

**PROPERTY RELATIONS AS OBJECT OF STATE SUPERVISION (CONTROL)
IN THE FIELD OF PROTECTION OF RIGHTS ON SORTS OF PLANTS**

**МАЙНОВІ ВІДНОСИНИ ЯК ОБ'ЄКТ ДЕРЖАВНОГО НАГЛЯДУ (КОНТРОЛЮ)
У СФЕРІ ОХОРОНИ ПРАВ НА СОРТИ РОСЛИН**

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Property relations in the sphere of protection of rights on plant varieties as an object of state supervision (control) have been examined and analyzed, the role of the State Inspection of Agriculture of Ukraine and its territorial bodies in this type of relations has been researched, ways of solution of unsettled position during exercising state supervision (control) in the sphere of protection of rights on plant varieties have been proposed.

Key words: state control in the agriculture of Ukraine, State Inspection of Agriculture of Ukraine, The Chief State Inspector of Agriculture of Ukraine, State Inspector of Agriculture of the Autonomous Republic of Crimea, Kyiv, Sevastopol, the state inspectors of agriculture of region, areas.

У статті розглянуті та проаналізовані майнові відносини у сфері охорони прав на сорти рослин як об'єкт державного нагляду (контролю), досліджено місце Державної інспекції сільськогосподарства України, її територіальних органів в цих відносинах, запропоновані шляхи вирішення неврегульованих позицій при проведенні державного нагляду (контролю) у сфері охорони прав на сорти рослин.

Ключові слова: державний нагляд у сільському господарстві України, Державна інспекція сільськогосподарства України, Головний державний інспектор сільськогосподарства України, державний інспектор сільськогосподарства Автономної Республіки Крим, м. Києва, Севастополя, державні інспектори сільськогосподарства областей, районів.

В статье рассмотрены и проанализированы имущественные отношения в сфере охраны прав на сорта растений как объект государственного надзора (контроля), исследована роль Государственной инспекции сельского хозяйства Украины, ее территориальных органов в этих правоотношениях, предложены пути решения неурегулированных позиций при проведении государственного надзора (контроля) в сфере охраны прав на сорта растений.

Ключевые слова: государственный надзор в сельском хозяйстве Украины, Государственная инспекция сельского хозяйства, Главный государственный инспектор сельского хозяйства, государственный инспектор сельского хозяйства Автономной Республики Крым, г. Киева, Севастополя, государственные инспектора областей, районов.

Statement of the problem. The need for an effective system in Ukraine Supervision (Control) in terms of intellectual property protection for plant varieties called as Ukraine's international obligations, including Ukraine's accession to the International Union for the Protection of New Varieties of Plants, the World Trade Organization, the implementation of the Agreement on Trade-Related Aspects of Intellectual Property [1, p. 29], and internal processes in the country, including the requirements of the subjects of intellectual property rights in the strengthening of their rights.

Analysis of recent research and publications. Problem of protecting intellectual property rights, including plant varieties, dedicated to their work a number of leading scientists and lawyers, including L. Glukhiv, VI Kurylo, A. Komissarov, V. Levchenko, Y. Lebedev, A. Melnik, M. Palladium, O. Piddubny, A.O. Pidopryhora, O.O.Pidopryhora, O. Pichkur, D. Prytyka, N. Pushkar, L. Ryabotyahova, N. Salysheva, V. Tretyakov, R. Shishkin and others.

Bold unsolved aspects of the problem, which is dedicated to this article. In connection with the transfer of control and supervisory authority in the field of plant variety rights to the newly formed executive body – the State Agricultural Inspection of Ukraine (hereinafter – State Agriculture Inspectorate) has not clarified the theoretical and practical purpose as an object of property relations of the state Supervision (Control) in the field of plant variety rights.

The wording of Article goals. Our goal is to study property relations in the field of plant variety rights as an object of state supervision (control), identifying outstanding position during the State Supervision (Control) in the field of plant variety rights and suggest ways to improve the regulation of these relations.

The main material. The concepts of «security» and «protection» are so closely linked that sometimes both science and the legislation they identify. The «protection» usually refers to

«protect» a breach of good (right or legally protected interest), and under the «protection» – to protect against attacks, denial or restore the violated rights. Protection is legal response to crime that has already happened, it assumes legal liability and compensation and other means-renewable nature [2, p. 150-151]. Acute need for intellectual property protection is due not only to its protection as such. The protection is not only intellectual property as such. Protection of intellectual property rights concept is much broader. This is the first of protection of public interest, it economic, political and territorial independence. This protection of the intellectual potential of the state, its achievements priority. Finally, this protection of industrial, economic and military power in Ukraine. The term «intellectual property protection» means a wide range of rights and interests of the state, society and individual citizens of Ukraine [3, c. 13]. Therefore, based on the foregoing, we conclude that the state is endowed with certain powers for the protection of intellectual property rights, manifested in its control and supervisory powers.

One of the stages of gain control in the field of plant variety rights was the creation in 2002 of the State Inspectorate for the Protection of Plant Varieties (hereinafter – Public Service for the Protection of Plant Varieties) [4] under the State Service for the Protection of Plant Varieties (hereinafter – Public Service for the Protection of Plant Varieties) and providing right state inspectors Protection of Plant Varieties conclude protocols significantly increased regulatory control and supervisory functions of the state compliance regulations all entities regardless of ownership, operating on domestic food production [5]. As State Inspectorate for the Protection of Plant Varieties – an independent division of Public Service for the Protection of Plant Varieties without legal personality, the V. Kurylo On «state agricultural inspection» refers Public Service for the Protection of Plant Varieties, not State Inspectorate for the Protection of Plant Varieties [6, c. 128-129], and O. Piddubny

notes that Public Service for the Protection of Plant Varieties is a government agency with a fairly broad competence and inspection activities are just one of the directions of its activity [7, p. 45]. Given the powers of inspectors for protection of plant variety rights in respect of the drawing up reports of the transfer of the right to a court (Article 512 of the Administrative Code of Ukraine) or state seed inspections to punish the offender (article 1041 of the Administrative Code of Ukraine) M. Pushkar relates directly Public Service for the Protection of Plant Varieties and state inspectors of plant variety rights in a category of public bodies exercising oversight role in this area of legal regulation [8, p. 99].

At the present stage of administrative reform in Ukraine much emphasis on the new features of executive- and interim rights (which aims to ensure the rights and freedoms) and human rights (protection of rights). [9] To that end, after the elimination Public Service for the Protection of Plant Varieties and State Inspectorate for the Protection of Plant Varieties [10, 11] control functions for the acquisition, implementation and protection of plant variety rights transferred to the State Agriculture Inspectorate of Ukraine [12]. Given this relationship in the field of plant variety rights are governed by two Decrees of the President: April 13, 2011 № 459 «On the State Inspectorate for Agriculture of Ukraine» and on April 13, 2011 № 464 «On approval of the State Veterinary and Phytosanitary Service of Ukraine» [13]. In other words the authority of the state of scientific and technical examination of varieties of plants and issuance of protection for plant varieties as intellectual property rights shall Public Service for the Protection of Plant Varieties, and the powers of supervision (control) for the acquisition, implementation of intellectual property rights for plant varieties has State Inspectorate for the Protection of Plant Varieties. What is the difference between a specified legal relationship look on.

The first State Inspectorate for Agriculture powers aimed at monitoring compliance with legal and natural persons of legislation for the protection of plant variety rights in the production, use, storage and reproduction of propagating material of plant varieties. Specified, based on Article 14 of the Law of Ukraine «On Seeds and Planting Materials» and means that a seed and seedling eligible propagate, harvest, sell and use of seeds and propagating material of plant varieties (clones, lines, hybrids), if they production conditions meet the attestation requirements and, consequently, – entry in the State Register of producers of seeds and planting material, leading State Inspectorate for Agriculture. In turn, the producers of seed and planting material required to enter into licensing agreements for the use of plant varieties of the variety under the Law of Ukraine «On Protection of Plant Varieties» grow the seeds and propagating material in accordance with the terms set by the contract.

Authority to monitor the safety of plant varieties, registration of license agreements for their use and payment of royalties requires special consideration. What sort of survival: the law contains no clear indication, but based on its basic rules to say that survival is the maintenance of a variety of features generated by a particular genotype or combination of genotypes according to the appearance, recorded with state registration in the process of economic exchange. So maintenance preservation grade – Duty patent holder, Supports sort or another entity. Duties of the owner class to secure its initial class are set by Article 48 of the Law of Ukraine «On Protection of Plant Varieties» (hereinafter – the Law), but not a single word mentioned the need to preserve the main characteristic features of the variety, allowing this sort of identification among , for the security of the document (patent) to it [14, p. 187]. Other scientists believe that the confirmation of a breach of safety class is important for any kind of chain propagation original seeds for reproduction compromised the safety of the variety that is a manifestation of a variety of signs installed at his desk does not meet display features a variety of seed

crops and the degree of culpability of the owner in this class. If there is a proven fault of the owner class and not the person who spread the variety of its license, it is valid for a variety of proprietary rights may be terminated [15, p. 68].

Examining the relevance of maintaining the variety of its necessity referred to in Article 9, paragraph two of Article 48 and Article 50 of the Law. [16] Checking the safety class is conducted according to the procedure approved by the Ministry of Agrarian Policy of Ukraine 21.07.2003 № 246, registered with the Ministry of Justice of Ukraine from 28.08.2003 № 741/8062 [17]. Ukrainian Institute examination of plant varieties (the Institute) and the State Inspectorate for Protection of Plant Varieties (hereinafter – Inspection) on behalf Public Service for the Protection of Plant Varieties organizes and verifies the safety class: routine (post-registration control) or unplanned (post-registration supervision). Owner class on demand Institute shall provide to verify the information, documents, samples of the variety. Verification shall be subject to all sorts of plants, which provided legal protection other than trees and shrubs species, due to the peculiarities of their reproduction.

Checking the variety produced by sowing seed samples variety and the following description of plant varieties by techniques that are applicable to its state registration. According to the Post-Control Institute concludes about the preservation of the variety. In case of non-display attributes control sample class attributes of the reference sample or control sample inhomogeneity detection Institute grade class sends a message to the owner about it and demands to eliminate them. To check incompatibility has been identified, the Institute decides to re (unscheduled) test. As a result of such verification Institute concludes about the preservation of varieties and if failure to eliminate these inconsistencies with suggestions Public Service for the Protection of Plant Varieties [16]. According to paragraph 3 of Article 50-1 of the Law Public Service for the Protection of Plant Varieties, when checking the safety class may require the owner of any sort of information on the variety, documents, materials, samples required for testing homogeneity or stability class. In case of delay in providing the said information, documents and samples Public Service for the Protection of Plant Varieties can also prematurely terminate the license to the variety [15, p. 68-69,]. Thus we note that Public Service for the Protection of Plant Varieties endowed with very considerable discretionary powers regarding the early termination of property rights for plant varieties. That is why some scientists argue that Public Service for the Protection of Plant Varieties and the Institute does not take a leading role in the implementation of property relations in the field of plant variety rights [18, p. 89].

Having considered the question of safety inspection of plant varieties, it can be concluded that procedure, approved by the Ministry of Agriculture 21.07.2003 № 246, registered with the Ministry of Justice of 28.08.2003, № 741/8062 does not correspond to administrative reform and laid the bodies are eliminated (Public Service for the Protection of Plant Varieties , State Inspectorate for the Protection of Plant Varieties) or who do not have such powers (the Institute). Thus, based on the authority State Agriculture Inspectorate of Ukraine and its regional bodies to adopt a new procedure that would regulate the relationship supervision (control) of the intellectual property rights for plant varieties in the verification of the safety of plant varieties.

Control State Agriculture Inspectorate of Ukraine and its territorial bodies for registration of license agreements for their use and payment of remuneration lies in the fact that nowadays quite common disputes over unlawful concluded or designs of licensing agreements to use a variety of plants. Such disputes arise, such as if the person had no right to enter into a contract, or if the person wants to get a passport in the production and sale of seeds and planting material, it must present a license agreement with a person who has property rights to

the variety. Because there are many fakes license agreements.

Article 40 of the law specifies that the patent holder has the right to transfer their property rights to the variety under contract to any person who becomes his successor. It is understood the basic rule for obtaining a license to use the variety for the licensee – to get as much profit from the use of the variety for the licensor – as much benefit from using it as effectively variety and protect their rights.

Neither the Civil Code of Ukraine, nor the law is not a requirement for mandatory registration of license agreements for the use of a variety of plants, so the control authority Control State Agriculture Inspectorate of Ukraine and its territorial bodies for registration of license agreements for the use of a variety of plants cannot speak. However, the personal will of the parties provided for the registration of agreements on the transfer of property rights to the variety and agreements on the transfer of rights to use the variety which unfortunately today has lost its relevance in view of the impossibility of its fulfillment.

We believe that control the production or sale of seeds (plant material) varieties approved for commercial use, its owner, let alone a single author, breeder, make yourself virtually impossible because so far in our country lacks an extensive network of regional information in which may be read with the information on the amount of seed (plant material) registered varieties, with their main consumer characteristics [14, p. 323]. That is why there is an urgent need to control the circulation of registered plant varieties and establishing an effective system of control and protection of the rights of breeders.

Control State Agriculture Inspectorate of Ukraine and its territorial bodies for the use and payment of royalties based on international experience, as the legislation of Ukraine established the minimum rate of remuneration to the author for creating a variety of at least 5% of the total funds received by the employer for the use of varieties and on varieties of trees, shrubs grapes and 8% [19]. Compensation is calculated from the total amount received by the owner of the variety for permission to use (license), and the author is paid annually until the grade is used. Inflation index calculated by State Statistics Committee, they are the official figures.

In the absence of protection and control rights of the breeder difficult to achieve these goals, because without proper control by the state, nothing prevents third parties to engage in reproduction seed or other propagating material derived class breeder and make commercial sales without any recognition of his work. Back in the 90s scientist A. Komissarov proposed regulation to improve the transfer of plant varieties as intellectual property within the countries of Eastern Europe in two ways: sample license agreements in Eastern Europe need to add special provisions that reflect the particular varieties of plants, as well as to prepare a document dedicated to the transmission of varieties and legal through cooperation of member countries of eastern Europe in the field of selection [20]. Unfortunately, these suggestions are not reflected in the current legislation of Ukraine.

The system of seed and seedling consists of original parts, high-end reproduction and seed and seedling, insurance and public seed reserve funds. Control State Agriculture Inspectorate of Ukraine powers in this area – performance arbitrator checking which type of seed is a particular seeds: original, elite or reproduction, as each type has a different seed value. That is why there are various situations in the production and sale of seeds and planting material.

Control State Agriculture Inspectorate of Ukraine and its territorial bodies may also act as an arbitrator, not only in private relations in the implementation of seed and planting material, but also in public relations when making compensation costs, the allocation of public investment and subsidies, government regulation of prices, compensation costs for production of original and elite seeds loans on favorable terms and other measures established by law.

We believe one of the main and fundamental powers Control State Agriculture Inspectorate of Ukraine in the protection of plant variety rights is authority for supervision (control) for the acquisition of rights to plant varieties and their registration. According to Article 15 of the Law on grade shall be acquired in Ukraine by means of ... application, application expertise and state registration of rights [14, p. 183]. As correctly identified in his monograph O. Pichkur without specifying which institutions attached application. The law provides for filing an application with the Office – governmental authority on intellectual property rights protection for plant varieties, which operates within the central executive authority on agricultural policy. This rule of law is not relevant and is not responsible administrative reform.

As we have seen, the state registration of intellectual property rights for plant varieties – State Veterinary and Phytosanitary Service of Ukraine and supervisory authority to check the legality of such registration, – the right of public inspection in agriculture. In fact, a central authority exercises its powers, and the other – it controls. This is a complex issue, especially there may be conflicts between central authorities. It is therefore important to build work in this direction so that one body did not mind that his check and the other did not exceed its powers. That is why the legal literature is considered view that the construction of the process control in the public service should proceed to ensure the effectiveness of public service and overall efficiency of management, and in any case not causing a negative impact on this activity [21, p. 16].

Control of importation into Ukraine planting material unregistered varieties of plants in Ukraine Control State Agriculture Inspectorate of Ukraine obviously is made by issuing permits for importation into Ukraine seeds and propagating material not included in the register of plant varieties of Ukraine. The issuance of these permits are not approved by Ministry of Agriculture and legal reasons why issuing these permits so far in Control State Agriculture Inspectorate of Ukraine not. We believe that the issuance of permits for import into Ukraine of seeds and propagating material not included in the register of plant varieties of Ukraine Control State Agriculture Inspectorate of Ukraine to interact with State Veterinary and Phytosanitary Service of Ukraine regarding confirmation or entered in the register of the variety of plant varieties, as specified register is State Veterinary and Phytosanitary Service of Ukraine

And, of course, not to mention about administrative responsibility in the field of plant variety rights, which under Article 51-2 of the Code of Ukraine on Administrative Offences and indicates that illegal use of intellectual property rights (plant variety), authorship attribution such a facility, or other willful infringement facility intellectual property rights protected by law – punishable by a penalty of forfeiture of illegally manufactured products and equipment and materials used for their production [22]. The only problem that may arise in the protection of the subjects of intellectual property rights for plant varieties is the discrepancy between the provisions of Article 255 of the Code of Ukraine on Administrative Offences administrative reform, where the decree of the President of Ukraine Control State Agriculture Inspectorate of Ukraine indicated that officials of the central executive authorities within their powers have the right to make inspection acts, protocols on administrative offenses and considered in accordance with law cases on administrative offenses. Officials Control State Agriculture Inspectorate of Ukraine is Chief Inspector of Agriculture of Ukraine, First Deputy and Deputy Chief Inspector of Agriculture of Ukraine, the Chief Inspector of Agriculture of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol area, first deputy and deputy chief state inspector of agriculture the Autonomous Republic of Crimea, Kyiv and Sevastopol city, county, senior state inspectors of agriculture of Ukraine and state agriculture inspectors Ukraine.

Article 255 of the Code of Ukraine on Administrative Offences provides the right to draw up protocols on infringement of intellectual property rights for plant varieties state inspec-

tors on protection of rights to plant varieties, which ceased operations in connection with the liquidation Public Service for the Protection of Plant Varieties.

Of course all the control functions Control State Agriculture Inspectorate of Ukraine in the field of plant variety rights primarily aimed at enforcing moral and property rights of all intellectual property rights for plant varieties. This will ensure the creation of conditions for accelerated growth of the national selection of plant varieties, growth and yield stability as a determinant of food security [23, p. 12].

Conclusions. Having considered the legal property of state supervision (control) in the field of plant variety rights Control State Agriculture Inspectorate of Ukraine and its territorial bodies, we can draw the following conclusions.

1. Procedure for verification of safety class approved by order of Agrarian Policy of Ukraine 21.07.2003 № 246, registered with the Ministry of Justice of Ukraine from 28.08.2003 № 741/8062 requires the abolition or modification on bodies that are checking the safety of a plant variety as Public Service for the Protection of Plant Varieties and Control State Agriculture Inspectorate of Ukraine – eliminated and the Institute is not part of the management Control State Agriculture Inspectorate of Ukraine. You also need to decide on the legal regulations and the availability of land Control State Agriculture Inspectorate of Ukraine and its territorial bodies, which will be carried out studies on the safety of plant varieties. Since each type of plant needed their climatic conditions, availability of land required for each climate zone in Ukraine. Without the presence of these lands Control State Agriculture Inspectorate of Ukraine not be able to perform one of its basic functions of supervision (control) in the field of plant variety rights – control over the safety of plant varieties.

2. The law contains only two essential conditions of a license agreement to use a variety of plants: writing and signature of the parties, both parties need at the conclusion of such

agreements strictly adhere to the provisions of the Act and prescribe the rights and obligations of the parties with respect to the preservation of the variety, the charge for the support of the State Register of varieties plants suitable for distribution in Ukraine, payment of royalties and more. To facilitate the protection of intellectual property rights for plant varieties offer a competent authority (Control State Agriculture Inspectorate of Ukraine) Model approve a license agreement to transfer the rights to the use of intellectual property, which is used to position the subjects intellectual property rights for plant varieties.

3. Neither the Civil Code of Ukraine, nor the law is not a requirement for mandatory registration of license agreements for the use of a variety of plants, so the control authority Control State Agriculture Inspectorate of Ukraine and its territorial bodies for registration of license agreements for the use of a variety of plants cannot speak. This power can only be provided legislative provision for mandatory state registration of license agreements for the use of a variety of plants.

4. Based on the concept of «protection of intellectual property rights, including plant varieties» we can assume that the state represented Control State Agriculture Inspectorate of Ukraine and its territorial bodies vested with certain powers to protect the intellectual property rights for plant varieties, which is manifested in its control and supervisory powers. In addition, Control State Agriculture Inspectorate of Ukraine endowed with certain powers and rights protection intellectual property rights for plant varieties in terms of drawing up administrative protocols and possible protection of rights of intellectual property rights in the courts of Ukraine, as a third party expert and other stakeholders.

5. Gaps in the legislation of Ukraine concerning officials who can draw up protocols on administrative violations in the field of plant variety rights still leads to restriction of state inspectors in agriculture in Ukraine, and therefore – to restrict the rights of subjects of intellectual property plant varieties.

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ТЕОРЕТИКО-МЕТОДОЛОГІЧНІ ТА ОРГАНІЗАЦІЙНО-ТЕХНІЧНІ ФАКТОРИ РОЗВИТКУ ЮРИДИЧНИХ ФАКТІВ У КОНСТИТУЦІЙНОМУ ПРАВІ УКРАЇНИ

THEORETICAL-METHODOLOGICAL AND ORGANIZATIONAL-TECHNICAL FACTORS OF LEGAL FACTS DEVELOPMENT IN CONSTITUTIONAL LAW OF UKRAINE

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У статті аналізуються проблеми визначення факторів, що впливають на розвиток і якісно оновлене розуміння юридичних фактів у конституційному праві України. Також окремо досліджуються теоретико-методологічні та організаційно-технічні фактори, які тим чи іншим чином впливають на розвиток юридичних фактів у конституційному праві України.

Ключові слова: фактори, теоретико-методологічні, організаційно-технічні, юридичні факти.

В статье анализируются проблемы определения факторов, которые влияют на развитие и качественно обновленное понимание юридических фактов в конституционном праве Украины. Также отдельно исследуются теоретико-методологические и организационно-технические группы факторов, которые тем или иным образом влияют на развитие юридических фактов в конституционном праве Украины.

Ключевые слова: факторы, теоретико-методологические, организационно-технические, юридические факты.

The article analyzes the problem of determining the factors that affect the development and understanding of the qualitative upgrade of the legal facts in the constitutional law of Ukraine. Also separately investigated the theoretical and methodological, organizational and technical groups of factors which in any way affect the development of the legal facts in the constitutional law of Ukraine.

Key words: factors, theoretical and methodological, organizational and technical, legal facts.

Останнім часом в українській правовій дійсності спостерігається процес локальних змін галузевого законодавства, і в першу чергу – конституційного. Це обумовлюється, насамперед, трансформацією економічної, політичної, соціальної та ідеологічної сфер українського суспільства, яка характеризується значними як позитивними, так і негативними тенденціями. Вивчення реальних процесів, що відбуваються у сфері конституційно-правового регулювання, надає змогу виділити серед інших, по-перше, якісну новелізацію вітчизняного конституційного права, по-друге, інтенсифікацію законотворчої діяльності та, по-третє, послаблення впливу науково-теоретичних позицій на правотворчу та правозастосовну діяльність. Усе вищезазначене суттєво впливає на розвиток та якісно оновлене розуміння юридичних фактів у конституційному праві та потребує ґрунтовного, всебічного аналізу факторів, які сприяють чи перешкоджають цьому процесу.

Серед вчених, які тим чи іншим чином займалися дослідженням юридичних фактів у теорії права та інших галузевих науках, можна назвати таких, як: С.С. Алексєєв, Є.І. Аюєва, О.В. Барінов, Ю.В. Данилюк, І.М. Ільошихін, О.С. Іоффе, В.Б. Ісаков, Д.Б. Катков, С.Ф. Кечек'ян, А.М. Колодій, В.М. Корельський, Е.В. Корчіго, О.О. Красавчіков, В.В. Лазарев, В.О. Лучін, О.В. Малько, М.М. Марченко, М.І. Матузов, А.Ю. Олійник, В.С. Основін, В.Д. Первалов, І.М. Погребний, Ю.К. Толстой, В.Л. Федоренко, О.Ф. Фрицький, Р.Й. Халфіна, А.Ф. Черданцев, Л.С. Явич та інші. Але науковці торкалися означеної проблематики лише оглядово, не заглиблюючись у ґрунтовний аналіз

факторів, що впливають на розвиток юридичних фактів, хоча на сьогоднішній день існує нагальна потреба в їх комплексному дослідженні в контексті еволюційного динамічного розвитку галузі конституційного права.

Мета цієї статті полягає в дослідженні теоретико-методологічних та організаційно-технічних груп факторів, що впливають на розвиток та якісно оновлене розуміння юридичних фактів у конституційному праві України.

Факторний аналіз будь-якого правового явища є науковим прийомом, що виникає в рамках загальних системних досліджень та застосовується сьогодні досить активно при вивченні різних систем. Факторний аналіз заснований на тому, що будь-яке явище, що розглядається як система, являє собою певну впорядковану сукупність елементів, що знаходяться у взаємозв'язку та є взаємообумовленими. Не є виключенням у цьому контексті й факторний аналіз системи юридичних фактів у конституційному праві. При цьому фактори впливають на розвиток юридичних фактів як всередині системи конституційних правовідносин, так і поза її межами. Фактори можна розглядати як причину і як результат розвитку юридичних фактів. Наприклад, фактори розвитку юридичних фактів можна розглядати, з одного боку, як причину впливу на динаміку конституційних правовідносин, а з іншого – їх виникнення є результатом діяльності певних суб'єктів конституційних правовідносин.

Отже, під факторним аналізом юридичних фактів пропонуємо розуміти комплексне та системне вивчення впливу певних явищ на виникнення нових, розвиток та якісно оновлене розуміння існуючих юридичних фактів у конституційному праві України.