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## **ACTUAL PROBLEMS OF MODERN DEVELOPMENT OF THE STATE AND LAW**

**ISBN 979-8-88831-920-8**

**DOI 10.46299/979-8-88831-920-8**

**Mangora T.V., Lukiianova M.D., Durach O., Demianchuk Y.V.,  
Tomlyak T., Chernyschuk N.V., Pohuliaiev O.I., Dzeveliuk A.,  
Kaidashov V., Pravdiuk A., Pravdiuk M., Skichko I.**

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STATE AND LAW**

**Monograph**

**2022**

**UDC 340**

**Author's:**

Mangora T.V., Lukiianova M.D., Durach O., Demianchuk Y.V., Tomlyak T., Chernyschuk N.V., Pohuliaiev O.I., Dzeveliuk A., Kaidashov V., Pravdiuk A., Pravdiuk M., Skichko I.

**Editor:**

**Tamila Mangora**, candidate of Law Sciences Associate Professor of Law, Vinnytsia National Agrarian University, Vinnytsia, Ukraine.

Mangora T.V., Lukiianova M.D., Durach O., Demianchuk Y.V., Tomlyak T., Chernyschuk N.V., Pohuliaiev O.I., Dzeveliuk A., Kaidashov V., Pravdiuk A., Pravdiuk M., Skichko I. Actual problems of modern development of the state and law. Monograph. – Primedia eLaunch, Boston, USA, 2022. – 392 p.

Library of Congress Cataloging-in-Publication Data

ISBN – XXX-XXX-XXX

DOI – 10.46299/XXX-XXX-XXX

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© Mangora T.V., Lukiianova M.D., Durach O., Demianchuk Y.V., Tomlyak T., Chernyschuk N.V., Pohuliaiev O.I., Dzeveliuk A., Kaidashov V., Pravdiuk A., Pravdiuk M., Skichko I.

## ANNOTATION

The collective monograph is devoted to the study of trends in the development of modern Ukrainian legal society. The research uses an interdisciplinary approach, which allows analyzing and characterizing various aspects, aspects and approaches to the development of socio-legal processes in Ukraine and obtaining socially significant scientific results.

Leading scientists Tamila Mangora and Maryna Lukyanova emphasize that the Ukrainian legislation, which is aimed at settling the issue of resolving labor disputes in court, needs improvement. However, in order to solve urgent problems in the specified area, studies devoted to the consideration of foreign experience in resolving labor disputes in court are of particular relevance. This is explained primarily by the fact that in many countries of Europe and the world, specialized labor courts have been operating for a long time, which play a leading role in the resolution of individual and collective labor disputes, while at the same time ensuring maximum consideration of the interests of participants in labor relations.

In their research work, Olga Durach and Yuriy Damianchuk pay attention to the organization of the work of courts during martial law, emphasize the implementation of the definition of the basic principles of the organization of the judicial power of Ukraine. They reveal the peculiarities and problematic issues of the administration of justice during martial law, consider the administrative and legal principles of corruption prevention, offer ways to solve such issues and ensure the right to a fair trial during the administration of justice during martial law.

Taisa Tomlyak examines the legal positions of the European Court of Human Rights. Explores the broad understanding in the practice of the Court of "society's interests" in the application of measures of deprivation of the right to property and at the same time ensuring a proportional relationship between the goal set and the means used. The author analyzed the current civil legislation and judicial practice of the Civil Court of Cassation, the Commercial Court of Cassation of the Supreme Court and the Grand Chamber of the Supreme Court regarding certain categories of credit disputes

and land cases, including the resolution of jurisdictional problems in the consideration of land disputes.

In her chapter, Natalya Chernyshchuk states the fact that the growth of the role of a lawyer in modern society is objectively due to the complication of social infrastructure (democratization of social relations, liberalization of economic life, growth of private initiative), the development of the legal status of the individual, the expansion of individual rights and freedoms. The role of various forms of social and legal regulation is growing, which leads to the emergence of specific social mediators in relations between people and their groups, as well as the state.

In his chapter, Oleksandr Pogulyayev considered the legal approaches of the political forces of the Right Bank ethnic minorities in solving the issue of international relations during the years of struggle for Ukrainian statehood, the influence of foreign policy factors on the formation of national demands of political parties and public organizations.

Andrii Dzevelyuk, based on the study of the life path of M.Yu. Chizhov, considers his formation as a lawyer and a political scientist in an interconnected context. Analyzes his conclusions that a lawyer should study not only the forms in which law is made available to us, not only the forms in which it becomes mandatory, but also the awareness of law as one of the social phenomena, as a product of various social factors that act under the influence of certain laws.

The section prepared by Vitaly Kaidashov is dedicated to solving the problem of the legal basis of the safety of the quality of agricultural products. The author emphasizes that despite the high degree of importance of the problem under investigation, the current legislation of Ukraine on the safety and quality of agricultural products is imperfect, contains many gaps in the legal regulation of the specified issues.

Authors Andriy and Maryna Pravdyuk in the context of various aspects consider and give their practical characteristics to the constitutional obligations of citizens to pay taxes in Ukraine and the European Union.

In the research of Iryna Skichko, the legal prerequisites for the formation of modern vectors of French foreign policy are clearly observed. At the same time, the

approach of temporal differentiation and subject analysis was used, which was carried out in accordance with the periods of the reign of French presidents and in relation to the key geopolitical directions of foreign policy - European, Atlantic, Middle Eastern, African.

The content of the collective monograph corresponds to the research direction of the Department of Law of the Vinnytsia National Agrarian University "Legal protection of human rights and freedoms in the conditions of European integration". The monograph uses legal, social and legislative research methods.

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## **5. Place and appointment of a lawyer in society and the state**

### Abstract

The article analyzes the role and importance of the legal profession in public and state life. It is provided that the profession of a lawyer is important for the Ukrainian society at the present stage, because the rule of law in Ukraine is being formed: development and formation of modern legislation, rule of law, introduction of social guarantees, improvement of legal culture and legal knowledge of Ukrainian citizens.

It is noted that social changes in society and increasing demand for legal professionals lead to the fact that there is a need in the legal services market only for professionals with a high level of professionalism and competence.

It is provided that lawyers at the present stage not only participate in the implementation of law, but also contribute to the improvement of legal regulation of public relations. Lawyers develop proposals for improving the legislation and send them to the competent authorities, participate in the work of law-making bodies, prepare draft laws and other legal acts, give conclusions and responses to draft regulations.

It is emphasized that one of the most important characteristics of the legal profession is its qualification. After all, only a qualified lawyer understands the essence and social significance of his profession, understands the essence, nature and interaction of legal phenomena, knows the main problems in a particular field of law, realizes their relationship in a holistic system of knowledge and importance for law in professional activities. Specific features of a lawyer's professional activity are publicity, public control, public opinion. The following definition of the term "lawyer" is proposed - a specialist who has special education, has special theoretical legal knowledge and current legislation, is able to apply them in practice, protecting the rights and freedoms of man and citizen.

Growth the role of a lawyer in modern times society objectively due to complication social infrastructure (democratization public relations, liberalization economic life, growth private initiatives), development of the legal status of an individual, expansion individual rights and freedoms. The role of various forms is growing social and legal regulation that causes appearance specific social intermediaries in relations between people and them groups, as well as the state. Today, any event, deed of a private person, the activity of a state body or him official who are outside the framework of household relations, they cannot do without examination or consultations from a lawyer or personal lawyer. The need to review the role of a lawyer in modern times society, his places in the formation legal state, requires modern scientific new approaches research and needs thorough study.

Problems place and role of a lawyer in society highlighted in their works such scientists like O. Havrilov, V. Hapotii, R. Kotsoverts, O. Minkova, S. Slyvka, O. Petryshen, O. Uvarova, S. Pogrebnyak, etc. However strengthening the role of a lawyer in modern times stage development Ukrainian society, necessity confirmation international standards in the qualification professional requirements causes the need for detailed scientific research specified problems

Analyze features profession of lawyer and to determine the place and appointment of a lawyer in society and the state.

Presentation of the main material. A lawyer is that a professional who has special legal knowledge, deep convinced of the exceptional purpose of law and legality for society, qualified uses legal tools for solving legal problems in the name protection of rights and legal interests citizens [107].

In society lawyers play back important role because from advices or the decision of a lawyer is in many respects depends on the fate of a person, well-being family, her property status, economic development society.

Conflict legal activity very often occurs at the junction of opposites interests in the conditions opposition or open struggle: plaintiff - respondent, accused-victim, offender-employee law enforcement agency, etc. Availability similar contradictions in the professional activity lawyers due to opposite individual needs and interests.

Therefore, in the majority cases legal activity is based on compromise from society and his representatives.

Trace separately to note intellectual attractiveness specified profession \_ Any skilled work requires from his own performer availability certain equal intelligence (professional knowledge, evaluation criteria, feelings, professional label). However, regarding the work of a lawyer is possible assert that it is in the majority cases intellectual work. In progress solution legal the lawyer has to apply cases general requirements legal norms to a specific one vital situation by acceptance corresponding decision. It provides necessity prognostication further development events, modeling possible situations, definitions means for them warning that indicates intellectual tension legal work. At the same time, should note that separate legally significant actions in the professional activity of a lawyer is required from not only him intelligence, and also significant physical preparation [108].

Along with the principles of independence, individual responsibility, procedural independence of the work of lawyers in many ways has collective character. Significant number solutions are accepted not from in the name of a specific performer, and from on behalf of the state body or the whole states that indicates collectivity him production, acceptance and provision implementation. For example, the court 's decision is based on the results of the collective labor many participants process (nvestigation, lawyers, prosecutor's office, operational services, witnesses, experts). Trace say about the system unity legal institutions as a whole, which they can perform your functions only in tight contacts and interactions.

The work of a lawyer is related to various legal aspects vital situations, with protection of rights and legal interests individuals, society and the state. A lawyer has to adapt according to the type of work specific vital case under a specific norm, that is under the general rule that offers kind and measure possible or proper behavior \_ For what not only is required from a lawyer high professional competence, but also civil vital position [108].

Civic the position of a lawyer is of great importance in social assessment facts, events, that have legal value, when choosing a type and measure forced impact on the

offender, when choosing and applying to the guilty punishment established by the law. For example, an excessively strict attitude of a lawyer can lead to expansion of spheres of actions of the criminal law, before application of more strict measures of punishment. Moderate installation can be expressed in limitation of spheres of actions of criminal law and in mitigation of punishment. A liberal attitude of a lawyer can lead to unreasonable manifestation of "humanism" in relation to crime and unjust, inhumane in relation to the victim, to society as a whole [106].

The activity of a lawyer is of a state nature. It is related to questions of compliance with state disciplines, provision of legality, strengthening of law and order, etc. Many lawyers hold positions in the state apparatus, are in the state service and assigned powerful powers. The work of a lawyer is characterized by exact compliance with requirements of decisions made by him to the current legislation. He must actively implement politics of the state, responsibly treat the entrusted affairs, to be ready to protect rights, freedoms and legal interests of personality, interests of society and the state from illegal encroachment [106].

Considering the essence of the legal profession, it is necessary to consider modern interpretations. Profession or as sometimes more called specialty is \_ a separate set of actions and corresponding knowledge that requires special education. Higher legal education is a certain educational level obtained as a result of a consistent, systematic and purposeful process of assimilation of legal knowledge, views, beliefs, abilities and skills, formation of personality as a citizen capable of professional and legal activities. Under acquisition of legal education necessary to understand the achievement of educational level certified by the document. System of institutions of higher legal education consists of broadly profiled and specialized institutions of different types: universities, academies, institutes, colleges.

Legal the term " legal profession " is a complex concept that covers different aspects of legal activities. So, you can say that in general in the form of the legal profession is represented by lawyers and attorneys. In the textbook " legal deontology » edited by O.F. Skakun and N.I. Ovcharenko, authors note that the profession of a lawyer is revealed through the concept of: a) activity taken as a certain reality; b)

professionalism as a quality activities; c) legal character as a special field of activity in contrast from economic, managerial and other.

The profession of a lawyer is a broad area of work activities that requires legal knowledge and skills necessary for performance certain work in legal sphere social services. It is determined specific conditions activity given sphere and is expressed in high legal culture legal employee this one areas [107].

In his work " History ". of Roman law" I. A. Pokrovsky notes that the first lawyers can to name Roman priests - pontiffs. It was they who laid the foundations of legal regulation social life, created a large base of precedents. Only a few centuries later jurisprudence was formed as a science. Now the concept of "lawyer" unites all people who are engaged in diverse professional legal activities judges, investigators, prosecutors, notaries, legal advisers, lawyers.

Now legal science is multifaceted, that is why it is unique generally accepted definition such there is no profession as "lawyer". Therefore, in our opinion, it will be appropriate to consider pluralism modern interpretations of this definition [107].

The term lawyer comes from (from Latin Jus - law) - a specialist in jurisprudence, legal sciences; practical an activist in the field of law.

As noted by S. D. Husarev and O. D. Tikhomirov, a lawyer is this a professional who has fundamental and special legal knowledge, deep convinced of the exceptional purpose of law and legality for society, qualified uses legal tools for solving legal problems in the name of protection of rights and legal interests citizens.

According to I. V. Bryzgalov, a lawyer is this a specialist who uses your knowledge in practice, that is has skills of drafting legal documents, execution everyone actions and operations from application necessary means and methods in the process solution legal matters that belong to him professional competencies [108].

Also, on one of sites lawyers of Kyiv contains the following interpretation this one profession: lawyer - this a professional who has fundamental and special legal knowledge, deep convinced of the exceptional purpose of law and legality for society, qualified uses legal tools for solving legal problems in the name protection of rights and legal interests citizens.

Spheres application legal profession: legal compliance supervision and control implementation and compliance under control objects legal prescriptions, legal services, legal consulting issues , legal support , legal representation , legal audit, justice and resolution disputes in the process judicial proceedings : criminal , administrative , civil , and others .

In Ukraine lawyers subject to qualification attestation. Certification of a lawyer is process definition qualifications, assessment of growth and quality knowledge, characteristics of professionalism. To conduct attestation are created qualification Commission. In 1982 by the Ministry higher education of the USSR was approved Qualification characteristics of a lawyer, where the system of requirements for knowledge and skills of a lawyer was determined.

The purpose of the qualification certification - improvement high - quality staff legal spheres.

Task qualification certification of a specialist lawyer:

- 1) definition equal professional qualifications;
- 2) definition compliance of the lawyer with the occupation positions.

In the attestation documents should be contained the following characteristics:

- 1) assessment practical activities and professional qualities of the person being certified;
- 2) evaluation a person's attitude towards work colleagues;
- 3) evaluation colleagues contribution of the certified person to the professional activity team and creation favorable climate in it;
- 4) self-esteem of the person being certified.

The main ones conditions professional compliance practicing lawyers:

1. Availability necessary the minimum knowledge, abilities, skills obtained as a result training and experience.
2. Emotional and volitional readiness to perform professional activities. Reveal it maybe with help study motives professional choice, vital goals of a person, ways their achievements, features worldview that reflect understanding general social and professional problems, content work and service aspiration.

3. Ability to concrete professional activities. It is revealed through intelligence, professional thinking. The main ones are: skills analytically and logically to think, to have professional observation, operational and long-term memory, creative search engine activity and intelligence.

In process certification for assessment business qualification and professional skills are applied such methods : a) study results activities for a certain time ( eg number investigated cases entered protests presented and satisfied due to reasonableness lawsuits ); b) generalization oral characteristics of a person who certified by managers , colleagues and others persons with whom is carried out cooperation ; c) study composed managers written characteristics in which are contained information about successes or disadvantages their subordinates for a certain time; d) biographical method that provides assessment data labor biography of a person who certified ( applied during transition employees in the prosecutor's office, court and others law enforcement agencies and others state structures).

Upon completion attestation concludes that, corresponds does not respond certified busy position, or deserves to be included to the reserve for promotion, etc. To the conclusions attestation importantly comprise suggestions that the employee must do independently to eliminate discovered commission disadvantages [105].

In the attestation document should be contained such elements of the characteristic: assessment practical activities and professional qualities of a person that certified; rating attitude of the person that certified, to work colleagues; assessment colleagues the contribution of the person who certified, in professional activity team and creation favorable climate in it; self-esteem of a person that is certified.

A person who has a law degree education (master's degree or bachelor's) can work in the field legal services: consult, compose legal documents, to present clients in court.

Individual services in the field of law can give an individual entrepreneur. For such legal practice does not require a license (not to be confused with attorney status). By order from legal or of an individual, a lawyer can carry out different legal actions. For example, representation in court, but here it is important take into account growth restrictions attorney's office monopolies



The competence of a lawyer, especially corporate (inhouse), is not necessary yields attorney's office, and those more if he specializes in areas of law far from criminal process. For example, an in- house lawyer can work in the field international private law, economic, contractual, patent, tax, banking and corporate law.

### **Conclusions**

Thus we can reach conclusion that the only one comprehensive definition concept there is no profession of a lawyer. Having analyzed features legal profession, the role of a lawyer in society and the state, it is possible determine what a lawyer is specialist who has special education, has special theoretical legal knowledge and current legislation, knows how their apply in practice, protecting rights and freedoms a person and a citizen. Considering insufficient quantity in ours the country qualified legal specialists, constantly the growing role of law and legal procedures, taking into account the prestige of legal work and legal study, you can assert the elite nature of the legal profession profession.

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