

# The Specific Character of the “Unclean Hands” Doctrine and the Balance of Probabilities (Preponderance of Documents) Standard in the Russian and Foreign Legal Systems

Andrey A. Soloviev<sup>1,2,3</sup>, Natalia A. Sheiafetdinova<sup>1,4\*</sup>, Elizaveta B. Portnaya<sup>4</sup>, Alina A. Ilyagueva<sup>4</sup>, Oksana A. Globenko<sup>4</sup>

<sup>1</sup> Moscow State Pedagogical University, RUSSIA

<sup>2</sup> Kutafin Moscow State Law University, RUSSIA

<sup>3</sup> Moscow Region Arbitration Court, RUSSIA

<sup>4</sup> Moscow Technological University, RUSSIA

Received 27 June 2017 • Revised 18 September 2017 • Accepted 28 September 2017

## ABSTRACT

The relevance of the study is due to the necessity of making more precise some points referred to the problem range of fairness of the judicial proceedings, in particular, to the “unclean hands” doctrine, as well as the balance of probabilities (preponderance of documents) standard. With regard to this, the paper is aimed at finding out the essence of these legal maxims that are widely used in the international and foreign legal practice but have failed to get widespread in the Russian law so far. The main method of the research is the technical legal one that allows finding out the legal specific character of the phenomena under consideration as applied to various legal systems. In order to obtain the most valid scientific results, in preparing the paper the general scientific methods (the dialectical one, the systemic one, analysis, synthesis, analogy, specialization, and generalization) as well as the special legal ones (the technical legal and the comparative legal one) were also used. The paper presents legal regulation of the “unclean hands” doctrine of law and the balance of probabilities (preponderance of documents) standard in the international law and in legislation of foreign countries and explores various scientific approaches to defining them. The material is not only of theoretical interest but it has also the practical value for improving the Russian procedural law.

**Keywords:** judicial law, justice, court system, foreign experience, the “unclean hands” doctrine, standard of the balance of probabilities, preponderance of documents

## INTRODUCTION

Within the ongoing judiciary reform in Russia that has already introduced a number of transformations into the Russian law (e.g., witness immunity [1, p. 229]), rethinking is necessary both for the rights of citizens in the sphere of judicial procedure that determine the total of the relevant imperatives for the judicial authorities as well as for the complex of fundamental ethic maxims (principles) of the judicial procedure need rethinking.

As O. Hoeffe wrote, “clear procedures are critical for binding legal decisions. They are based on the principles of justice that almost in all cultures undoubtedly belong to the universal heritage [in the cause] of justice [2, p.66].

The standards of fair judicial proceedings provided for by Article 14 of the International Covenant on Civil and Political Rights of 16.12.1966 [3] and Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 04.11.1950 [4] are distinguished by a sophisticated and interrelated character that is

---

© **Authors.** Terms and conditions of Creative Commons Attribution 4.0 International (CC BY 4.0) apply.

\* **Correspondence:** Natalia A. Sheiafetdinova, *Department of State History and Law, Moscow State Pedagogical University; Department of Legal Support of National Security, Moscow Technological University, Russia.*

✉ [sheiafetdinovaUP@mail.ru](mailto:sheiafetdinovaUP@mail.ru)

aimed at ensuring the proper administration of justice. The general right for a fair and open hearing by a competent, independent and impartial court is provided for by item 1 of both articles and is directly applicable both to the criminal and civil procedure.

In particular, item 1 of Article 14 of the International Covenant on Civil and Political Rights stipulates that "all persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (order public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children" [5].

Item 1 of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms prescribes that "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice" [4].

Items 2-7 of Article 14 of the International Covenant on Civil and Political Rights and items 2-3 of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms are directly applicable to the criminal procedure, although in many cases they simultaneously provide for guarantees for the civil procedure too - e.g. the right for the legal assistance.

Items 2-7 of Article 14 of the International Covenant on Civil and Political Rights provide for that "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing;
- To be tried without undue delay;
- To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- Not to be compelled to testify against himself or to confess guilt.

In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country" [5].

According to items 2-3 of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

Everyone charged with a criminal offence has the following minimum rights:

- to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
- to have adequate time and facilities for the preparation of his defense;
- to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- to have the free assistance of an interpreter if he cannot understand or speak the language used in court" [4].

"The right to a fair and public hearing by a competent, independent and impartial tribunal established by law" as well as other guarantees of the proper procedure make up an integral part of Human Dimension Commitments confirmed by OSCE member countries [6, 7, p. 9].

A great deal of papers, books, and theses have been published covering these aspects, however, the question still remains open of how exactly the notion and the scope of the maxim of justice in judicial proceedings shall be interpreted and in what limits (boundaries).

And it is some special concepts of the foreign legal doctrine that may be of a certain assistance in this case.

## LITERATURE REVIEW

The problem range of the "unclean hands" doctrine is scientifically relevant and covered by such scholars as A. V. Prokofiev [3], A. Llamzon [8], and others. For instance, A.P. Herbert words it as "A dirty dog will not have justice by the court" [9]. In his turn, A. Llamzon proves that the doctrine has got deep roots following from various principles of the Roman law [10, p. 316].

As applied to the balance of probabilities standard, there are various approaches to understanding what exactly is meant by probability in the legal context. For example, according to B. Ramcharan, "probability in this sense can be defined as an evaluation of the likelihood of a past event having happened, given the facts and assumptions expected or adopted for the purposes of the evaluation" [10, p. 78].

M. Redmayne believes that the balance of probabilities standard implies the likelihood of everything being exactly so as one of the parties says is higher than the likelihood of it not being so. When using this standard of proof, no absolute conviction of one of the parties being right is necessary [11, p. 168].

In his turn, D. Kaye holds that the plaintiff has to prove that the probability of the defendant's being liable exceeds fifty per cent [12, p. 487].

As L. Kaplow points out, the justification for using the preponderance of evidence principle are generally rather brief. For instance, within the disputes consideration in the civil law, the main argument for using the preponderance of evidence standard is the absence of any evident reasons why other standards of proof have to be used [13, p. 2].

According to S. Wilkinson, determination standard of the balance of probabilities is realistic and it also allows ensuring the exactness and validity [14, p. 51].

R. W. Wright mentions that the use of the balance of probabilities standard which implies having to identify the likelihood of over fifty per cent serves the objective of reducing the mistakes to the minimum in the best way [15, p. 196].

However, there is a directly opposite viewpoint too. So, C. Engel points out that the balance of probabilities standard requires a much smaller certainty and has a much higher percentage of mistakes [16, p. 7].

Due to the diverse judgments and legal regulation of the categories under study, they have to be discussed once again.

## RESEARCH METHODS

The objective of this study is to give the theoretical and legal analysis of the "unclean hands" doctrine and the balance of probabilities (preponderance of documents) standard. The following tasks are set within this objective: to consider the "unclean hands" doctrine in the procedural context and to study the category of the balance of probabilities (preponderance of documents) standard.

In order to obtain the most valid scientific results, the general scientific methods (the dialectical one, the systemic one, analysis, synthesis, specialization, and generalization) as well as the special legal ones (the technical legal and the comparative legal one) were used in preparing the paper.

## RESULTS AND DISCUSSION

The problem range of the "unclean hands" doctrine that is traced back to the Fourth Lateran Council (1215) seems to the authors to be a much earlier one, rooting deep in the works of the ancient Greek and Roman thinkers and being extant in various modifications.

The "unclean hands" doctrine is a legal maxim (legal principle) that is more well-known and widely used in the United States, by judicial authorities in particular [17].

According to this legal principle, a participant in a wrongful and unfair act may not justifiably claim and recover damages incurred by the participant as a result of having committed the said act [18].

Alongside with this, at present the notion is interpreted more broadly and is extended to other spheres and situations [19]. So, the "unclean hands" doctrine as applied to the protection of trade names and more broadly to the corporate law reads as follows: "He who comes into equity must come with clean hands" [19, p. 889]. There is also another extension of the maxim claiming the general legal meaning: an unlawful act cannot be the basis for any act at law [8, p. 316].

In the international law, the doctrine considered has a certain circulation and use [8, p. 315]. Individual aspects of the "unclean hands" doctrine have been used in the international arbitration for a long time [8, p. 316].

It is the "unclean hands" doctrine in the theory of judicial law that is going to be discussed here in detail.

The said doctrine reflecting the blamefulness of behavior and intentions is a derivative from the fundamental ethic maxim (principle): "one who seeks equity must do equity" (or worded otherwise "those who seek justice shall come with clean hands").

The "unclean hands" doctrine presumes that the plaintiff is not entitled to a fair remedy in the case the plaintiff acts against ethics or has acted in bad faith towards the claim subject, i.e. if the plaintiff can be characterized as a person having the "unclean hands".

Accordingly, should a form of wrongful or improper conduct be found on the part of the plaintiff, this renders his or her hands "unclean", their claims will not be accepted, and any losses incurred by the plaintiff will be borne by the plaintiff on his or her own [16, p.316].

The doctrine of "clean hands", a sister one of that under consideration, is widely used in the USA patent law (see for instance the US Supreme Court Decision on the case "Morton Salt Co. v. G. S. Suppiger Co." of 1942 [20]).

Some authors use the notions of the "clean hands" doctrine and the "unclean hands" doctrine as interchangeable ones [8, p. 315].

Although the defendant (the accused) bears the burden of proving the statement about the plaintiff failing to act in good faith, the defendant is also entitled to turn to this doctrine (and the reference arguments) as a legal remedy for his rights and legal interests, and to quite an extent – for fairness in the judicial procedure. This is why the doctrine is of such a substantial interest, within the context of considerations presented in the beginning of this paper.

Although the maxim can be interpreted literally as covering any misdoings on the part of the plaintiff (expressing his bad faith or reflecting the criminality of his deeds) and it has a fundamental importance, it is only applied in the case of wrongful acts associated with the certain subject which the plaintiff tries to contest. Meanwhile, numerous exceptions from the maxim arise [19, p. 889].

The decision by the Supreme Court of Wisconsin (USA) on the case "David Adler & Sons Co. v. Maglio" of 1929 [21] brings into focus the question of how far, in petitions (complaints, claims) for injunctions in labor disputes, the complainant's right to relief should be affected by his own improper conduct. When the complainant (plaintiff) is an employer, cases have happened when his misconduct may consist in breach of agreement intimately affecting the controversy, or in participation in organizations designed to break the effectiveness of trade unions (rejection of overtures of compromise or the employment of armed guards or private detective who provoke or instigate violence). The complexity of trade disputes makes it almost inevitable that the effect of a complainant's breach of contract upon his position will depend upon the magnitude and character of the breach, and upon the extent of the injury threatened [8, p. 1120-1122].

Similarly to the "unclean hands" doctrine, the balance of probabilities standard is of no less scientific interest as for its potential of being borrowed into the Russian procedural practice. The judicial bodies of the Anglo-Saxon legal system states also use the so-called *balance of probabilities standard* (or *balance of probabilities test*) when considering cases of certain categories as one of the standards of proof. In the USA it is better known under the term of "*preponderance of the evidence standard*". Further on in this paper, both terms will be used equally.

The balance of probabilities standard is a standard of proof used mainly for considering the civil cases. It means that the evidence provided have to prove that the facts (statements etc.) declared are more likely than not.

Accordingly, the party to the case bearing the burden of proof has to be able to convince the court using the balance of probabilities of the statement or fact being rather true than not [22, p. 8].

The American law analog to this standard is the “preponderance of the evidence” one. It implies that the prevailing pieces evidence have a greater strength of evidence when they are considered and compared to other proofs [23, p. 2].

The preponderance of the evidence standard implies that a dispute party has shown that its version of facts, damage or mistakes is more true than incorrect. This standard of proof is the simplest one and anyway is applied in the USA to all disputes arising in the domain of the civil law [24].

The preponderance of the evidence standard can be presented as a balance on both pans of which there are all evidence of each party bearing the burden of proof. If the balance pointer turns to the evidence provided by a party, it is the party’s position that will be considered the correct one [24].

As a rule, the preponderance of the evidence standard requires the presence of a certain limit certainty extent that shall be over fifty per cent for the court to be able to resolve the dispute in favor of the party having presented such evidence [25, p. 1].

The interpretation of the scope of the balance of probabilities standard was further elaborated in the case law practice of judicial bodies of the Anglo-Saxon legal system states. Meanwhile, there is no completely universal approach to understanding of this standard.

The standpoints that seem the most interesting are given below.

In his opinion on the case of “In re H. v. A.P.” [26] Lord Nicholls of Birkenhead said in 1995, that “The balance of probability standard means that the court is satisfied an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not. When assessing the probabilities the court will have in mind as a factor ... that the more serious the allegation the less likely it is that the event occurred and, hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability. Fraud is usually less likely than negligence. Deliberate physical injury is usually less likely than accidental physical injury. ... Built into the preponderance of probability standard is a generous degree of flexibility in respect of the seriousness of the allegation”.

So, the less likely it is that the event has occurred, the more serious the evidence of its actually having taken place shall be [26].

According to Lord Nicholls of Birkenhead, certainty is rarely attainable, yet probability is a criterion of unsatisfying vagueness because there are various extents of probability. The balance of probabilities standard, unlike the standard of proof “beyond reasonable doubts”, is a lower and a much more flexible one. With regard to this, the seriousness of the allegation and the gravity of consequences shall be borne in mind when using it [26].

In his opinion on the case of “B. (minors)” of 2008, Lord Hoffmann pointed out that if a legal rule requires a fact to be proved then a judge or jury must decide whether or not it happened and there is no room for a finding that there was a probability of occurrence of this fact. If the court has doubts, these doubts have to be resolved as appropriate [27].

The Supreme Court of Canada in its decision of 2008 on the case of “F.H. v. McDougall” mentioned that there is only one standard of proof for resolving the civil cases – which is the balance of probabilities standard that does not imply various extents of such probability. When resolving such cases, a judge is entitled to take into account the seriousness of statements or consequences, yet such consideration shall not affect the use of the balance of probabilities standard. In all cases, one main rule shall be applied stipulating that the judge shall closely examine all pieces of evidence before deciding on the probability of the declared event having actually happened. Moreover, such evidence has to be clear and convincing for them to be considered when applying the balance of probabilities standard [28].

As it has been previously mentioned, the balance of probabilities standard was mainly elaborated in the case law; however, it has been consolidated at the legislative level too.

For instance, § 24-14-4 of the Code of Georgia (USA) should be mentioned (although it will not be discussed in detail). It sets out that when determining which evidence has a greater importance the jury shall be entitled to consider all facts and circumstances of the case, the ways the witnesses have given their testimonies, their intellect, means and possibilities of knowing the facts about which they testified, as well as their being interested, and even the quantity of witnesses [29].

An unpopular interpretation of the principle of balance of probabilities provides for one party having to submit slightly more evidence than the other one. This is unpopular for the reason that if in fact it had been only this way, it is the total amount of evidence and not their influence on the opinion of the court that would have mattered [23, p. 168].

Alongside with this, when considering the evidence within the application of the balance of probabilities standard, a judge shall not study all pieces of evidence submitted by a party to the case in an isolated way from each other – but the judge shall rather consider all the evidence as a total and evaluate its validity and reliability in the total [23, p.167].

Speaking about the relation of the balance of probabilities standard with other standards of proof, as well as about the place occupied by this standard within the system of standards of proof as a whole, there are the following aspects to be noted.

It is pointed out by D. Demougin and C. Fluet that the balance of probabilities standard makes quite a sharp contrast to the other main standard of proof which is also frequently used – the “beyond reasonable doubt” one. This standard is used more frequently in resolving the criminal law cases [28, p. 1].

The balance of probabilities standard is a higher one as compared to the “reasonable grounds to believe” one yet a lower one against the “beyond reasonable doubt” standard which is more frequently applicable in criminal law hearings [23, p. 8].

In the decision of the US Supreme Court of June 25, 1986, No. 477 U.S. 242, on the case of “Anderson v. Liberty Lobby, Inc.”, the “conventional” standard of preponderance of the evidence is ranked lower than the “intermediate” standard of clear and convincing evidence available [30].

According to K. Clermont, the main idea of using the preponderance of the evidence standard consists in the legal system eventually reducing the quantity of mistakes by rendering it possible to resolve disputes up to the seeming probabilities rather than by using stricter standards. The formal evidence of this actually show that the application of the preponderance of the evidence standards not only minimizes the quantity of misjudgments but also that of damages recovered by mistake [31, p. 270].

Among the disadvantages pointed out for this standard, there are the following.

For instance, M. Redmayne notes that an entire number of controversial interpretations of this principle has been elaborated in the case law, though the balance of evidence standard being one of the simplest and requiring the smallest amount of explanations, which results in further confusion dwelling deeply in the level of concepts [11, p. 167].

According to C. Engel, the instructions for trial by jury providing for the opportunity to use the preponderance of the evidence standard can be interpreted as a tool for exempting the jury members from personal liability for the decision made [16, p. 18].

There are also certain debates as for the practical importance of the preponderance of the evidence standard by and large [31, p. 268].

The balance of probabilities standard can also be used in the activity of the international authorities [14].

## CONCLUSION

The paper describes such unknown to the Russian legal system procedural standards of judicial proceeding as the “unclean hands” doctrine and the balance of probabilities (preponderance of documents) standard.

Although the legal consolidation and scientific interpretations of these legal categories in the foreign states are quite diverse, the authors deem it necessary to state the following:

- it makes sense to interpret the “unclean hands” doctrine as a presumption of the fact that a subject of wrongful (unfair) acts cannot justifiably claim (and actually recover) the damages incurred to him due to such acts, with the danger of the wrongful acts to the public and the extent of harm caused to the offender compared;
- the balance of probabilities standard may well be considered as a sort of “antagonist” to the legal presumptions, consisting in the necessity to convince the court of the maximum validity of the relevant statements (that a statement or fact are rather true than false; that the facts (statements etc.) declared are more likely than not; that the prevailing evidence considered and compared to the other one has more strength of evidence).

Notably, although tested out in the judicial practice of foreign states that have the developed legal systems, these legal maxims deserve serious attention with respect to the way the Russian procedural law may adopt them. Given the particularities of the Russian legal system, the mere copying of the said foreign legal structures is hardly applicable.

Yet the Russian law that has more references to the European law – that of the continent – can adopt the legal principle of the “unclean hands” doctrine as appropriate, transforming the latter in line with the Russian legal practice and tradition. It suffices to remind that the efficiency of this principle in the self-updated case law system may fail to bring about the same effect under different legal conditions.

Concerning the balance of probabilities standard, having to take into account the significance of the pieces of evidence and the legality of the way they have been obtained should be outlined, which obliges one to take an approach of consistency towards their proportion. Moreover, the rudiments of this legal principle already exist in the Russian procedural practice that has been considerably complicated in the current period of its history and has refused to apply the objective imputation.

Nevertheless, the imperatives discussed in this paper may well find their use in Russia too, provided that they are adapted to the current realia in a certain way.

## REFERENCES

1. Belkin, A.R. (2015). Analysis of the concept "Witness immunity". *Herald of MSTU MIREA*, 4(9)-1, 229-239.
2. Hoeffe, O. (2007). *Justice. A philosophical introduction*. Moscow: Praxis.
3. Prokofiev, A. V. (2009). The lesser evil and the "dirty hands" problem. *Beresten*, 1(3), 73-78.
4. European Convention for the Protection of Human Rights and Fundamental Freedoms dated 04.11.1950, as amended by Protocol No. 11. (1950). Retrieved April 29, 2017, from: <http://conventions.coe.int/treaty/rus/treaties/html/005.htm>
5. International Covenant on Civil and Political Rights. (1966). Adopted by Resolution No. 2200 A (XXI) of the UN General Assembly on 16.12.1966. Retrieved April 29, 2017, from: [http://www.un.org/ru/documents/decl\\_conv/conventions/pactpol.shtml](http://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml)
6. Redmayne, M. (1999). Standards of Proof in Civil Litigation. *The Modern Law Review*, 62(2), 167-195.
7. Fair judicial proceeding in the international law: a collection on law. (2013). Warsaw: OSCE Office on Democratic Institutions and Human Rights (ODIHR).
8. Llamzon, A. (2015). Yukos Universal Limited (Isle of Man) v. The Russian Federation. The State of the "Unclean Hands" Doctrine in International Investment Law: Yukos as both Omega and Alpha. *ICSID Review*, 30(2), 315-325.
9. Herbert, A. P. (1935). *Uncommon Law*. London: Methuen Publishing.
10. Ramcharan, B. (1982). *Evidence. International Law and Fact-Finding in the Field of Human Rights*. The Hague: Martinus Nijhoff, 63-84.
11. Redmayne, M. (1999). Standards of Proof in Civil Litigation. *The Modern Law Review*, 62(2), 167-195.
12. Kaye, D. (1982). The Limits of the Preponderance of the Evidence Standard: Justifiably Naked Statistical Evidence and Multiple Causation. *American Bar Foundation Research Journal*, 7(2), 487-516.
13. Kaplow, L. (2011). *Burden of proof*. Cambridge: Harvard Law School.
14. Wilkinson, S. (2011). *Standards of Proof in International Humanitarian and Human Rights Fact-Finding and Inquiry Missions*. Retrieved April 29, 2017, from: <https://www.geneva-academy.ch/joomla-tools-files/docman-files/Standards%20of%20Proof%20in%20Fact-Finding.pdf>
15. Wright, R. W. (2011). *Proving Causation: Probability versus Belief. Perspectives on Causation*. Oxford: Bloomsbury Publishing, 195-220.
16. Engel, C. (2008). *Preponderance of the Evidence versus Intime Conviction: A Behavioural Perspective on a Conflict between American and Continental European Law*. Bonn: Max Planck Institute for Research on Collective Goods. Retrieved April 26, 2017, from: [https://www.coll.mpg.de/pdf\\_dat/2008\\_33online.pdf](https://www.coll.mpg.de/pdf_dat/2008_33online.pdf)
17. International News Service v. Associated Press 248 U.S. 215 (1918). Heard on May 2 and 3, 1918. Resolved on December 23, 1918. Retrieved April 29, 2017, from: [https://zakon.ru/blog/2015/4/1/legal\\_reporter\\_mezhdunarodnaya\\_sluzhba\\_novostej\\_protiv\\_assoshie\\_jted\\_press\\_reshenie\\_verxovnogo\\_suda\\_s](https://zakon.ru/blog/2015/4/1/legal_reporter_mezhdunarodnaya_sluzhba_novostej_protiv_assoshie_jted_press_reshenie_verxovnogo_suda_s)
18. Unclean hands Doctrine. Business Dictionary. (2017). Retrieved April 29, 2017, from: <http://www.businessdictionary.com/definition/unclean-hands-doctrine.html>
19. Doctrine of Unclean Hands in Labor Controversies (1930). *Harvard Law Review*, 43(7), 1120-1122.
20. Morton Salt Co. v. G. S. Suppiger Co., 314 U.S. 488 (1942). U.S. Supreme Court. Argued December 10, 1941; Decided January 5, 1942. Decision of the US Supreme Court on the case of "Morton Salt Co. v. G. S. Suppiger Co." of 1942. Retrieved April 28, 2017, from: <https://supreme.justia.com/cases/federal/us/314/488/>
21. Adler, D. & Co, S. Maglio, V. 198 Wis. 24, 228 N. W. 123. (1929). Decision of the Supreme Court of Wisconsin on the case of "David Adler & Sons Co. v. Maglio" of 1929. Retrieved April 23, 2017, from: <https://www.wicourts.gov>
22. ENF 2/OP 18: Evaluating Inadmissibility. (2015). *Citizenship and Immigration Canada*. Retrieved April 23, 2017, from: <http://www.cic.gc.ca/english/resources/manuals/enf/enf02-eng.pdf>
23. Schweizer, M. (2013). *The civil standard of proof – what is it, actually? Max Planck Institute for Research on Collective Goods*. Retrieved April 29, 2017, from: [https://www.coll.mpg.de/pdf\\_dat/2013\\_12online.pdf](https://www.coll.mpg.de/pdf_dat/2013_12online.pdf)
24. Preponderance of the Evidence. (2017). *US Legal*. Retrieved April 28, 2017, from: <https://courts.uslegal.com/burden-of-proof/preponderance-of-the-evidence/>

25. Demougin, D., & Fluet, C. (2002). *Preponderance of Evidence*. CIRANO-2002. Retrieved April 24, 2017, from: <http://www.cirano.qc.ca/pdf/publication/2002s-61.pdf>
26. In Re H and others (minors) (A.P.) (respondents) (14 December 1995). (1995). Retrieved April 27, 2017, from: <http://www.bailii.org/uk/cases/UKHL/1995/16.html>
27. In re B (Children). (2008). Retrieved April 27, 2017, from: <http://www.bailii.org/uk/cases/UKHL/2008/35.html>
28. Case "F.H. v. McDougall". Decision of the Supreme Court of Canada of 2008 No. 32085. (2008). Retrieved April 22, 2017, from: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/6211/index.do>
29. Georgia Code. (2017). Retrieved April 27, 2017, from: <https://www.lexisnexis.com/hottopics/gacode/>
30. Case "Anderson v. Liberty Lobby, Inc." Decision of the U.S. Supreme Court No. 477 U.S. 242 of June 25, 1986. (1986). Retrieved April 22, 2017, from: <https://supreme.justia.com/cases/federal/us/477/242/case.html>
31. Clermont, K. M. (2004). Standards of Proof in Japan and the United States. *Cornell International Law Journal*, 37(2), 263-284. Retrieved April 22, 2017, from: <http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1610&context=cilj>

**<http://www.eurasianjournals.com>**