

ASIA



ISSN 0117-3375

LIFE

ABSTRACTS

SCIENCES

**The Asian International
Journal of Life Sciences**



Beyond Excellence©

SUPPLEMENT 22(1)

28 JULY 2020

**Transformations in Ukrainian Legislation in the Context of
Convergence with European Law**

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Website - <http://emtpub.com/journals/ALS/>

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ASIA LIFE SCIENCES The Asian International Journal of

Life Sciences *Beyond Excellence*© Est. 1992

ASIA LIFE SCIENCES The Asian International Journal of Life Sciences (ISSN 0117-3375) is a non-profit, non-stock, refereed/peer-reviewed (double-blind review), international, scientific journal devoted to the publication of original research in the Life Sciences and other disciplines. Articles originating from anywhere in the world are most welcome.

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Subscription Prices. Foreign: Institutional - US\$1000; Individual - US\$800 (including Volumes 1-29, 1992-2020 + 22 Supplements). **Local:** Institutional - PhP10,000; Individual - PhP8,000 (including Volumes 1-29, 1992-2020 + 22 Supplements). Prepayment of order/back order is required. All issues are to be sent by air mail. Back orders will have an additional packing-handling and postage cost.

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ASIA LIFE SCIENCES

The Asian International Journal of Life Sciences

ISSN 0117-3375

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Number 1, 2020



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Asia Life Sciences has an Impact Factor of 0.180

Asia Life Sciences is a recipient of the Journal Accreditation Award
of the Commission on Higher Education (CHED),
Republic of the Philippines (2010-2016).

Printed on acid-free papers

**Actual Date of Publication: *Asia Life Sciences*
Supplement 22(1) 2020 - 28 July 2020**



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The papers published in *Asia Life Sciences* are indexed/covered by SCOPUS, Elsevier B.V., Radarweg 29, 1043 NX, Amsterdam, The Netherlands; CABI, Wallingford, Oxon, UK; China National Knowledge Infrastructure (CNKI), 66 Xixiaokou Avenue, Haidian District, Beijing, China; J-Gate, Informatics Publishing Limited, No. 194, RV Road, Basavanagudi, Bangalore-560004, Karnataka, India and EBSCO Publishing, Inc., 10 Estes Street, Ipswich, Massachusetts, 01938-0682, USA.

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Economic activity of legal entities: Elimination of the dualism of legal regulation in the context of convergence with European private law

OLEKSANDR D. KRUPCHAN^{1*}, OLEKSANDR O. HAIDULIN^{2,3},
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The paper investigates the correlation of private law and business and legal regulation of economic activity of legal entities as key subjects of market relations in the conditions of codification processes in Ukraine. Within these relations, the civil status of individuals should be outlined as an attribute that enables the individual to participate in relations, as well as to determine the scope of rights and obligations that these individuals may exercise. It is proposed to eliminate dualism in the legal regulation of economic activity of legal entities through a proper understanding of foundations (principles) of private law, which are used by legally equal participants in the process of shaping relations regarding the organization of a legal entity, its introduction to legal relations in view of state regulation of business (economic) operations. The latter involves the imposition of requirements for public entities to regulate the legal economic order, factoring in, above all, public interests. An example is the special statuses of a legal entity, which are not always correlated with its legal form, and the limits of freedom of contract. All these create a rather complex system of private-public and public-private relations regarding the organization and operations of legal entities – corporate law.

Keywords: entrepreneurship, non-entrepreneurial activities, legal interpretation, corporate law, adaptation of law

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The establishment and development of a system of protection of intellectual property rights in Europe and the USA

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This scientific article focuses on the establishment and development of a system of legal protection of intellectual property rights in Europe and the United States of America. It is pointed out that the first foundations of the modern European institution for the protection of intellectual property rights were developed in ancient Greece, namely during 257-180 BC. A considerable development of the printing business in Europe in the Middle Ages led to the further development of intellectual property rights. The development of science, technology, and capitalist relations in the UK has led to the development of a system of legal protection and protection of intellectual property rights. Subsequently, international regulations on the protection of intellectual property rights were adopted in Europe, which became the basis for the formation of modern EU intellectual property law. Another approach to the creation of an intellectual property rights system was initiated in the United States. There, a significant role was given to the protection of industrial property rights, namely: technology, trademarks.

Keywords: Europe legislation, US legislation, intellectual property, trademarks, copyright

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Economy, law, community: Sustainable development and a new paradigm

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The article aims to identify tendencies and prospects for the development of the economy, investment and other activities in terms of replacing the consumption of natural resources for environmental protection in doing business. By conducting a comparative analysis of the sustainable development goals, regulations of international and Ukrainian legislation in this field, it is proposed to understand the transition to sustainable development as a need to elevate society to a new level of knowledge, where environmental, economic, and other social issues demand rethinking on the basis of human values, achieving a balance with nature, which will become the basis of ecological technocracy. Nowadays, advanced countries rely on a sophisticated quality and compliance system to ensure the proper functioning of the market, protect human health and safety, and protect the environment. This system is usually defined as the National Quality Infrastructure (NQI) and covers all aspects of standardization, including metrology, testing, quality management, certification, accreditation, and other conformity assessment procedures. Many developing countries suffer from poor NQI quality, which can be a major barrier to integrating them into regional and global markets, limiting trade opportunities and impeding their ability to improve public welfare in vital areas such as health, safety and environmental protection. The triune concept of sustainable ecological, socio-economic development is also not disputed, but in the context of new paradigms it has to change its form: as of now, it constitutes the veil of extensive use of natural resources, and has to become a socio-democratic ideology for business. There must be a transition from the unjustified absurd needs of consumers of economic growth to investing in the environmental friendliness of all spheres of life, creating the preconditions for global security.

Keywords: environmental security, economic relations, legal borrowings, competition, World Trade Organization

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Interaction of private and public law mechanisms of compensation for non-pecuniary damage

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The article establishes the interrelation of international and national, natural and private law, human rights and civil (personal non-proprietary and proprietary) rights in the context of interaction and specificity of functioning of international law and national mechanisms of compensation for non-pecuniary damage. The regulatory potential of compensation for non-pecuniary damage, which can emerge as an effective way of protecting civil rights and interests, both in private (personal non-proprietary and proprietary, contractual and non-contractual) and public legal relations, is revealed. Directions of interaction between international law and private mechanisms of compensation for non-pecuniary damage are outlined, with particular emphasis placed on the influence of the European Court of Human Rights practices on the development of national legal systems, connected with awarding just satisfaction for the non-pecuniary damage caused to the applicants. Attention is drawn to the tendency of expanding the scope of persons capable of obtaining, in various legal situations, the right to compensation for non-pecuniary damage, including private legal entities, virtually incapacitated individuals, close relatives, family members and dependents of perished or injured individuals. It is noted that the responsibility of the state in the form of compensation for non-pecuniary damage for violation of human rights and provisions of international humanitarian law, including its responsibility for offenses in the public law field, committed by its representatives (authorities, their officials) is based on the principles of justice. At the same time, in the absence of unlawfulness in the actions of the state and a causal link between the actions of its representatives and the harm to the victims, the compensation for non-pecuniary damage (caused, for example, to victims of violent crimes, acts of terrorism) is performed proceeding from humanistic considerations of social justice, aimed at affirming the primacy of human dignity.

Keywords: compensation for non-pecuniary damage, European Court of Human Rights, functions of civil liability, liable party, case law, victims of violent crime, life and health

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EU trends of digital services taxation: Controversial regional context for Ukrainian legislation modernization

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The extrapolation of global and regional trends in the field of cross-border provision of digital services allows forecasting the further loss of effectiveness of existing international treaty and legislative instruments to ensure a fair distribution allocation of taxing rights between states and the balance of private interests of economic entities and public interests of states in international taxation. The applying of factor analysis revealing cause-effect relationships identified the process-trigger, a set of major factors for the European Union - both domestic institutional and legal and external (in particular, the global interests of multinational companies of China and the US), which determined and, to a large extent, will determine the content and dynamics of processes within EU in the future. The application of a set of modeling and forecasting methods has enabled to create the structured cognitive model and the integrated forecast of the EU legal area formation in the field of taxation of cross-border digital services. The implementation of relations legal regulation fragmentation a pessimistic scenario in the EU as a consequence of uncoordinated unilateral actions by almost half of a number of EU member states upon developing draft laws and adopting tax legislation outside the harmonization process within the framework of the EU *acquis* does not create a favorable regional context for determining priority directions for improving the tax legislation of Ukraine.

Keywords: corporate income tax, new nexus, value creation, VAT

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Oral hearing of a civil case in the context of the right to a fair trial

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The urgency of the problem under investigation is that the Civil Procedure Code of Ukraine, as of October 3, 2017, introduces new simplified proceedings and forms of proceedings in the courts of first and higher instance. These changes have, to some extent, narrowed the use of oral hearings when considering and reviewing a civil case. The aim of the article is to determine the peculiarities of the legal regulation of civil procedural relations related to the conditions and procedure of oral hearing when considering a civil as an element of the exercise of the right to a fair trial. The main method of the research is a comparatively legal method, which identifies the positive features and weaknesses of the current CPC of Ukraine in terms of regulating oral hearings and limiting them when considering civil cases and relevant jurisprudence of national courts of Ukraine in comparison with the guarantees of the European Convention for the Protection of Human Rights and fundamental freedoms and the case law of the European Court of Human Rights and other international standards of civil justice. The main results of the study are revealing rather high detailisation of the conditions of oral hearings in civil case, their limitations, sufficient legal capacity of participants of a case to present their arguments to the court during oral court hearings. The authors state a rather high level of implementation of international standards of civil justice in the civil procedural law of Ukraine regarding the regulation of the right to oral hearings and exceptions to this right. The findings can be used by scholars in the field of law to further investigate oral hearings as the main procedural form of civil litigation and resolution. The proposals made by the authors of the amendments to the civil procedural legislation, if implemented, will contribute to improving the efficiency of civil justice, ensuring timely, fair and impartial consideration and resolution of civil cases.

Keywords: civil proceedings, oral hearings, civil procedural legislation, opening remarks, implementation of international obligations at national level

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The concept and attributes of justice in civil cases under the procedural law of Ukraine

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Civil justice has an ontological link to the exercise of the judiciary through the administration of justice, the scientific and legal analysis of which is based on the research outlined in this paper. Functional and substantive aspects of understanding of justice were elaborated proceeding from the developments of scientists and the current legislation of Ukraine. It proves that justice is a single, holistic concept, regardless of the type of judicial procedure, the specifics of sectoral judicial procedures, the substantive content of court cases or the procedural features of their consideration. The paper investigates the legislative and scientific approaches to the concept of justice in civil cases. The correlation between the concepts of justice in civil cases and civil proceedings is also developed. It is emphasized that justice encompasses all the procedural activities of a court to consider and resolve a court case in its dynamics and all its manifestations, regardless of its procedural and substantive legal consequences. The research allowed to determine, through the lens of the current legislation of Ukraine and scientific achievements of the procedural science, the features and formulate the original author's definition of the concept of justice in civil cases.

Keywords: forms of dispute settlement, justice, administration of justice, justice in civil cases, civil proceedings, judicial nature of court activity.

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Problem of ensuring the social direction of the legislation of Ukraine on the digital economy

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The article is devoted to the topic relevant in the context of the development of civil society institutions and digitalization. The social focus of the digital economy (DE) involves taking into account the interests not only of business representatives but, above all, of the most numerous and least protected participants in such an economy – citizens-consumers and small entrepreneurs/businesses. Such direction should be provided by the state, as envisaged by the Constitution of Ukraine, and the key tool is the legislation, which should enshrine the appropriate legal mechanisms. At the same time, the analysis of current regulations on the regulation of relations in the field of DE, and the practice of their application, shows their insufficient effectiveness due to the defects (the presence of collisions, gaps, obsolete norms, lack of unified terminology; a large number regulatory acts of different legal force, which is becoming more difficult to navigate, etc.). General trends in the regulation of relations in the field of DE, and particularities regarding certain processes (self-regulation and adaptation of Ukrainian legislation to EU law), in certain areas (electronic financial services for insurance) and in relation to certain resources (electronic tax registers) are revealed. Ways to improve the Ukrainian legislation are proposed to enhance the effectiveness of the legislation governing relations in the field of DE, its transparency in terms of social orientation and, first of all, to take into account the interests and protection of the rights of the most vulnerable participants in such relations, strengthening the fight against corruption. Emphasis is placed on the expediency of codifying such legislation in order to establish common rules and to take account of the specifics in certain areas of DE by adopting special acts.

Keywords: social direction, digital economy legislation, EU experience, self-regulation, insurance, public registers.

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Permanent inheritance as an object of civil rights: Theoretical aspects

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The paper investigates the legal nature of inheritance as an object of civil rights. The purpose of the paper is to identify the legal nature and constitutive features of permanent inheritance as an object of civil rights. The basis of any methodology consists of such interrelated elements as the research object, its subject and purpose. They influence the choice of research methods; they depend on the validity of the results. The object of research is inheritance as an object of civil rights, the subject is its special kind, which can be notionally named permanent inheritance. This necessitates the use of specific methodological approaches, which will reveal the distinctive features of the permanent inheritance and the specificity of this object, including such methods of research as dogmatic, formal-logical, systematic, comparative law. Inheritance is described as a set of subjective rights and legal obligations of a deceased person, which passes to their legal successors – heirs. The universal nature of hereditary succession, both primary and derivative, is investigated. Assets and liabilities of inheritance were identified. The term “permanent inheritance” is introduced into the scientific circulation, its essence, specific features and varieties are characterized.

Keywords: objects of civil rights, inheritance, inheritance as an object of civil rights, permanent inheritance

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Approaches to compensation for damage caused by unconstitutional law in Eastern Europe

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The paper investigates the issue of compensation for damages caused to persons by a law that is recognized as unconstitutional. The civil law procedure for compensation for pecuniary and non-pecuniary damage in the countries of Eastern Europe is modelled on the basis of the study of the constitutional procedure for compensation for such damages in the said countries. The purpose of the paper is to investigate constitutional and civil law approaches to compensation for damages caused by an unconstitutional law in the countries Eastern Europe. The chosen methodology of interdisciplinary research (integrative, dialectical, systemic, systemic and structural, intersectoral methods) is aimed at studying the essence of all the essential and procedural phenomena in constitutional and civil proceedings. The main results of the study. The problem of presumption of constitutionality of laws in the countries of the Roman-German system of law (countries of written law) is revealed. It is substantiated that the presumption of constitutionality of law is one of the important components of presumption of truth of law. It is proved that the Constitutional Court plays a very important part in shaping the constitutional policy, which does not always coincide with the legislative one. In this article we examined the conceptual issues of compensation for damages caused to persons by law, recognized by the Constitutional Court as unconstitutional. The constitutional law approach and the civil law procedure for compensation for pecuniary and non-pecuniary damages in the countries of Eastern Europe and Ukraine are modelled. It is proved that constitutional legal responsibility has an ascertaining (system-forming) character and also acts as a guarantee of the constitutional system of the state.

Keywords: presumption of constitutionality, civil procedural remedy, compensation for damages, lost profit, decision of the Constitutional Court.

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Received 27 June 2020; Accepted 27 July 2020

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***Bonum* requirements of the beneficiary in the corporate rights protection system in Ukraine: Implementing best practices**

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In the process of interaction of corporate governing bodies with other entities of corporate legal relations to ensure its organizational and economic activity, situations are possible when the parties to such interaction pursue multi-vector or mutually exclusive goals, which is caused by the polar pursuit of corporate interests. The purpose of the paper is to identify the peculiarities of *bonum* requirements of the beneficiary in the system of corporate rights protection in Ukraine and to study foreign experience in this aspect. The concept of *bonum* requirements of the beneficiary was considered as a means of protecting corporate rights and a way of resolving a corporate conflict; derivative (indirect) action was investigated as a way of resolving corporate conflict in other countries; the theoretical and statutory consolidation of the basis of civil liability of the corporation governing body is determined; the responsibility of the governing body of the corporation for the damage caused and the principle of protection of the weaker party are outlined; the concept and legal nature of the derivative action as a way of protecting the rights for damages caused by the governing body of the corporation on the basis of the dictionary definitions of the term are provided. It was concluded that the principle of protection of a weaker party in the corporate law of Ukraine is a general idea of providing legal protection of a party of legal relations, which is limited by the appropriate possibility due to self-regulated and purposeful legal actions (creation of a legal subject – legal entity) as a form of compensation of identical level of legal possibilities of participants of civil law relations.

Keywords: civil legislation, business activity, conflict, *bonum* requirement, beneficiary, derivative action.

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Digitalization of Civil Justice in Ukraine

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Technology development has greatly expanded the use of information technology not only in all spheres of life but also in the field of justice. The top priority of Ukraine is the desire to build a development-oriented information society. The introduction of information and communication technologies into the modern court procedure requires both sound scientific understanding and effective legislative regulation. At present, however, the scientific development of these issues remains insufficient, which in turn slows down the reform of domestic procedural legislation. The purpose of the paper was to identify the features of implementation of the e-justice system in the Ukrainian judiciary. The introduction of electronic order for payment proceedings in civil justice is a step towards modernization of national procedural legislation, an attempt to introduce elements of the standards of a uniform European civil procedural law, albeit insufficiently systematic, appropriate, and consistent with the current legislation. The purpose of the introduction of e-justice should be to ensure the accessibility of justice, to improve the quality of the work of the courts and save considerable public money. In particular, access to justice will be ensured through the exchange of electronic documents between all parties to the trial, the reduction of court costs for postal items and the production of paper documents, the ability to hear the case in videoconference mode. Implementation of the Electronic Judiciary Project is one of the directions of improving the efficiency of justice in Ukraine.

Keywords: state-of-the-art technology in legislation, e-justice, videoconferencing, order for payment proceedings, human rights protection

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ASIA LIFE SCIENCES Supplement 22(1): 227-231, 2020
The Asian International Journal of Life Sciences

**REVIEWERS - ASIA LIFE SCIENCES Supplement 22,
Number 1, 2020***

**Transformations in Ukrainian Legislation in the
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Actual Date of Publication: 28 July 2020 - *ALS* Suppl 22(1) 2020
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Asia Life Sciences is a recipient of the Journal Accreditation Award
of the Commission on Higher Education (CHED),
Republic of the Philippines (2010-2016).

Printed on acid-free papers

**Actual Date of Publication: *Asia Life Sciences* Supplement
22(1) 2020 - 28 July 2020**

Reviewers - *Asia Life Sciences* Supplement 22(1) 2020

ASIA LIFE SCIENCES -The Asian International Journal of Life Sciences (ISSN 0117-3375) is a non-profit, non-stock, refereed/peer-reviewed (double-blind review), international, scientific journal devoted to the publication of original research in the Life Sciences and other disciplines. Articles originating from anywhere in the world are most welcome. Two issues a year make a volume.

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ASIA LIFE SCIENCES The Asian International Journal of
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Asia Life Sciences is a recipient of the Journal Accreditation Award
of the Commission on Higher Education (CHED),
Republic of the Philippines (2010-2016).

Printed on acid-free papers

**Actual Date of Publication: *Asia Life Sciences* Supplement
22(1) 2020 - 28 July 2020**

Reviewers - *Asia Life Sciences* Supplement 22(1) 2020



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**Actual Date of Publication: *Asia Life Sciences* Supplement
22(1) 2020 - 28 July 2020**

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Life Sciences ISSN 0117-3375 *Beyond Excellence*©
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Asia Life Sciences is a recipient of the Journal Accreditation Award of the Commission on Higher Education (CHED), Republic of the Philippines (2010-2016).

Printed on acid-free papers

**Actual Date of Publication: *Asia Life Sciences* Supplement
22(1) 2020 - 28 July 2020**



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Supplement 22(1) 2020 - 28 July 2020**

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Number 1, 2020

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The Asian International Journal of Life Sciences

ISSN 0117-3375

Supplement 22 Number 1

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