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PHILOSOPHICAL BASES OF SCIENCE AND BRANCH OF LABOR PROCEDURAL LAW

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АННОТАЦИЯ

В предлагаемой статье устанавливаются общефилософские основы трудового процессуального права, как науки и области знания; дается общая оценка его предмету, методу, системе, связям и влиянию на смежные отрасли права; рассматриваются вопросы сосуществования трудового процессуального права с иными юридическими науками; обращается внимание на всеобщие изменения, которые может за собой повлечь дальнейшее развитие науки и отрасли трудового процессуального права в Украине; приводится прогноз и рекомендации в сфере принятия кодифицированного нормативно-правового акта в отрасли трудового процессуального права и изучения трудового процессуального права, как науки и учебной дисциплины.

Ключевые слова: общефилософские основы, трудовое процессуальное право, наука, предмет, метод, система, связь, отрасль права, юридические науки, всеобщие изменения, учебная дисциплина.

SUMMARY

In proposed article generally philosophical bases of labor procedural law as science and area of knowledge are determined; common estimation about its subject, methods, system, connections and influences for adjacent branches of law is given; questions of coexisting of labor procedural law with or law sciences are considered. Attention for generally changes, which could be brought by furr genesis of science and branch of law as labor procedural law in Ukraine is drayed. Prognosis in sphere of adoption of codified legal act of branch of labor procedural law and study of same branch as a science and academic subject is brought.

Key words: generally philosophical bases, labor procedural law, a science, a subject, methods, a system, connections, branch of law, law sciences, generally changes, academic subject.

Introduction. The scientific investigations and summarizing of practical stuff in sphere of labor procedural legal relationships dialectician's need of its systematization to separated area of knowledge are brought with it inevitably, which about transition of phenomena of public life from quantity to new quality is attested.

As we indicated in previous articles, «regulation of labor legal relationships, such as: questions of defense of right to work, right to defense from exploitation, right to job and struggle against poverty as a result is important national and international service. From way, which will adjust same legal relationships, public prosperity, measure of people's life, ir satisfaction from legal, social evolution of humanity are depend on farst. In this context consolidation of legal norms in sphere of regulation of work, job, working time, etc. of every state with international standards in same spheres, which is property of legal mind of humanity, is most important» [13, p. 71].

One of forms of same consolidation we (with reference for scientific doctrine) have considered forming in post − soviet countries specified system of labor justice and creation of Labor Procedural Codex as a codified act of labor procedural law [15, p. 157].

Works of such authors as: I. Kiselev, A. Matsko, G. Chanisheva, V. Prokopenko, V. Paliuk, O. Zhykovskaya, S. Shevchuk, M. Mikievich, M. (jr.) Mikievich, N. Makovei, P. Rabinovich, N. Radanovich, L. Golyak, O. Turina and ors were devoted for individual aspects of same article, particularly: for questions of separation of labor procedural legal relationships for independent branch of law.

At same time, questions about what is labor procedural law: as a quality substantive, law and public phenomenon, branch of law and academic subject presents itself; what its «spirit» consists in, have been already unsolved.

Thus, **object of article** is investigation of labor procedural law from generally philosophical's viewpoint as a phenomenon of legal reality, its common connections and influences for genesis of legal system of state, which se legal relationships haven't independent status in, as well as prognosis and recommendations in sphere of creation of codified legal act of labor procedural law and it's study as a science and academic subject giving.

Statement of essential. law as a phenomenon of public existence and axiological category is difficult multiform system of mechanisms and its interactions presents itself with object of positive influence for course of events in society.

At same time, all of law influences are forms of its activity. As we says earlier, «Georg Gegel' [<...>] interpreted activity from positions of objective idealism as however − penetrating characteristics of absolutely spirit, which immanent need of this one for a self − change borning. The main role Gegel' leads of mental activity and its highest form − a reflection. Same way has been solved for Gegel' had built system conception of activity, in which measures central place had occupied educational and rationalization «work of spirit». In Gegel's conception substation analysis for dialectics of structure of activity (however, profound determinacy between objective and way) has been increased, number of profound remarks about socially − historical determined of activity had done» [19, p. 129]. Same views had philosophers of so − called German Classic School.

Frederick Engels in his work of «Ludwig Feuerbach and End of Classical German Philosophy»[2] had already brought or, materialistic, viewpoint. According se positions: «Phenomenology of Spirit (which could be named as parallel to embryology and paleontology of spirit, or reflection of individual mental at different levels of its genesis, as a short

[1] The technical corrector of this article is Larisa Kolosova, English teacher.

[2] The original is: F. Engels «Ludwig Feuerbach und der Ausgang der klassischen deutschen Philosophie», Stuttgart, Die Neue Ziet, 1888.

remove of levels, which have done by humanity's mind historically), logic, philosophy of nature, spirit in its individual ways has been worked out, such as: philosophy of history, law, religion, history of philosophy, estics, etc. In all of se different historical spheres Gegel' makes an effort to progressing across it way of development search. As so he had been not only creatively genius, but still had encyclopedically erudition, his statement constituted an epoch everywhere. Naturally, that needs of «system» for forcible constructions has been obliged him to recourses here very often, which such a terrible scream his worthless opponents swing over for nowadays about. By all of philosophers have befounded «system» transient; refore, systems from imperishable human spirit's need are born, such as: need to overcoming all of contradictions. But if all of contradictions would be overcome, n we to so − called absolutely verity would be come. World history would be become to End, but, in same time, it would be able to continued, however, it wouldn't be to do. That's why new, unsolvable, contradiction appears here. All of contradictions' overcoming philosophy demand from means one of philosophies demand from same task to do, that all of humanity in its progressive genesis could be doing only. If we follow it (and this one we more than anybody thanks to Gegel'), n all of old − mind philosophy have become to end. On this way we left alone unattainable for individual «absolutely verity» and begin to drive to attainable verities for us on way of positive sciences and its results' summarizing with dialectical mental help. By Gegel' philosophy ends generally, because his system is great conclusion of all of earlier genesis of philosophy presents itself, from one hand, and because he, however, unknowingly, have directed way, which coming from this labyrinth of systems to real positive cognition of world, from or hand» [27].

At same time F. Engels thought, that «Revolution of 1848 have moved aside all of philosophies without a ceremony as well as Feuerbach have moved «his» Gegel'. Along with, Feuerbach has been moved aside too».

These positions of F. Engels are very categorically and not in plenitude convincing as for us. We think, that any revolutions could be disproved whole philosophy's school, which formed and produced own method, system, logic, estics by decades and were and stay as one of most important among ors now or excluded it from objective way of historically progress.

In contradiction to own sis about «all of philosophies moving aside», F. Engel's makes following conclusion: «that ones, which for nature applicable, which we understands now as historically process of progress[3], to all of spheres of public history and to all plural of sciences, which for human and God phenomena works applicable too».[4] But according with Engel's mind, this process consists in material changes, which following motions of lots to revolutions for it always only.

In our appreciation we can't agree neir with Engel's positions about «the end» of idealism as «empty building timbers»; about need of idealism rejection in way of its «the filling» by materialism substantive, nor with Gegel's positions about «the absolutely of spirit» and «rhe absolute verity's unknowability» completely.

The understanding of activity as from idealisms' positions, as from materialisms' one in correlation of common and quotient is more rational to seem, because all of doing, process from idea, which not a material, begins. But this idea is modifying (according to Gegel') to words, motives, actions, activities, decisions, is submitting to immanent need of self − change, attains in whole material characteristics; bases as spirit on, as material one, and brings to concrete as spirit, as material results.

For example, aggregate of human ideas, feels, wishes to better life was born appeals itself (as words) and actions, which was directed for eight − hours working day' protection, women and child work' exploitation prohibit, that to a forming of science and branch of labor law brought as a result. In system of this one, particularly, same valuables, fighted during bourgeois − democratic and socialistic revolutions, has been included. So, revolutions neir philosophy nor any of its branches couldn't be rejecting, moving aside or disproving, but y were physical embodiment of its poverty spirit and logic mechanisms.

But immanent need of self − change hasn't got round scientific doctrine of labor law. The ideas for specialization and separation of labor law about from complex branch to labor material and labor procedural law to discussions and argumentation about this subject were prompted scientists beginning from middle of 20–th century approximately.

What serves grounds for this way? Particularly, such viewpoints as: «… nowadays system and procedural form of court's defense in labor legal − relationships' sphere behinds considerable from requests to efficiency, quality of labor disputes' examination demands, during consideration of which all basis principles of labor and social − security law must be takes in account and looks for ir embodiment in whole…[<...>]»; «… problem consists in applicability of some institutes of civil process to labor disputes with take in account ir specifies, correlation between of civil procedurals' and labor laws' norms and appeared refore needs of simplification of procedural forms, ir deliverance from unnecessary fussiness of formalism, red tape, improvement of level of ir accessibility for ordinary worker…[<...>]»; «… procedure of control from courts' decisions' execution in cases about re − employment and work payment is overextended, for ordinary workers' appreciation is hard, by procedural acts is overladen…[<...>]» [18, p. 207]; «one of main problem of any of procedural forms is problem of ir terms keeping, unfounded red − tape during case examination, because any red − tape decreases level of trust to court system, for level of law', liberty' and legitimate interests' defense reflexes negatively, makes worse common level of citizens' legal − mind. The problem of misuse of procedural rights were and stay as object of scientists' searching always, because front of m will be stay always a dilemma: how, from one hand, red − tape during process excluded, and, from or hand, for its completely and comprehensively not do much harm by excessive acceleration» [5, p. 48]; «in some recommendations about improvement of natively procedural legal in part, which labor cases' examination in Supreme Court of Ukraine touches is need, because neir introduced reforms, nor essential experience of European Union states, haven't confirmed to Ukrainian realities of access to judgment in this concrete event, unfortunately, at moment» [16, p.192].

In such a way in public perception phenomenon, which called «labor procedural law» was born as a plural of ideas, means, views, efforts, experience, which have been directed to simplified of access to judgment system in labor cases, improvement of its quality, rational acceleration of labor cases examinations' procedure etc. The ideas appeared, real grounds and public request for it have been, but question of ir embodiment in state legal reality has been already unsolved.

And with this object, re is no without oretical grounding of subject, method, system, principles of labor procedural law as science, branch of law, and academic subject, because in tripersonality of cognition, using and studying of se ones are possible effectively penetration of real law to public life, its promotion and positive acceptance from all of members of society only.

But, reof of se, we would be to philosophy return momentarily, to understand once more, what instead of th law for us and what a valuable has brought with itself.

[3] By I. Kolosov detailed.

[4] See earlier note.

As we said earlier, «the law' investigation as most common phenomenon of social existence with need of its gnoseological analysis related closely. In se consisted dialectical need common cognition of law as a «thing − in − itself», according to Immanuel Cants' views [<…>], attitude's forming for it as a positive (acceptance) or negative phenomenon of social existence, fixing same system of law − valuables in society, so − called law − mind, in.

The law as phenomenon and demonstration of moral categories of property and justice has been brought itself implication subjective sense undoubtedly.

The rule as externality demonstration of law have already been for it as a «thing − for − ors», i. e. The legal norms and principles have fixed formally, but have kept possibility for ir using − individual delves himself to law «spirit», ir interpretation has been as a result.

The interpretation is process of cognition, for one's turn, which time, mental, physical and or inputs demands with matter of correct (social − acceptance) law using and legality reinstatement at every of cases.

That's why, quantity and quality estimation of se inputs can get answers for questions, such as: if time and or resources exploited by law − using individuals rationally, if law used effectively and what need to do, to its efficient grows up?» [4, p. 44].

These lines ascribes to 2015, and plural of philosophic normatively − analyzing categories are re in it we've seen, such as: «thing − in − itself», «thing − for − ors», time, existence, means, subject, cognition etc. And all of se ones were adopted from methodological mechanism of German Classic philosophy, rich representatives of which were Immanuel Kant, Iogann Gotlib Fichte, Georg Gegel, etc.

F. Engels work about «end» of German Classic philosophy ascribes to 1886[5]. However, its «end» is strange really, if we for law − cognition, as existence − part, with its, German Classic philosophy, help returns again, after 130 years since its «end»!

It needs considerable qualifications here. You see, founding need of assailing and breaking with or philosophers and ir means, F. Engels have brought arguments of substitution by m really philosophy with using ir subjective scientific and political interests. However, is doing the same things, when he wants to founding needs of a revolution and revision by any way or not? During argument of «end» of German Classic philosophy founding, he accused it in excessive deliberation, orization, decrepitude etc., what, as seen, were inadmissible in his means. But, at same time, nobody have taken front of this «deliberative» philosophy tasks about all of contradictions' overcoming, and in this one F. Engels dissembles. Demand oretically, about probably consequences reflecting on, as F. Engels doing that, and same demand fixing in reality are absolutely different things. Besides, that task haven't taken front of, thus all of contradictions haven't and couldn't overcome, because nobody of sensible philosophers for same supernatural task would be undertook! And world history has never finished, orwise, negation of history would be means and process of progress negation, which F. Engels steps for so hot, a new dissemble makes in that way. Does all of that for sake of need founding about transiting from decrepitude philosophy to philosophy of act and moving aside of unattainable during drive to attainable in any way or not? However, unadvised action could be brought itself nothing, expected destroying, what, same «have ended» history proved, which without a ceremony have moved aside and F. Engel's with all of his «new» philosophy, alike he, in one's time, moved as Feuerbach, as Gegel', as all of «old» classic German School, as a result. For real, «end» as philosophy, as history consisted in F. Engel's political interests and in founding of need of revolution moving of lots and his own philosophy only!

And now we show attest of se one. 130 years passed, and we for common philosophical' questions have discussed again; ir properties and bounties have again used; and haven't means about our opinion imposed by forcible, wild, bloodedly way. There are democratic procedures for that, re are human rights, particularly, right for pacifists' demonstrations, if worst, and we could be using se one at whole by way of election right, which was a demonstration of highest form of political liberty since times of Great French Revolution and Maximilliane Robespierre.

It may be, that nowadays' existence, by any essentially new views, which are differ from past philosophic school, isn't filling, but, however, re are as Neo-Thomism, as Neo-Kantian, as Neo-Gegel'uan, etc. And refore it is that to any new quality, any new philosophic idea appearing needs same time, scientists' efforts, eclectically plural of essentially new events, which have been to systematization. While it doesn't happen, this essentially new philosophy, according to dialectical principle of transiting from quantity to quality, in entrails of old ones have burnt, gar strength and content yet by way of continuity, and we thinks, that such a philosophy we will learn later. And while we can use which one, that has investigated and attested by centuries, in spite of all of efforts of individual philosophies to end or move aside se same valuables, enclosing in humans' heads ideas of inevitability of senseless bloodshed.

As well as come off, that not only bayonets and grenades, but while a science, philosophy, history, logic, estics and or valuables of positive society life may help us to cognition of new society tendencies and phenomena, in plural of that labor procedural law included, and accepts it at whole. However, at same time, we must be thanks to F. Engel's, particularly, for brought to an turn conception of «German Classic philosophy» by himself, with thanks of that, this plural of views, ideas and means have purchased categorically characteristics and externality demonstration as «thing − for − ors». Besides, during his views critic, we mustn't forget about historical presence, which it formed in, because period of F. Engel's life were rar chaotic for world history, when all of revolutionary and forcer seemed inevitably and all of non − revolutionary seemed mildly and insipidly. We debates se views with high of nuclear epoch, when any war to not imaginary, but to real end of as philosophy, as history, as all of humanity could be brought, what it's not to allow, of course. se qualifications we bring, because our earlier works on dialectical mechanisms of German Classical philosophy founded, in connection with that furr scientific investigations without own opinion pronouncing to opponents of this philosophy means could be impossible.

And we've said in a few words about philosophy yet. The dialectical content of law categories of property, justice and correlation' search between it for common benefit we have been recognized. However, law is it an antagonist of evil, untruth, injustice, which own philosophies content are have too.

As we said earlier, «the property and evil are normatively − analyzing categories of moral means, in farst common form, that, from one hand, benefit, and, from or hand, moral − negative and have − condemn in humans' motives and acts and in social realities' events have been marked. In history of ethics materialistic and idealistic trends, in property and evil interpretation have collided with, since antiquity. The first one, se conceptions connects with human needs and interests, natures' rules or factice wills of people (as a naturalism), enjoyment and suffering, happiness or unhappiness (as a hedonism, eudemonism), real social means of individual acts form common life. The second one conceptions of property and evil from God's Direction or Mind (and from

[5] Between writing work of F. Engel's «Ludwig Feuerbach and End of Classical German Philosophy» and its publishing at magazine of «Die Neue Ziet» two years passed.

deviations from se ones), from someone weird relatively real world ideas, substantives, rules brought or contents of se ones to demonstration of subjective human's wills, inclinations, sympathies or antipathies reduced, to conflict between property and evil metaphysically − ontological sense of struggle of two primeval principalities of world have been allowed as a result [<…>].

Thus, property and evil are as subjective (the wills, inclinations, sympathies) as objective (the social incentive or condemnation, nature's rules), in same time, categories, which, in first place, are indivisible, and, secondary, only objectively or only subjectively can't exist. So, for se categories dualism of ir content are typical in particular (social incentive in any event connects sympathies or antipathies with and nature's rules, particularly, wills, inclinations etc. borns).

Without a doubt, according dialectical principle property and evil are opposite. But, re is someone community between se ones: evil borns need of property's consolidation, what, in most narrow sense, induces honorable science community doing someone investigations, as, as induces to efforts and intellects unifying, positive experience exchanging. In this re is not only community, but positive moving evil's power. Because without evil society wouldn't be progressing: re wouldn't be anyone needs to progress, reforms, and society' relations' regulators' improving.

The phenomenon of evil related closely with category of action, which conception of «activity» included in. The activity is specific human's active form of attitude to anor world, which content consists rationally change ir and improvement for people's interests in [<…>]» [19, p. 130].

Based on gave, we come to conclusion about that as property, as evil, as positive, as negative, as law, as crime are form of activity demonstrates; that se categories interdependent and inseparable system allowed to have been determined by itself. There is quite right to affirm, that law system is extent and way of struggle against criminality system, evil, injustice, deviants, which are encroaches on for common bounty, this arithmetical mean's correlation between public and private interests.

That's why, law, as a phenomenon is extent of opposite to evil; particularly, labor procedural law is extent to struggle with process' rights' misuse during civil cases about labor disputes' examination and with poverty, precariousness, uncertainty in day of tomorrow, families conflicts (which could be as a legal conflicts ended too) etc. as a result. On this simple example we see complexity of interaction and interference of different branches of law each or and to different, but closely related society life's spheres.

The Talking about relations, however, we were carrying away in a few and ran in advance. It needs to pay our attention on subject of labor procedural law, i. e. on legal relationships, which it regulated, at first. And in this one is great familiarity between labor procedural and civil procedural law. But, neverless, re are principle differences, which has been allowed to ir separated out in independently system of norms, which regulating legal relationships, following from order of defense of disturbed, contest or unrecognized rights of worker. These differences touches same ones, as: 1) institute of preliminary case examination [10]; 2) principles of law process [7]; 3) court's competence during labor disputes examination [6]; 4) court's composition and order of rejections' deal [20]; 5) list of labor process participants [25], ir rights and duties [8]; 6) procession participation in labor process [1] ; 7) labor procedural capability [21]; 8) control on courts' decisions executing in cases about labor disputes [12]; 9) judgment of appeal in cases about labor disputes [3]; 10) court's procedure of cases' essentially examination [23]; 11) ordinary procedure during labor disputes examination[17]; 12) judgment of cassation in cases about labor disputes [11]; 13) procedural terms during ir examination [9]; 14) technical fixing labor disputes examination [26]; 15) measures of processual coercion [5]; 16) cases about labor disputes' revision in Supreme Court's institution [16].

The Besides, we have been pronounced same organizing recommendations to guaranteeing of independence function of labor justice's system concerning, what we said about earlier too [2,14,22,24].

The Thus, plurality of same indications are permits to determine labor procedural law as independent branch of processual law, which is regulating order of defense of disturbed, contest or unrecognized rights of participants of labor legal relationships. method of labor procedural law, as well as majority of processual ones, for imperative were build, however, if it addressed to earlier published works by us, someone dispositive positions it could be find. The system of labor procedural law must be building on Constitutional Acts, legal acts about work, and, also, on specially codified abridgement of law under − call of Labor Procedural Codex.

As we said above, labor procedural law has fundamentally dialectical connections with labor, constitutional, administrative, civil procedural, financial, budget's, familiar, criminal and or branches of law, because new society relations and appearing a new form of ir regulation irreversible changes at all of great legal − raising have brought itself with inevitably. And, besides, labor procedural law with philosophy, history, logic, mamatics, statistics related closely, attests which one re are all of has been published by us works earlier of, notes to which has been given above for.

The labor procedural law mustn't enters into contradiction with orcs branches of law in view of ir specificity conceptually, at same time, ir following genesis demands doctrinal reforms of judgment system in that countries, where specify system of labor justice doesn't function, what essentially changes of constitution, administrative, financial, budget's legal has been brought itself with.

The About prognosis of following genesis of labor procedural law telling, re is no without significant of improvement of level of defense of labor and social rights of workers, growing up efficient of law in a society, lowering level of criminality as well as families conflicts, ir destroying etc. The Thus, not selective, but existence system's novations speak is about, which development of this science and branch of law has been brought itself with.

And after adoption codifying acts in labor procedural law' branch, ir farst including to curriculums highest and middle − special juridical educational establishments needs, certainly, for bringing level of student's knowledge in according to new phenomena of legal reality, ir actualization in according to society demands, creation of stability, successive legal base for effectively defense of rights and legitimate interests of labor legal − relationships' participants purposely.

Conclusions. In measures of proposed investigation philosophical and legal's conceptions same intentional law's phenomenon, which labor procedural law is, thinks accomplished is impossible undoubtedly. The However, re is dialectical in science for, that conditions of permanently need of improvement as itself, as objects of ir investigation. To tall's summing up, however, wants to significant, that fronts tasks of we would be able to handle farr, and common − philosophical principalities, conceptually founding and summarizing of that investigations, which touched science and branch of labor procedural law earlier we would be able to give.

At same time, questions of more detail analysis of correlation of subject of science and branch of labor procedural law for, ir concretization, to applicable to any legal system, creation of pedagogical conception of labor procedural law studying

at highest and middle − special educational establishments following investigations would be able to consecrate, which would be able to appear in a result of consolidation of efforts of scientific society in different branches of juridical, pedagogical, philosophic, psychological, mamatical and or ones only. And, as time, as permanent practical analysis of those legal relationships, which object of this scientific investigation represents, needs for that, certainly.

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