

DNIPRO HUMANITARIAN UNIVERSITY

**LEGAL CHALLENGES OF THE
GLOBALISED WORLD: How should the law
protect and realise rights?**

Proceedings of an International Scientific and Practice
Conference
October 11th 2023

DNIPRO HUMANITARIAN UNIVERSITY (UKRAINE)

**LEGAL CHALLENGES OF THE GLOBALISED WORLD:
How should the law protect and realise rights?**

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October 11th 2023

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London
2024

Recommended for publication by the Academic Council of the Private Higher Educational Institution "Dnipro Humanitarian University" (protocol dated 10/27/2023 No. 2).

LEGAL CHALLENGES OF THE GLOBALISED WORLD: How should the law protect and realise rights?:

Summaries of the papers of the International Scientific and Practice Conference (Dnipro, London, October 11th, 2023) held by Dnipro Humanitarian University, University of Roehampton and the University of Westminster with the assistance of St. Mary's University, Twickenham.

The conference collection contains a summary of the proceedings of the International scientific and practical conference "LEGAL CHALLENGES OF THE GLOBALISED WORLD: How should the law protect and realise rights?" (October 11th, 2023), which was attended by representatives of higher education institutions, scientific institutions, law enforcement agencies and courts, non-governmental institutions of Ukraine and foreign countries.

Editorial Board

ISBN 978-1-5262-1000-5

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activities must necessarily be concluded in writing, for all other contracts oral form should be allowed. In addition, along with the written form, the electronic form of these transactions should be used with the same legal force.

The specified problems should be solved as follows - in part 1 of Art. 9 of the Law of Ukraine "On Volunteering", replace the words "in writing" with the words "in writing (or electronic)", and part 3 of Art. 9 of this Law to be excluded.

CHERNOPIATOV Stanislav (Associate Professor (Docent) of Department of Law in Dnipro Humanitarian University, Ukraine)

Regulative and Protective Legal Norms and Relationships

Ukrainian theory of law employs the theory of legal norms and relationships dichotomy into regulative and protective ones. It is fairly close to the primary–secondary legal norms dichotomy common in English-speaking legal science.

Regulative norms establish rules of conduct which are to be observed, reflect the desirable stance and dynamics of relationships, and normally are realised within regulative legal relationships. What makes law a law is that the legal norms (regulative legal rules to be precise) are not merely established, but also ensured with legal consequences of being not observed, either because of subjective unlawful behaviour or because of objective circumstances where there is no definite subjective fault. The ensurance mentioned is granted with the special kind of legal norms – protective legal norms. The latter provide the legal consequences of regulative legal rules being not observed. The consequences are not random but designed to fit the essence of inobservances, to mitigate and to prevent respective inobservances. While legal liability is typical but not the only consequence, the consequences encompass other various legal measures which typically have more or less coercive nature. Protective legal norms are realised within protective legal relationships which typically presume a public authority participating in the form of legal procedure (including judicial procedure). Procedural relationships themselves are not deemed to be protective relationships though.

The abstract aims to deliver the key provisions of my Candidate of Science of Law (PhD) thesis “Protective labor legal relationships” (2016).

Protective legal relationships: (1) are a type of legal relationships alongside with regulative legal relationships; (2) emerge on the basis of protective legal norms; (3) particularly emerge when regulative norms fail to be observed and regulative relationships fail to evolve in a way prescribed by law; (4) have a specific content which encompasses rights and duties concerning coercive legal measures aimed to eliminate the inobservances, mitigate the improper regulative relationships evolution and/or eliminate undesirable effects of those, and/or prevent further deviations.

Thus protective legal relationships encompasses the relationships wherein the content is the rights and duties concerning applying and undergoing law coercive legal measures. Coercive legal measures presume some involuntarily (but lawful) objectively negative changes to legal statuses (rights, duties) of persons involved.

The three main groups of such measures are outlined with regard to their aim and effect: (1) liability (either disciplinary or material) measures. These are aimed mostly at punishment (while material liability also provides compensatory effects) and consist either in creating novel obligations (duties) for the perpetrator or in depriving the perpetrator from certain rights, statuses or other legal benefits (e.g. employee disciplinary discharge); (2) compensatory measures. These are aimed primarily at restoring the state that existed before the deviation (inobservance) took place and effect (so called status quo). Compensatory measures will normally avoid creating novel obligations (duties), seeking to reach their goal by other means (like enforcing existing obligations (duties)). Only when needed, compensatory measures occasionally may include creating novel obligations (duties) like liability measures but unlike the latter they do not seek to punish the perpetrator; (3) preventive measures inflict some temporary changes to legal statuses aimed at preventing potential deviations (inobservances) from happening. These do not seek neither to punish nor to compensate; thus the preventive interference is (or at least should be) precisely adequate to the preventive aim it has.

It is quite remarkable that protective legal relationships, just like regulative legal relationships, can happen to need insurance. E.g., when an employer unlawfully applies disciplinary discharge of an employee. Thus, there may be a need for special protective norms and relationships to ensure other protective norms and relationships. Such special protective norms and relationships can be denoted as “secondary protective norms and relationships”. So it appears that regulative–protective dichotomy is somehow dynamic, as it reveals not only the innate nature of certain norms and relationships, but also the functional correlation of norms and relationships in situations where one group of norms and relationships ensures other group of norms and relationships from being unobserved.

When considering branch(area)-specific protective legal relationships (e.g. in labour law, civil law, administrative law) one may noticed that some branch-specific protective legal norms and relationships may appear to ensure regulative norms and relationships of not only the same branch of law, but also of other branches of law. With this in mind, protective norms and relationships can be divided into “inner” and “outer”, where inner protective norms and relationships ensure regulative legal norms and relationships of the same branch of law, while “outer” also ensure regulative legal norms and relationships of other branch(es) of law.

CHRONOPOULOU, Dr. Anna (Senior Lecturer in Law, University of Westminster, School of Law, London UK)

“Selling it Large”: The Myth of Globalisation in Law Schools in England

The legal education in the UK and more specifically in England has recently been subjected to a great number of challenges. One of these challenges is globalisation and the extent to which legal education is perceived as global or globalised. This paper aims to pose a series of questions regarding the globalisation



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