

ABSTRACTS

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REGARDING TO SOME ASPECTS ABOUT HUMAN RIGHTS' PROTECTION IN THE EU AND UKRAINE

The article examines concept of «culture of human rights'» and defines present-day issues relating to its development in the Ukrainian society. Situation strikes at the heart of the principle of the universality of human rights and gives rise to two problems. Firstly, the narrower range of human rights within EU Law risks the creation of a two-tier system of protection in the EU Member States, between those areas covered by national law and those covered by EU Law. Secondly, it creates a gap in the implementation of the duties to protect and promote those rights in those policy areas where the Member States have delegated powers to the EU. Also the authors review its modern state, the prospects of its further development.

Many comparatists are using the concepts of 'legal culture' and 'legal tradition' as synonyms. However, Patrick Glenn has claimed that 'legal culture' should be used as an epistemological tool in comparative study of law. According to him, the epistemological main function of 'legal culture' has been to exist as a means of differentiation and to provide a conceptual tool that can be used to describe differences between things that are labelled as 'culture'. Glenn has claimed that when we speak of 'culture' we speak of a country as a homogenous legal fiction. According to this view the concept of 'legal culture' is a conflictual concept whereas the concept of 'legal tradition' is epistemologically more tolerant. Glenn's criticism of 'legal culture' is analysed critically in this article. The author claims that there is, in fact, no important difference between these concepts in epistemological sense. This article doubts that mere conceptual usage of 'legal culture' would contain automatically an epistemology of conflict.