

With the development of society develops and changes the mechanism of social regulation.

Thus, social normativity is a reflexive combination of commitment and specified element of belonging, rooted in the norm through the integrated it value. Special importance is given to the normative system of social regulation, thanks to which, in fact, establishes a mechanism of social regulation. Features of this regulatory system include its constituent elements-the regulators, basic and special place among them belongs to social norms, enabling social regulation of social relations.

Kalashnikov V. M.,
Candidate of Law Sciences, Doctor of Historical Sciences,
Professor of Department international law,
Dnipropetrovsk National University named after Oles Honchar

BOURGEOIS REFORMS IN TSARIST RUSSIA AND UKRAINE

This article discusses the implementation of the bourgeois reforms in Ukrainian provinces of the Russian Empire. The author draws attention to the fact that in the most developed European countries and the United States to make the transition from the early, manufactory capitalism to the more advanced way of doing capitalist economy, focusing on factories. Along with the development of urban capitalist economy in the developed Western powers underwent a process of uprooting the final elements of feudalism. Under these conditions, the Russian Empire had a chance to start a systemic transformation of urban industry and agriculture on the basis of purely bourgeois, especially within the present-day Ukraine, which lagged behind in the development of the capitalist economic structure from the other provinces of the European part of the empire.

The author considers bourgeois reforms and counter-reforms in the territory of modern Ukraine as a set of activities that reflect the specifics of the transition Ukrainian towns and villages to the beginnings of capitalist farming. If it is proved that the implementation of the bourgeois reforms, which began with the abolition of serfdom, require a certain sequence and system that ensured the continuity of the process of economic transformation of the complex of the Ukrainian lands on the basis of the bourgeois. The author, however, stresses that the tsarist government sought to unify the process of Reformation in the Ukrainian town and village, which prevented the formation of Ukrainian bourgeois nation.

Kurakin A. M.,
Candidate of Law Sciences, Associate Professor,
Professor of Department of theory and history of law,
Dnepropetrovsk State University of Internal Affairs

THEORETICAL AND LAW ASPECTS OF LEGAL DEFINITION OF THE LEGALITY IN LEGAL REGULATION

Out of state can be neither right nor its application in everyday society. It is the state, using the tools of state coercion, must provide treatment in the community law and order. Legality – kind of requirements legality of conduct for members of society, based on the regulatory mechanism inherent in the legal relationship in which the entity is personally interested in the performance of a legal obligation by the other party in its lawful behavior.

This follows from the general role of law enforcement objective necessity and civil liberties guarantees of scale to meet the needs of its normal functioning. In severe property rights law to resist tyranny through organizing social relations.

Legality is not just the implementation of the law in specific cases, and the rule of law in society, particularly its dominance in the relationship between government and individuals. This rule is not a typical phenomenon due to direct violence, but through award-regulation mechanism inherent relationships.

Although jurisprudence is believed that coercion by the state is a guarantee of legality, we believe that by itself it does not guarantee legitimacy. On the contrary, acts as a guarantee of the legitimacy of the legality of its use.

Thus, we believe that the more appropriate is to understand the mechanism of regulation, the legal and institutional and legal means as some theoretical and legal categories, recognizing as the first clan to others.

Markov K. A.,
Doctor of Historical Sciences,
Professor of the Department of Theory State and Law,
Dnipropetrovsk National University named after Oles Honchar

THE PROBLEM OF THE DETERMINATION OF THE CONCEPT OF SOCIAL STATE IN SCIENCE

The explanation of concept "social state" is given neither in the constitution of the Ukraine nor in what other normative lawful report. By Soviet science this concept was not examined generally, but the determination of social state, which is proposed by western scientists, frequently very abstract and surface. As far as the subjective prerequisites of the appearance of a formula of social power are concerned, this occurred as a result the appearance of the USSR as alternative trend in social development, assertion of its positions in the world arena. Since the essence of any concept determine its signs, it is for this very reason necessary first of all to be determined with the signs of category "social state". This attempt made the author of this article.

With a comprehensive study of this problem the author came to the conclusion that social state – this based on the principles of social justice and freedom non-class, rule-of-law state with the developed civic community. In this state is actually guaranteed – worthy standard of living with the living minimum, social welfare, overall lift of welfare of the society, guarantee of economic rights of citizens, and so there is a fixed state mechanism of their practical realization and protection in this society. Society could assemble the state, which achieves its functions under the control of civic community.

Moroz S. P.,
Candidate of Law Sciences,
Assistant Professor of Department of theory and history, state and law,
Academy of Customs Service of Ukraine

THE LAWFUL ASPECTS OF THE CONTEMPORARY APPROACHES OF THE CONCEPT OF THE CIVIC COMMUNITY

Attention is paid to the approaches to the identification of the nature and formation of the concept of civil society from the point of view of the concepts of modern scientific rationalism as an integral basis of strategic development of modern Ukrainian society. Reliance on Western European and North American political and legal model of society, without due regard to the legal system of the post-Soviet society, its mentality, taking into account the regional mentality and, as a result of multi-ethnicity, assumes idealistic, often unsustainable development model of society. Having an idea of the model of civil society, as a promising area of development, in the process of implementation is often the case of substitution of concepts which, taken together, indicate discrepancy between theory and practice.

The nature of the discrepancies suggests that the idea of civil society is based primarily on the control of the government, as the original, fundamental. The correction involves consideration of the following: 1) civil society is an indicator of the legal principle; 2) the legal principle focuses on the basis of the first generation of human rights; 3) the balance between the social and legal aspects in the activities of the government. The most difficult problem is the formation of a balance between legal and social aspects in the activities of the government. This problem concerns the political component, depending on the objectives, programs of political subjects.

Polyakov S. I.,
Candidate of Historical Sciences, Professor, Dean of the Faculty of Law, Dnipropetrovsk National University named after Oles Honchar

ACTIVITY OF V.I. ULYANOV AT THE SAMARSKIY DISTRICT COURT AS THE SUBJECT OF HISTORICAL-LEGAL RESEARCH

The figure of V.I. Ulyanov, having gone into history of the world and domestic jurisprudence, has been evoking numerous discussions, which are jointed not only by professional scientists, but also by politicians, state and civic activists as well as a wide range of readers. The concept of "leniniana" that was predominant during the soviet period, caused appearance of "antileniniana" – "leninoidstvo", tough rivalry of traditionalists, centrists and radicals in elucidating almost every single page of the V.I. Ulyanov's biography.

The author of the article if of opinion that the most fruitful and perspective direction is presented by the centrists group of scientists and is oriented not at making up sensations, but rather at eradicating "white spots" and myths, finding new approaches in interpretation of already known events and facts, and not yet used historical sources; optimization of methods of processing and generalization of historical information and so on. The composition structure of the issue of "Polemics around the legal practice of V.I. Ulyanov" or the subject of a special historical-legal research is composed of a range of questions, such as following: why did he choose legal profession; in which conditions and where did he get education; which features were characteristic for the capital and suburb legal community of those times; which cases did he conduct and what characterized the laboratory of his professional mastery; did he receive any remuneration, did he get support from his family; how did experienced colleagues evaluate performance of the young specialist; was the position of a deputy of attorney at law misused: what was the reaction of entities of the political police to the purely loyal actions of «disloyal» person and so on.

CONSTITUTIONAL LAW

Sokolenko O. L.,
Doctor of Law Sciences, Professor,
Head of Department of administrative and criminal law,
Dnipropetrovsk National University named after Oles Honchar

REALIZATION OF THE PROTECTION OF THE RIGHTS OF CITIZENS IN THE ACTIVITY OF THE LAW-ENFORCEMENT AGENCIES OF THE UKRAINE

Thus, although the reality freedoms of man and citizen, opposing to individual rights, not as tightly linked to the creation to the state of conditions for their implementation, however, this requires the state to maintain and ensure its retention of others and social institutions of interference in the personal sphere of human freedom.

Thus, in terms of administrative and legal protection of the legitimate interest of the individual as a subjective right, under legal guardianship of the State, moreover, in accordance with said decision of the Constitutional Court of Ukraine, it is an independent object of judicial review and other means of legal protection.

To sum up I want to define that part of administrative remedies that should be talked primarily about the protection of citizens is, that as citizens of Ukraine and foreigners and stateless persons. It is a broad category of generalized understanding of rights allows, on the one hand, the denoted license (and freedom) of all individuals, regardless of their nationality, but on the other hand, encompass not only those special rights, resulting from the relevant public legal status of a person but natural rights. Thus, the rights, freedoms and legitimate interests owed to citizens of Ukraine, foreigners and stateless persons as a basic element of their legal status, provided appropriate guarantees from the government, are the object of administrative remedies.

Zavorotchenko T. M.,
Candidate of Law Sciences, Senior Lecturer of Department of theory of law, constitutional law and public administration,
Dnipropetrovsk National University named after Oles Honchar

PROTECTION OF THE RIGHTS OF CITIZENS IS THE MAIN FUNCTION OF POLITICAL RIGHTS AND FREEDOMS OF CITIZENS IN UKRAINE

The main state bodies, engaged in the protection of political rights of citizens in Ukraine. Proposals on improvement of the system of guarantees given the group's system of human rights. Determined that nowadays there is an urgent need for a rethinking of these issues in the context of improving the system of human rights. Considered the protection of human rights as the main function of political rights and freedoms of man and citizen, and the main measures to improve the system of guarantees of these rights.

Determined that a special place in the system of state authorities responsible for protection of political rights and freedoms of man and citizen in Ukraine occupy the electoral commissions, which must provide an implementation of electoral rights.

A systematic analysis of such means of protecting political rights and freedoms of citizens as self-defence. Allocated method of self defense of political rights and freedoms of man and citizen as a reference to the mass media, public associations, holding various public shares. It is noted that these methods do not always help to achieve the desired result. Proposals on the procedure of conduct of public events in Ukraine and own point of view that self-defense though and can in some cases affect the activities and decisions of the Ukrainian authorities, in the same time is not an effective way of protecting political rights and freedoms of Ukrainians.

Shkabaro V. M.,
Candidate of Law Sciences, assistant professor of Department of law,
Dnipropetrovsk University named after Alfred Nobel

ABOUT THEME OF CONSTITUTIONAL-LEGAL DEFINITION OF CONCEPT „STATE BORDER OF UKRAINE"

In the article there is a substantiation of position about absent in native constitutional science of scientific researches as about the territory of the Ukrainian state as about the state border of Ukraine. Article is devoted to analyze of definitions of various scientists of concept «state border». In this article there is a research of opinions of specialists and legal scientists in sphere of constitutional law, in sphere of international law, in sphere of theory of state and law, approaches of scientists in other sphere of science to this concept. An author noticed that: state borders set limits of territorial supremacy of the state; exactly within the limits of the territory the state carries out territorial supremacy which consists in legitimization of state power, that in complete, exceptional and monopolistic power of the state which is provided all facilities of encouragement and compulsion; clear differentiating of resources, which belong to the states, and limits of their sovereignty power has substantial and main value for warning and prevention of conflicts between states, which border between itself, and for development of peaceful collaboration on scopes on the basis of reciprocity and neighborliness. The author completed the analysis of the constitutional-legislative fundamental of the state border, from the beginning of the proclamation of the independence of Ukraine. In the article an author gave grant attention to theme of importance of the Ukrainian state border in realization of Ukrainian state sovereignty.

CIVIL LAW

Kuliev I. O.,
Doctor of Law Sciences, Professor,
Head of the Department "Jurisprudence"
National Aviation Academy, Azerbaijan, Baku

Guseynov A. A.,
Doctoral Student of the Department "Jurisprudence"
National Aviation Academy, Azerbaijan, Baku

THE LAWFUL TIMING OF LEISURE OF AVIATION PERSONNEL IN THE AZERBAIJAN REPUBLIC

Aviation personnel, specialists, who have evidence, certification (certificates) with the qualification marks and the highest, technical or special preparation and allowed to the fulfillment of the specific forms of works in the aviation branch. In the law of Azerbaijan republic "about the aviation" is in more detail meaningfully the term "aviation personnel" is revealed in similar chapter VI.

Thus, law it establishes that the owner of air vessel must complete air vessel by the qualified aviation personnel. It is further postulated that the person, who does not manage evidence, certification (certificate), given out by the appropriate organ of executive power, or by the analogous document, given out in other state and by the acknowledged real v from the side of the corresponding organ of executive power, cannot act as the pilot, the flying engineer or navigator on board air vessel.

Thus, follows conclusion about the concrete categories of the professions, in reference by legislator to the aviation personnel. The regulation of the working relations and other directly connected with them relations in the contractual order in accordance with the working legislation of Azerbaijan can be achieved by conclusion, change, addition by workers and by employers of labor contracts, collective agreements, agreements.

Vedkal V. A.,
Candidate of Historical Sciences,
Assistant Professor of Department of civil, commercial and labor law,
Dnipropetrovsk National University named after Oles Honchar

CIVIL ASPECTS OF REGULATION OF COMMERCIAL CONCESSION AGREEMENTS

One of the legal institutions that owns a special place in the system of intellectual property rights is a contract of commercial concession.

Given that the contract of commercial concession is a new institute of civil law, there is a need for research prospects of practical application of the relevant provisions of the Civil Code, the problems of making and using these contracts.

According to the Civil Code of Ukraine, st. 1115 in commercial concession agreement one party (the holder) must give the other party (the user) for fee the right to use its complex of holder's rights to manufacture and (or) sale of certain products and provision of services. Contract of commercial concession should be in writing. Failure to comply with the written form of the contract entail its invalidity and such a contract is void.

Part 2 st. 1118 of the Civil Code of Ukraine provides that the contract of commercial concession should be registered by the state registration body wich made holder's registration. But today, unfortunately, registration procedure of franchise agreements remained unregulated, this fact generates a need for the development and adoption of the regulation in the field of regulation of the contract. In order to regulate the registration procedure of franchise agreements it is necessary to develope and to adopt the regulation.

One of the problematic issues today is the question of civil liability for breach of obligations of commercial concession. Chapter 76 of the Civil Law of Ukraine "Commercial concession" does not have special rules that establish the mutual responsibilities of a commercial concession.

Malyi V. Y.,
Candidate of Law Sciences,
Senior Lecturer of civil, labour and commercial law department
Dnipropetrovsk national university named after Oles Honchar

FEATURES OF USE LAND REGULATION OF PRIVATE HOUSING CONSTRUCTION

Land on which there are residential and public buildings occupy an important place in the economic, social and cultural life of the country. In residential development land inhabited the vast majority of the population. They are also buildings and structures that make housing, infrastructure, settlements – villages, towns and cities.

Land which is listed buildings have certain features of the legal regime of Use. This is especially true of land adjoining areas low-rise residential development for which due to different assumptions failed transfer of ownership (privatization), and that in fact were the property of the local villages, towns and cities. Purpose of the study is to determine the characteristics of private – legal relations on land use private residential development, justification of proposals and recommendations aimed at improving social relations in the area of land adjacent territories “private residential sector”.

In our opinion may recommend lawmakers to generalize the experience regulating relations of land ownership in the European part; 1) simplify and accelerate privatization of land adjoining areas low-rise residential development; 2) strengthening the administrative responsibility for the actions that lead to violations of the rules and principles of good neighborliness. In practical aspect possible consider feasibility of contracting procedure compatible use local area and charging land tax with the mandatory notarization, especially if the house is private property of a few individuals.

Smolov K. V.,
lawyer, Master of Law Faculty
Oles Honchar Dnipropetrovsk National University

INSOLVENCY AS THE BASIS OF THE APPEARANCE OF THE RELATIONS, WHICH ARE THE OBJECT OF THE COMPETITIVE RIGHT

New version of the Law of Ukraine "On Debtor Solvency Restoration or Declaration of Bankruptcy" dated December 22, 2011 № 4212-VI (as subsequently amended) (hereinafter referred to as the Law on Bankruptcy) came into force on January 19, 2013. The process of Ukraine's bankruptcy legislation development, which is aimed at failure proceedings improvement, is very complicated and contradictory, however, a new version of the above-mentioned law became a step forward in this branch. Theoretical researches of legal phenomena of failure relations, or so called procedure for declaring bankruptcy, are of great importance today due to a large number of bankruptcy cases and ambiguity of law enforcement practice in this branch.

This article is aimed at definition of insolvency as a set of facts which is one of antecedents of legal relations commencement in the field of failure, and determination of its features associated with particular features of the sub-branch of failure law.

Summarizing all the above-stated, it should be mentioned that research of the issue of sets of facts in the field of insolvency is of great practical importance. O.O. Krasavchykov believes that "determination of the facts which are subject to establishment consists in gradual closing of factual and legal issues. To prove that we chose the right norm for application, we should just compare facts stipulated by the norm and those we actually have.

CRIMINAL LAW AND PROCESS

Bohatyriov I. H.,
Doctor of Law Sciences, Professor,
Head of Department of jurisprudence
Bukovyna State Finance and Economics University,
Honored Worker of Science of Ukraine

RIGHT TO INFORMATION OF CONVICTS IN PRISON FIELD AS A SCIENTIFIC PROBLEM

In the article the problem of the right to information convicts in the prison area. Analyzed the views of scientists on the issue of the right to information disclosed its legislative regulation. Substantiates the need for the scientific substantiation of the right to information in the convicted bodies and penal institutions. A theoretical and legal ways to optimize this are given.

Relevance of the article due to the fact that the problems of the right to receive information in the bodies of prisoners and prisons to some extent dependent on the degree of scientific elaboration, adequacy and effectiveness of legislative regulation of its practical application. Among a number of controversial issues of the right to obtain information is to provide prisoners attitude problem due administration of penitentiary institutions to their duties on such information. Such a rule directly provided in the current penal legislation, but needs improvement in the practical segment.

Defined at the constitutional level the right of citizens to information can take different legal nature, as the process of implementation of various industries regulated by law: public-information, administrative information and criminal information. Accordingly, the right of citizens to information can have both private-and public-legal nature.

Slovska I. E.,
Doctor of Law Sciences, Associate Professor,
Assistant Consultant deputy of Ukraine,
Apparatus of the Verkhovna Rada of Ukraine

ILLEGAL INTERFERENCE IN THE OPERATION OF THE AUTOMATED COURT WORKFLOW SYSTEM IN THE CONTEXT OF THE CONSTITUTIONAL FRAMEWORK OF OPENNESS OF THE JUDICIARY

At the present stage of development of the Ukrainian state, the question remains of openness of state power as an illustrative test of its democratic and legal nature. The legitimacy of the state apparatus depends largely upon the transparent and effective functioning of the courts. Protecting citizens' constitutional rights to information should take into account the world experience in the formation of national legislation and to provide genuine content to the main directions of the state information policy.

The judiciary is a specific sphere of public authority (along with the legislative and executive) that represents the essence of authority in the administration of justice. The openness of the judiciary does not mean unfettered interference in its functioning. Security of the person and the state, the society provided a well-coordinated process of cooperation between the parties of the proceedings, the judges and the court staff. Stranger conscious influence, not required by law, impedes the implementation of constitutional powers, inclines to abuse. Therefore, openness is transparency clearly defined in the legislation.

The functioning of the judiciary should be provided with security against socially dangerous encroachment. Interference in the work of the judiciary in any form to prevent the execution of the powers is punishable by the criminal law.

Tertyshnyk V. M.,
Doctor of Law Sciences, Professor,
University of customs and finance

CONSTITUTIONAL REFORM: SEARCH OF A NEW PARADIGM OF UKRAINIAN CONSTITUTIONALISM

In the article the problem of the rule of law and the problems of harmonization of legislative and executive power, improvement of legislative activity.

Relevance of the research problem is caused by new rotations constitutional reform, some of the conceptual provisions which published the new draft law on amendments to the current Constitution of Ukraine.

Analysis of recent research and publications in which a solution of the problem shows that the problem of the formation and organization of the legislature and harmonization of the legislative process is the focus of politicians and scientists. However, the existing publication does not fully solve the difficult problem, but rather form a fundamental base for its further study.

The article aims to harmonize the definition of power and constitutional process.

It is concluded that the Constitution of Ukraine by popular referendum – a legitimate and effective way to harmonize the legislative power in general and in particular. This Basic Law of the State gets its jurisdiction directly from the people and becomes higher authorities, and the authorities are no longer able to change it on your own. The government must be supreme, and serve the law given by the people, and to ensure the rule of law and civil rights.

Galaburda N. A.,
Candidate of Law Sciences,
Assistant Professor of administrative and criminal law,
Dnipropetrovsk National University named after Oles Honchar

REHABILITATION IN CRIMINAL PROCESS

The article examines the concept (rehabilitation of the criminal process), analyzes scientific views on this issue and proposes a new view of the definition of the term. Purpose of this article is to clarify the legal nature and to define "rehabilitation".

The current socio-economic and spiritual condition of Ukrainian society needs to prominence priority social functions of the state. Government policy should focus entirely on the person, the establishment and maintenance of normal conditions for its life. Crucial in this respect is to ensure the totality of the rights and freedoms of man and citizen, as well as the possibility of reliable security protection and legal means.

Right for compensation is one of the rights that gets rehabilitated, but do not consider it an integral part of rehabilitation and put one dependent on the other. There may be a situation where a person does not wish to use the right to compensation (it's right but not the obligation) rehabilitation thus be considered incomplete ("eternal rehabilitation"). Some scholars, including A. Podopyryhora indicate that in situations where the person does not wish to exercise the right to compensation, rehabilitation shall be considered complete without it. In this situation, it is not clear why bother to allocate damages as a structural element of rehabilitation, if it can fully exist without it.

Heylik V. V.,
Senior Lecturer of Department of administrative and criminal law,
Dnipropetrovsk National University named after Oles Honchar

THE OBJECT OF THE CRIME IN CRIMINAL LAW: THEORY AND PRACTICE OF LAW ENFORCEMENT

It is difficult to overestimate the importance of such criminal legal category as the object of the crime for legal theorists, and even more practitioners. The object of the crime is investigated in the General part of criminal law as one of the elements of a crime, and in the course of the Special part-as a mandatory element compositions of specific crimes.

This article considers the problems of the definition and enforcement of such criminal legal category as the object of the crime. Analyzes and examines the point of view of many domestic and foreign scientists concerning the main issues of the doctrine of the object of the crime (which encroaches crime, why it harms that protects the criminal law).

Unfortunately, today we are forced to state that these issues scientists are not only hesitant, but more confused, complicating both the process of studying the criminal law in General, and of the object of the crime particular.

Therefore, the need arises, by analyzing past and present views of scientists, experts in the field of criminal law, to understand what exactly is meant by the object of the crime and the problem of its definition and application in practice.

During the study argues that recognizing public relations General object of the crime is reasonable to say that any crime also encroaches on social relations. That is because it is right that all the crimes that infringe on public relations, it is also true that each of them individually in the same way encroaches on social relations. Without recognition of public relations of the object of the crime is impossible to explain to the public danger of the acts.

INTERNATIONAL LAW AND LAW OF THE EUROPEAN UNION

Barayev V. M.,
Candidate of Historical Sciences,
Assistant Professor of the Department of international law,
Dnipropetrovsk National University named after Oles Honchar

Shibchenko A. V.,
5th year student of the Law Faculty,
Dnipropetrovsk National University named after Oles Honchar

FEATURES OF THE OF INTERNATIONAL LEGAL REGULATION OF INVESTMENTS AT THE UNIVERSAL LEVEL

Research Methodology. Within composition, the article the authors used in combination wide range of research methods: first methods dialectical materialist philosophy, formal logic, systematic, structural and functional analysis, which were used as common methods of scientific knowledge phenomena of the objective world. Central to the study of the subject took special legal methods of formal legal analysis and comparative method (comparative) law in the analysis of international framework treaty regulating investment activities.

Results. It was established that the greatest investment flows of investment from Ukraine sent to Cyprus, Russia, Latvia. For the development of investment flows to specify procedures between the two countries taken by Ukraine to be concluded bilateral agreements with most countries in the world that will lead to economic growth as a nation as a whole and its businesses.

Novelty. The analysis of the material was installed Ukraine need to sign bilateral agreements to improve the investment climate.

The practical significance. These statistical benchmarks for increased investment for economic growth.

Berezhna E. V.,
Candidate of Law Sciences,
Senior Lecturer of Department of international law,
Dnipropetrovsk National University named after Oles Honchar

REDISTRIBUTION OF JURISDICTION OF THE JUDICIAL AUTHORITIES OF THE EUROPEAN UNION AFTER THE LISBON REFORM

The importance of the question of the scope of the jurisdiction of international judicial organ determines by it right to make binding decisions concerning the dispute of the sovereign states. The judicial system of the EU serves as an independent non-political supranational institution.

Judicial reform of the EU, which was provided by the Lisbon Treaty, is the most important of all the years of its existence and operation. The Treaty of Lisbon amending the structure of the judicial system of the EU and the order of it organization. It is changing the principle of redistribution of jurisdiction between the Court of Justice and the General Court, according to which the General Court is becoming the court of general jurisdiction in the EU. Court of Justice, which stands at the head of the judiciary, instead concentrating in the hands the functions which are peculiar to the supreme judicial authorities, including the functions of the constitutional courts. However, judicial reform is unfinished nature, since many problems have not been found to be resolved in the Lisbon Treaty. In particular, the problem of creating other tribunals, except for public service, is not solved. At the same time, the practical implementation of the judicial reform itself gives rise to serious problems. Their solution depends on the efficiency of the judicial system and the further development of EU law and integration law after the enlargement of the European Union.

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