

Theoretical and Methodological Approaches to Definition of Concept of Constitutional Right for Strike

- **Yuliia O. KOLOMOIETS** Department of Management and Law, Dnipro State Agrarian Economic University, Dnipro, Ukraine
- **Valentyna O. BONYAK** Department of Theory and History of State and Law, Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine
- **Irina O. KHOROSHILOVA** Department of Taxation and International Economic Relations, Kharkov National Automobile and Highway University, Kharkiv, Ukraine

DOI: [https://doi.org/10.14505//jarle.v9.7\(37\).18](https://doi.org/10.14505//jarle.v9.7(37).18)

Abstract

The article deals with existing theoretical and methodological approaches to the definition of the concept 'constitutional right to strike'. On the basis of their analysis the authors have reasoned that the constitutional right to strike is a socially determined, determined by the objective law norms the measure of possible (permissible) behavior of able-bodied subjects as an authorized party to the constitutional-legal relations, consisting in the temporary collective voluntary termination of work and provided to protect their own and general socio-economic rights and interests of the labor collective, provided by the behavior of the obliged party and guaranteed by the state. They have proved that the essence of the strike is the ability of each employee to protect both their own and collective social and economic rights and interests. The right to strike is a social regulator of conflict situations when other possibilities for their solution are exhausted. The authors have determined that this right is considered to be mixed – is being realized both individually and collectively.

References

- [1] About Trade Unions, Their Rights and Guarantees of Activity: Law of 10.09.1999 No. 1045-XIV. 1999. Bulletin of the Verkhovna Rada of Ukraine 45: 397.
- [2] Akhmetshin, E., et al. 2018. Motivation of personnel in an innovative business climate. *European Research Studies Journal* 21(1): 352-361.
- [3] Akhmetshin, E.M., et al. 2018. Modern theoretical and methodological approaches to personnel management in manufacturing enterprises. *Espacios* 39(31): 11.
- [4] Akhmetshin, E.M., et al. 2018. Research of human capital and its potential management on the example of regions of the Russian Federation. *Journal of Entrepreneurship Education* 21(2): 1528-2651-21-2-172.
- [5] Alekseev, S.S. 1999. Right: The Alphabet - Theory - Philosophy: An Experience of Comprehensive Research. 'Statut'.
- [6] Babaev, V.K. 2002. Theory of State and Law. Yurist.
- [7] Bonyak, V.O. 2008. The Constitutional Right of Man and Citizen to Education in Ukraine. Dnipropetrovsk: Lira LTD.
- [8] Bukach, V.V., and A.Yu. Oliynyk. 2006. Constitutional Political Rights and Freedoms of Man and Citizen in Ukraine. Dnipropetrovsk: Dnipropetrovsk State University of Internal Affairs.
- [9] Buribayev, Y.A., et al. 2016. Pension reform in Kazakhstan: Main directions, conditions for implementation and development prospects. *International Journal of Environmental and Science Education* 11(18): 11611-11619.
- [10] Chanysheva, G.I. 2002. Collective relations in the field of labor: theoretical and practical problems of legal regulation. Doctor diss., National Law Academy of Ukraine named after Ya. Mudryi.
- [11] Constitution of Belgium. 1994. <https://worldconstitutions.ru/?p=157&attempt=1>.
- [12] Constitution of Luxembourg. 1868. <https://worldconstitutions.ru/?p=146>.
- [13] Constitution of Poland (Polish Republic). 1997. http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/poland/poland-r.htm.
- [14] Constitution of Ukraine. 1996. Bulletin of Verkhovna Rada of Ukraine 30: 141.
- [15] Constitution. Basic Law of Hungary. 2011. <https://worldconstitutions.ru/?p=298>.
- [16] Danilov, M.V. 2012. Differentiation of the legal regulation of collective labor rights of judges of Ukraine. *Forum of Law* 2: 178-182. <http://archive.nbuv.gov.ua/e-journals/FP/2012-2/12dmvpcu.pdf>.
- [17] Estonian Constitution. 1992. http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/estonia/estoni-r.htm.
- [18] Evstratova, T., et al. 2016. Practical aspects of volunteer movement development in Moscow. *Research Journal of Pharmaceutical, Biological and Chemical Sciences* 7(3): 2073-2081.
- [19] Georgica, A.Z. 2000. Constitutional Law of Foreign Countries. 'Ruta'.

- [20] International Covenant on Economic, Social and Cultural Rights. 1966. International document dated 16.12.1966. http://zakon4.rada.gov.ua/laws/show/995_042.
- [21] Kahn-Freund, O., and Hepple, B. 1972. *Laws Against Strikes*. Fabia Research Series.
- [22] Khropanyuk, V.N. 2000. *Theory of State and Law*. Omega-L.
- [23] Kiselyov, I.Ya. 1999. *Comparative and International Labor Law*. Delo.
- [24] Kostyuba, A.V. 2018. Law enforcement as a form of realization of right: Phenomenological analysis experience (Civilized aspect). *Revista de Derecho Civil* 5(1): 177-190.
- [25] Kravchuk, M.V. 2003. *State and Law Theory. Problems of the Theory of State and Law*. Atika.
- [26] Lukasheva, E.A. 1996. *The General Theory of Human Rights*. Norma.
- [27] Matuzov, N.I. 1966. *Subjective Rights of Citizens of the USSR*. Privolzhskoye knizhnoye izdatelstvo.
- [28] Matuzov, N.I. 1972. *Personality. The Rights. Democracy. Theoretical Problems of Subjective Law*. Saratov University Press.
- [29] Matuzov, N.I. 1987. *Legal System and Personality*. Saratov University Press.
- [30] Morozova, L.A. 2002. *Theory of State and Law*. Yurist.
- [31] Mukhamadiyeva, G.N., et al. 2017. Labour law of the modern Kazakhstan. *Journal of Legal, Ethical and Regulatory Issues* 20(1): 1544-0044-20-1-129.
- [32] Nakhratova, E.E., et al. 2017. Analysis of the relevance of educational programs for applicants and the labor market. *European Research Studies Journal* 20(3A): 144-152.
- [33] Nikish, A. 1959. *Arbeitsrecht*. Francke Verlag.
- [34] On the Procedure for Resolving Collective Labor Disputes (Conflicts): Law of Ukraine dated 03.03.1998 No. 137/98-VR. 1998. *Bulletin of the Verkhovna Rada of Ukraine* 34: 227.
- [35] Protasov, V.N. 1995. *What and How Regulates the Law*. Yurist.
- [36] Protasov, V.N. 1999. *The Theory of Law and the State. Problems of the Theory of Law and the State: Questions and Answers*. Novyy Yurist.
- [37] Rabinovich, P.M., and Khavronyuk, M.I. 2004. *The Rights of Human and Citizen*. Atika.
- [38] Serdyuk, I.A. 2005. Methodological analysis of interpretations of concepts 'subjective legal right' and 'subjective legal obligation'. *Scientific Bulletin of the Law Academy of the Ministry of Internal Affairs* 3(22): 113-123.
- [39] Seryogin, V.O. 2010. *Constitutional Law of Ukraine*. KhNUVS.
- [40] Shvets, N.M. 2008. *The right to strike and the mechanism for its implementation*. PhD diss., National Law Academy of Ukraine named after Ya. Mudryi.
- [41] Silagadze, A. 2017. 'Post-Soviet paradoxes' of unemployment rate. *Bulletin of the Georgian National Academy of Sciences* 11(1): 136-141.
- [42] Skakun, O.F. 2009. *Theory of State and Law (Encyclopedic course)*. Espada.
- [43] Solotych, S. 2000. *Grundgesetz für die Bundesrepublik Deutschland*. Deutsch-russische Textausgabe.
- [44] Tatsiy, V.Ya., Petryshin, O.V., Barabash, Yu.G., and National Academy of Legal Sciences of Ukraine. 2011. *Constitution of Ukraine. Scientific and Practical Commentary*. Pravo.
- [45] Ushakov, D., Elokhova, I., Kharchenko, I. 2017. Tax instruments in public regulation of population employment: The factors of today's efficiency. *International Journal of Ecological Economics and Statistics* 38(2): 161-168.
- [46] Vinichenko, M.V., et al. 2016. The youth employment problems. *Journal of Advanced Research in Law and Economics* 7(2): 378-387.
- [47] Vinichenko, M.V., et al. 2016. Main directions of creating a favorable learning environment and labor protection in the interest of enhancing health of the personnel and students in education foundation. *International Electronic Journal of Mathematics Education* 11(5): 1163-1174.
- [48] Vinichenko, M.V., et al. 2017. Improvement of youth personnel policy: Social inspection. *Eurasian Journal of Analytical Chemistry* 12(7): 1069-1077.
- [49] Vitruk, N.V. 2008. *General Theory of the Legal Status of the Individual*. Norma.

ASERS

Journal of Advanced Research
in Law and Economics



- [_Requires Subscriptionpdf](#)

Published

2019-11-20

How to Cite

KOLOMOIETS, Yuliia O.; BONYAK, Valentyna O.; KHOROSHILOVA, Irina O.. Theoretical and Methodological Approaches to Definition of Concept of Constitutional Right for Strike. **Journal of Advanced Research in Law and Economics**, [S.l.], v. 9, n. 7, p. 2347-2356, nov. 2019. ISSN 2068-696X. Available at: <<https://journals.aserspublishing.eu/jarle/article/view/4063>>. Date accessed: 20 oct. 2020. doi: [https://doi.org/10.14505/jarle.v9.7\(37\).18](https://doi.org/10.14505/jarle.v9.7(37).18).

Citation Formats

- [ABNT](#)
- [APA](#)
- [BibTeX](#)
- [CBE](#)
- [EndNote - EndNote format \(Macintosh & Windows\)](#)
- [MLA](#)
- [ProCite - RIS format \(Macintosh & Windows\)](#)
- [RefWorks](#)
- [Reference Manager - RIS format \(Windows only\)](#)
- [Turabian](#)

Issue

[Vol 9 No 7 \(2018\): JARLE Volume IX Issue 7\(37\) Winter 2018](#)

Section

Articles

The Copyright Transfer Form to ASERS Publishing (The Publisher)

This form refers to the manuscript, which an author(s) was accepted for publication and was signed by all the authors.

The undersigned Author(s) of the above-mentioned Paper here transfer any and all copyright-rights in and to The Paper to The Publisher. The Author(s) warrants that The Paper is based on their original work and that the undersigned has the power and authority to make and execute this assignment. It is the author's responsibility to obtain written permission to quote material that has been previously published in any form. The Publisher recognizes the retained rights noted below and grants to the above authors and employers for whom the work performed royalty-free permission to reuse their materials below. Authors may reuse all or portions of the above Paper in other works, excepting the publication of the paper in the same form. Authors may reproduce or authorize others to reproduce the above Paper for the Author's personal use or for internal company use, provided that the source and The Publisher copyright notice are mentioned, that the copies are not used in any way that implies The Publisher endorsement of a product or service of an employer, and that the copies are not offered for sale as such. Authors are permitted to grant third party requests for reprinting, republishing or other types of reuse. The Authors may make limited distribution of all or portions of the above Paper prior to publication if they inform The Publisher of the nature and extent of such limited distribution prior there to. Authors retain all proprietary rights in any process, procedure, or article of manufacture described in The Paper. This agreement becomes null and void if and only if the above paper is not accepted and published by The Publisher, or is with drawn by the author(s) before acceptance by the Publisher.