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FEATURES OF THE LEGAL REGULATION OF THE BALANCE OF WORK AND REST OF JUDGES IN THE MEMBER STATES OF THE EUROPEAN UNION

Barsuk Maryna

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Annotation. The article delves into the nuances of legal regulations governing the equilibrium between work and leisure for judges across European Union member states. It is initially recognized that a robust model of work-life balance applies to judges in jurisdictions where they are regarded as employees by status. Similarly, in jurisdictions where judges are not classified as employees, yet are entitled to social security provisions, the principles of a balanced work-life structure are upheld. Through an examination of the prevailing legislation across EU member states, it becomes clear that some countries, particularly the Czech Republic and the Republic of Poland, do not adequately prioritize the protection of the necessary work-life balance of judges. Consequently, judges in these jurisdictions are compelled to operate amidst social risks stemming from the absence of a balanced work-rest dynamic. These risks include constraints on familial engagement, susceptibility to occupational hazards, and the onset of professional burnout, among others. Additionally, among the EU member states, there are those where the balance of work and rest of judges is appropriately regulated, such as Romania and the Republic of Lithuania. In these countries, the legislation accounts for the specific duration of a judge's work and recognizes the necessity to provide judges with the right to special short and paid leaves related to their personal life. The conclusions drawn in the article encapsulate the findings of the study and propose avenues for enhancing the legal framework governing the social protection of judges in Ukraine. Firstly, in regulating various facets of judges' work and rest, it is imperative to adopt a logical approach. If the nature of a judge's responsibilities precludes a precise determination of their working hours, it is essential to establish, within current legislation, the minimum duration of daily and weekly rest periods to ensure judges' right to rest without compromising their social security. Secondly, as part of enhancing the social protection mechanism for judges in Ukraine, it is recommended to introduce short (up to 3 working days) paid leaves for judges pertaining to family circumstances. These may include events such as the judge's marriage, the birth of a child, the marriage of a child, and the death of a spouse or parent, among others.

Key words: EU Member States, European integration, judge, social protection, social security, social state, work sphere, work-life balance.

1. Formulation of the problem.

The sphere of work is a sphere of human existence in which every able-bodied person is able not only to realize one of his key rights - the right to work, but also to find himself in a socially vulnerable position. This is due to the fact that the realization of the right to work is a complex of relations in which the general social risks of a person (in particular, disability, serious illness, old age, etc.) can be supplemented by special (industry) risks. In particular, workers may find themselves in a socially vulnerable position due to the employer's lack of compliance with decent work requirements (including a safe workplace, work-rest balance, etc.), and therefore workers may be at risk of injury or developing occupational diseases due to work in a dangerous workplace or under harmful working conditions. Also, employees may face a high level of stress and the emergence (development) of

psychological problems as a result of stressful and excessively intensive work. Therefore, in modern conditions, one way or another, risks are becoming widespread, caused by the insufficient provision of a harmonious balance of work and rest for employees, which is a problem that is extremely relevant also for judges in Ukraine and other countries. In order to solve this problem, in the process of improving the national mechanism of social protection of judges, there is a need to study the experience of solving this problem in foreign countries, and first of all (taking into account the European integration aspirations of Ukraine) - in the member states of the European Union.

2. Analysis of scientific literature and previously unresolved issues.

To date, attempts have not been made by domestic scientists to analyze the state of legal regulation of the balance of work and rest of judges in the EU member states, as an element of ensuring social security (hereinafter referred to as "SB") of judges. Despite this, it should also be noted that many European scientists have already revealed the problem of ensuring a balance of work and rest for employees in general and judges in particular, as well as the problem (negative impact on the life, health and social well-being of employees - the basis of human well-being) of not maintaining such a balance, including: F. Viapiana [1], J. M. Haar [2], A. Devry [3], M. K. La Barbera [4], E. Lombardo [5], I. Riboz Mureno [6], Sh. Roach Anley [7], S. Spach [8], M. Urbanikova [9] and others. Based on the scientific research of these and others. scientists and researchers, as well as comprehensively analyzing the current legislation of the EU member states, we can find out the state of legal regulation of the balance of work and rest of judges in the respective member states.

3. Therefore, **the purpose of the article** is to establish the peculiarities of the legal regulation of the balance of work and rest of a judge in EU member states. To achieve this goal, the following tasks should be performed: 1) to clarify the spread of labor law models "work-leisure" on judges at member states EU; 2) to analyze the advantages and disadvantages of regulatory and legal provision of a harmonious balance of work and rest in the work of judges in individual EU member states; 3) generalize the results of the research, formulating proposals for improving the legal regulation of the socially safe "work-rest" model of judges in Ukraine.

4. Presenting main material.

Although not all EU member states legally recognize the fact that judges are employees by their status, characterized by a specific set of rights and duties, everywhere judges are considered civil servants whose status is similar to employees. So, in particular, in Art. 204 of the Law of Romania "On the Status of Judges and Prosecutors" states that the rights of judges are determined by the legislator taking into account: first, the place and role of justice in the rule of law; secondly, the level of responsibility and complexity of the judge's function; thirdly, a number of prohibitions and rules on incompatibility provided by law for the implementation of functions and the achievement of the goals of justice; fourth, the need to guarantee the independence, autonomy and impartiality of judges. At the same time, in a number of social states that are EU member states, it is explicitly recognized that judges are employees, and therefore they are covered by labor and social protection measures. For example, in the Czech Republic, the labor law issues of a judge's work are regulated by paragraphs of Section 3 of the Law "On Courts, Judges, Magistrates and State Administration of Courts", which states that the employment relationship of a judge begins on the day determined by the date of entry into office and ends on the day of termination of the judge's powers.

Therefore, it is quite natural that in the EU member states, in which the status of a judge is directly recognized as an employee with a special constitutional and legal status that allows him to objectify the judiciary in the course of his duties, the model naturally applies to judges ensuring a healthy (socially safe) balance between work and rest. In the same states in which the judge is recognized as a state judge civil servant, however, civil servants are not interpreted as employees with a special cross-industry status (defined by the norms of legislation on social security, on labor and employment,

as well as norms of administrative and constitutional legislation), the model of ensuring a healthy balance between the performance of official duties and rest from such work applies to judges due to the state's obligations to ensure the socially safe (professional and non-professional) existence of judges. That is why the right to rest for judges in EU member states is either directly defined in special legislative acts on the status of judges and the judiciary, or is directly regulated by labor legislation. However, European legislators do not always pay due attention to the indication that a judge must perform his duties within the framework of the balance of work and rest, although this is assumed, in particular, when the legislator specifies the limits of the judge's working hours, which are consistent with general labor law working time standards.

For example, in Poland in Art.83 of the Law of the Republic of Poland "On the System of General Courts" indicates that "the working time of a judge is determined by the scope of his tasks." At the same time, the Polish legislator does not clarify this provision of the Law at all with instructions and caveats that the judge, as an employee with a special labor law status, is subject to general and special guarantees of balance between work and personal life. Therefore, the literal interpretation of Art.83 of the Law of the Republic of Poland allows us to conclude that a judge's working hours may be unlimited at all, if the volume of tasks that will be assigned to him so requires. It is important to emphasize that neither the Polish codified labor law nor the legislation on professional public servants act as a guarantee supplement in this case, since these legal acts protecting the interests of employees clearly establish an eight-hour working day and a 40-hour working week as the basic working legal norm and standard. That is why Polish judges state that the existing practice proves that "some judges are always overloaded with work. In addition to hearings, hearings and other activities in court, they study cases late at home, including Saturdays, Sundays and holidays, and write reasons for their decisions. They do not have time for the necessary rest, family responsibilities, further education or scientific work" [10].

At the same time, it should be borne in mind that in Poland, as a member state of the EU, the provisions of the Directive of the European Parliament and the Council of November 4, 2003 No. 2003/88/EC, in accordance with Clause 9 Part 1 of Art. 2 of which every worker in the Union has the right to adequate rest, which means that the worker is provided on a regular basis with "periods of rest, the duration of which is expressed in units of time, and which are sufficiently long and continuous to avoid injury by workers to themselves, colleagues or other persons and causing damage to their health in the short or long term as a result of fatigue or irregular work schedules". In addition, in point "b" of part 1 of Art.6 of Directive No. 2003/88/EC states that "the average duration of working hours during each seven-day period, including overtime hours, did not exceed 48 hours." In addition to this, the Directive of the European Parliament and the Council of June 20, 2019 No. 2019/1158 should also be taken into account. It is quite obvious that supranational norms (secondary EU legislation) prevail over national ones, and therefore judges in Poland, as employees, should be covered by the specified guarantees.

In addition, attention should be paid to the fact that in Art.83a of the mentioned Law of the Republic of Poland regulates the right of a judge to have a smaller volume of cases that he must consider, in connection with parental leave. This right can be exercised by a judge (it is necessary to submit a corresponding petition) by reducing the coefficient of distribution of cases by no more than 50% while reducing his basic salary by the same amount. At the same time, again, in this context, the legislator takes into account not so much the need to ensure the safety of the child of the judge and the judge himself, but the number of cases. Thus, a situation may arise when, when distributing cases, the number of cases to be considered by a judge in the exercise of the right to leave for child care, while the total number of cases in the court will increase, as a result of which 50% of cases will be the same volume of cases that prevented the judge from fulfilling the parental role.

As another example, we can also consider the Czech Republic. In parts 1–3 par.84 of the Law of the Czech Republic "On Courts, Judges, Justices of the Peace and State Administration of Courts" regulates the issue of ensuring a balance between a judge's work and personal life. Thus, a Czech judge, being in an employment relationship, performs his duties within the limits of the working time schedule, which can also be established (if necessary) within the framework of flexible working hours and in other forms. The working hours of judges must be in accordance with the labor legislation of the

Czech Republic and be determined in the work schedule, which is approved by the head of the court for judges in order to ensure the proper administration of justice in the court. Thus, in order to ensure the proper administration of justice, the head of the court can appoint a judge to be on duty at his workplace, at his place of residence or at another appropriate place. However, a judge may be assigned no more than 400 hours of on-call work during a calendar year, taking into account the need for an even workload for all judges of the respective court.

In Lithuania, at the legislative level, there are also norms that fragmentarily regulate the balance between work and personal life of a judge. According to Art. 98 of the Law "On the Courts of the Republic of Lithuania", judges are entitled to targeted vacations established by the 2016 Labor Code of the Republic of Lithuania, as well as annual vacations of a total duration of 22 working days. At the same time, every judge who is recognized as unable to work or is a person who independently raises a child under the age of 14 or a child with a disability under the age of 18 has the right to a longer annual vacation, namely 27 working days. At the same time, a judge with more than 5 years of experience as a judge receives an additional day of annual leave for each subsequent year of work as a judge, but the total duration of annual leave may not exceed 40 working days. In addition, judges who are raising a child with a disability under the age of 18 or two children under the age of 25, is granted (on a paid basis) 1 additional day of rest per month, and a judge raising 3 or more children under the age of 12 - 2 additional days of rest per month. At the same time, when a judge who is raising a child under the age of 14, who is studying in programs of preschool education, primary education or secondary education, and does not have the specified right to additional days of rest, then in this case he is provided (on a paid basis) at least half a working day of free time per year on the first day of the academic year. It should be borne in mind that the annual vacation of a judge in the LR can be postponed or extended in accordance with the procedure established by the 2016 Labor Code of the LR. The right to use all or part of such leave (or to receive cash compensation for annual leave in the event of dismissal) shall be forfeited 3 years after the end of the calendar year in which the judge acquired the right to full annual leave, except in cases where the judge was effectively unable to use it.

At the same time, leave is granted to judges, heads of judicial departments, and deputy heads of courts by the head of the relevant court, about which he informs the President of the Republic of Lithuania. In turn, the President of the Republic of Belarus can grant a judge a leave of absence (up to 1 year) for professional development, which can be taken once every 5 years. In this case, the judge remains with the status of a judge, retains the position of a judge of the corresponding court, however, he is not paid a salary, and the time spent on leave for professional development is such that it is included in the judge's work experience, which ensures the social security of maximizing social capital and the work potential of the judge within the specified leave.

As for Romania, in accordance with Art. 209 of the Law "On the Status of Judges and Prosecutors" of 2022, judges can take a paid vacation of 35 working days each year. In addition, the Law provides that judges are also entitled to: first, paid special leave to attend courses or other forms of specialization organized within Romania or abroad, for preparation and qualification exams and doctoral exams. Secondly, for unpaid leave in accordance with the Regulation on leave of judges and prosecutors dated August 24, 2005 No. 325. In accordance with Art. 18 of the said Regulation, judges have the right to leave without pay (however, while retaining their position as a judge) to resolve certain personal situations, however, the total duration of these leaves may not exceed 90 working days in a calendar year. At the same time, judges have the right to leave without salary without limitation in the duration of such leave under the following circumstances: a) care for a sick child older than 7 years during the period specified in the medical certificate; b) accompanying a husband (wife) or a close relative (son, daughter, sister, brother, parents) during their treatment abroad (with the mandatory consent of the Ministry of Health). In addition, in part 3 of Art. 18 of the Regulation on vacations of judges and prosecutors states that a vacation without pay can be granted to a judge also due to a number of other circumstances caused by the personal interests of the judge for the duration established by the agreement of the parties. Third, for vacation and health insurance benefits (medical leave). Fourth, for other types of vacations and assistance in accordance with current legislation. Yes, in accordance with Art. 21 Provisions on leave of judges and prosecutors judges have the right to leave to raise a child up to 2 years old and a child with a disability up to 3 years old, during which judges are entitled

to an allowance established in accordance with the law. According to Part 1 of Art.22 of the specified Regulation, judges also have the right to paid leave, which is not counted against the duration of other ongoing leave (including annual leave), in such special family circumstances as: a) marriage of a judge - 5 working days (granted no later than 30 days from judge's marriage dates); b) marriage of a child - 3 working days (cannot be granted later than 30 days from the date of the event); c) death of a husband or wife, or a relative up to the 3rd generation inclusive (both the judge and his (her) wife (husband)) - 3 working days (granted no later than 30 days from the date of death); d) annual medical examination - 1 working day.

5. Conclusions.

Summarizing what has been stated, we note that the normative legal provision of the balance of working time and non-working (personal life) time is most successfully reflected in the legislation of Lithuania and Romania, while in the Czech Republic and Poland this principle in relation to judges is reflected in a desocialized form, which in general is not advisable to use in the process of formation of the modern doctrine of social protection of judges in Ukraine. In general, the experience of legal regulation of the work and rest of judges in Lithuania and Romania indicates several important circumstances that should be taken into account during the legal regulation of the socially safe "work-rest" model of judges in Ukraine. The first circumstance - if due to the specifics of the work duties of judges it is impossible to clearly determine the duration of their work, then, taking into account the fact that the duties of judges cannot be performed at the expense of the SC of judges, which may be harmed by a work regime that is not coordinated with social a safe model of work and rest, it is necessary to define at the level of current legislation the minimum number of hours per day and per week, which must be provided to a judge in order to satisfy the judge's right to rest and make it impossible to work in conditions that do not correspond to the judge's human dignity. The second circumstance - within the framework of ensuring a harmonious balance of work and rest of a judge, the full implementation of the judge's right to contact with the family should also be ensured, in particular, by enshrining at the level of a special legislative act on the judicial system and the status of judges a list of family circumstances (for example, a judge's marriage, birth of a child, marriage of a child, death of one of the spouses, death of one of the parents, etc.), in view of which a judge can receive a paid leave of up to 3 working days.

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ENFORCEMENT OF DECISIONS OF THE CONSTITUTIONAL COURT OF UKRAINE: ISSUES OF LEGAL DOCTRINE

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Annotation. It is indicated that the key problem in the activity of the Constitutional Court of Ukraine is ensuring the implementation of its decisions. Without solving this issue, it is impossible to guarantee the supremacy of the Constitution, the principle of separation of powers and the existence of an independent judicial branch of government as a separate institution. Ignoring the decisions of the constitutional control body undermines the very system of checks and balances, the authority of the Basic Law and the constitutional order in the country in general. These principles underlie the implementation of decisions of constitutional courts, the purpose of which is to ensure constitutional legality. In Ukraine, the mechanism for the implementation of the decisions of the Central Committee of Ukraine has already been developed in general, but there are problems related to the non-implementation of some of its decisions for a long time. Therefore, the task of further improvement of this mechanism and its proper legislative regulation remains relevant.

The authors claim that Ukraine has already developed a mechanism for implementing decisions of the Constitutional Court. However, this system is not perfect, which is evidenced by the fact of non-execution of individual court decisions. Therefore, the issue of continuing the work on improving the existing mechanism for implementing decisions of the body of constitutional jurisdiction, securing it properly at the legislative level, remains urgent. At the same time, the problem of the quality of such execution comes to the fore, for the solution of which it is necessary to develop criteria for the effectiveness of the execution of court decisions, which will allow to assess the quality of the legal acts that are introduced and the work of the responsible entities. Both outlined problems definitely need further thorough scientific research.

In addition, according to the authors, it should be noted that the issues of the legal nature of the legal positions of the Constitutional Court of Ukraine and the criteria for the effective implementation of its decisions remain interacting categories and, therefore, require thorough scientific study. At the same time, clarifying the legal force of the Court's legal positions is complicated by the lack of their legislative definition, by a certain difficulty in understanding the role and place of the body of constitutional jurisdiction in the system of state power. At the same time, the legal positions have a normative and mandatory character, reflected in the acts of the KSU. The need to ensure their immutability follows from the principles of legal certainty and stability of the Constitution. However, the possibility of revising some legal positions in connection with the change in the socio-political structure of the state is gaining relevance.

Key words: Constitutional Court of Ukraine, decisions of the Constitutional Court of Ukraine, implementation of decisions of the Constitutional Court of Ukraine, legal positions of the Constitutional Court of Ukraine, rule of law, rule of law, normative legal act, Constitution, legality.

1. Formulation of the problem.

A key problem in the implementation of the powers of the Constitutional Court of Ukraine is ensuring the implementation of its decisions. Without solving this issue, it is impossible to guarantee the supremacy of the Constitution of Ukraine, the principle of separation of powers, as well as the existence of the judicial branch of power as a separate institution. Failure to comply with the decisions of the body of constitutional jurisdiction calls into question the functioning of the very system of checks and balances, undermines the authority of the Basic Law and the constitutional order in the state in general.

Opinion No. 13 (2010) of the Advisory Council of Judges of European States emphasizes that effective enforcement of court decisions that have entered into force is a cornerstone of the principle of the rule of law. This is necessary to maintain the authority of the judiciary in the eyes of society. The independence of the court and the right to a fair trial lose their meaning if judicial acts are not enforced (clause 7). In a state governed by the rule of law, public authorities must consistently implement court decisions promptly on their own initiative. The very idea that a state body ignores a court decision undermines the concept of the rule of law (paragraph 31). In this sense, the implementation of decisions should take place in compliance with basic human rights and freedoms (clause 8) [1].

2. These provisions are the basis for the implementation of decisions of constitutional courts aimed at ensuring constitutional legality. In Ukraine, the mechanism for implementing the decisions of the Constitutional Court has already been formed, but there are problems related to the long-term non-implementation of some of its decisions. Therefore, the **aim** of further improvement of this mechanism and its legal consolidation remains relevant.

3. Analysis of scientific sources.

As a legal phenomenon, the positions of the body of constitutional jurisdiction were studied in their works by well-known domestic and foreign scientists: I. Dombrovskiy, V. Kampo, M. Kozyubra, V. Pohorilko, M. Savenko, M. Savchyn, A. Selivanov, T. Slinko, A. Stryzhak, V. Tatsii, M. Teslenko, P. Tkachuk, Yu. Todyka, V. Shapoval, S. Shevchuk and many others. However, taking into account the peculiarity of the status and role of the Constitutional Court of Ukraine in the system of state authorities and the life of the country, most of the issues, and with them the issue of the implementation of the Court's decisions, still leave room for scientific research. That is why the authors set themselves the goal of considering separate doctrinal approaches to the implementation of the decisions of the Constitutional Court of Ukraine through the prism of the legal positions of the CCU.

4. Presentation of the research material.

The increase in the authority of constitutional courts in the world is caused by modern trends of international legal integration in areas where international acts on human rights and fundamental freedoms apply. The execution of the decisions of the bodies of constitutional jurisdiction is connected with the real protection of the constitutional order and constitutionality in the rule-of-law states, as well as strengthening their stability. The execution of the decisions of the constitutional courts contributes to ensuring the supremacy of the basic law of the state, the observance of constitutional norms and principles underlying the system of legal states, strengthening of their constitutional order, stability and steadfastness of constitutional foundations.

The mechanism of execution of decisions of constitutional courts in its functional component includes actions for the direct execution of court decisions, as well as for ensuring their proper execution. Its organizational aspect is represented by the bodies, organizations responsible for the implementation of the above-mentioned actions, and the forms of their activity in this area. The

Constitutional Court of Ukraine, not having powers in the field of direct implementation of decisions made by it during the sending of constitutional proceedings, is involved within its own competence in the work of ensuring the implementation of such decisions [2, p. 38].

So, first of all, let's note that the mechanism of implementation of decisions of bodies of constitutional jurisdiction consists of functional and organizational components. At the same time, its functional part provides for the direct execution of court decisions, as well as measures to ensure their proper execution. In turn, the organizational block is represented by institutions and organizations responsible for the implementation of the specified actions, and the forms of their activity in this area. The Constitutional Court of Ukraine, not having the authority to directly execute its decisions in the implementation of constitutional justice, joins within its own competence in the work of ensuring the implementation of such decisions [3, p. 86].

In the context of the topic of our research, we note that the legal mechanism for the implementation of any type of legal acts is determined by the peculiarities of their legal nature, first of all, such an essential feature as legal force, limits of obligation. This also applies to the decisions of the Constitutional Court - a relatively new type of legal acts for the Ukrainian legal system. Thus, without clarifying their legal nature, it is extremely difficult to justify and construct a specific legal mechanism for the implementation of these acts adequate to it [4, p. 26].

It is impossible not to pay attention to the fact that the doctrine of the constitutional judiciary, which is currently only being formed in Ukraine, answers the questions posed rather contradictory. Undoubtedly, our legal doctrine more actively than before joined the long-standing dispute in world jurisprudence about whether a court, primarily a constitutional one, creates a new right, or it only discovers it, declares it or is only a law enforcer. And the further the practice of constitutional justice in Ukraine develops, the more acute the disputes become. For science, this is a normal, even necessary phenomenon in the process of scientific knowledge, but for practice it is not always useful. We believe that significant contradictions in the doctrine on the mentioned issues are one of the factors that disorient the executors of the decisions of the Constitutional Court, especially in the absence of a direct constitutional and legislative definition of the legal nature of these acts [5, p. 69–72].

The Constitutional Court of Ukraine must possess a certain instrument that would help it to legally formalize or consolidate the decisions made, therefore, acts are such a means that legally formalizes the results of the Court's consideration of material, procedural, or organizational issues. The adoption of a certain decision by the Constitutional Court of Ukraine is preceded by the formation of its opinions, which are based on certain positions, mainly of a legal nature.

It should be noted that the current legislation of Ukraine does not contain a formulation of the definition of the "legal position" of the Constitutional Court of Ukraine. Thus, transferring the problem of clarifying the essence of this term in the plane of scientific research and analysis. However, as the analysis of scientific literature confirms, there is also no unanimity in the understanding of the concept of "legal position" even among the scientific doctrine of the constitutional law of Ukraine.

Among scientists, there are different approaches to defining the concept of "legal positions" of the Constitutional Court of Ukraine. Some scientists consider them as a system of legal arguments, examples of a precedential nature, a kind of normative and interpretive guidelines. Others provide more elaborate definitions, understanding by legal positions the generalized ideas of the body of constitutional jurisdiction regarding specific constitutional and legal problems. Actually, according to this approach, the legal positions of the KSU are legal conclusions and representations of the court, formed as a result of interpretive activity regarding the norms of the Constitution and clarification of the constitutional content of the provisions of the legislation. They resolve issues of legal or situational uncertainty in specific constitutional and legal situations and serve as a legal justification for decisions of the KSU.

There is also an opinion that the legal position is only a fragment of the motivational part of the final decision of the KSU, connected with its resolute part. According to this definition, the legal

positions actually reflect a kind of law-making of the KSU, interpreting the constitutional norms that form the basis of the resolute part of the decision. This is a logical operation that precedes a conclusion about the constitutionality or unconstitutionality of a legal norm.

Some scientists point out that the legal positions of the Constitutional Court of Ukraine are formed during the consideration of specific cases in the process of constitutional justice - during the official interpretation of the provisions of the Constitution, during the implementation of abstract and concrete regulatory control, etc. Legal positions are a certain summary of the activity of the body of constitutional jurisdiction, the result of logical and meaningful work that reflects the specifics of the corresponding constitutional and legal problem. The researchers come to the conclusion that in terms of their legal force, the legal positions of the KSU can be equated to the norms of the Basic Law.

In other words, scientists claim that the legal positions of the Constitutional Court are formulated during its consideration of specific court cases related to the interpretation of the Constitution, the review of laws and other acts for their constitutionality, etc. They are a summary of the activities of the KSU, the result of a logical understanding and analysis of the specifics of the constitutional and legal issues under consideration. At the same time, researchers believe that by their legal nature, the legal positions are equivalent to the prescriptions of the Constitution of Ukraine itself.

At the same time, in our opinion, it is difficult to agree with such a point of view, considering, first of all, the constitutional character and nature of the norms of the Constitution, their difference from the legal positions of the body of constitutional jurisdiction, as well as the actual subordination of the body to the norms of the Basic Law.

As Professor T. Slinko points out, the legal position in itself is a normative-doctrinal generalization, the quintessence of the decision made by the Constitutional Court. However, the source of law is not the legal position, but rather the decision of the Constitutional Court, in which this legal position was formulated and explained (in other words, the legal position is a concentrated reflection of the normative and doctrinal basis of the judicial decision of the body of constitutional jurisdiction. However, not the legal position, but directly the act of the Constitutional Court is the primary source of law, since it is in it that the legal position finds its expression and official consolidation). The scientist understands the legal positions of the Constitutional Court of Ukraine as its legal representations (conclusions) as a result of its interpretation of the Constitution of Ukraine and/or the provisions of laws, other normative acts within its competence, which are of a general nature, eliminate constitutional and legal uncertainty and are the legal basis for adopting the final the decision set forth in his act [11, c. 6].

According to V. Kamp, the legal positions of the Constitutional Court of Ukraine are the provisions of its acts (the motivational and resolute part) that are binding for all legal subjects, based on the interpretation of the provisions of the Constitution and laws of Ukraine and the application of the norms and principles of the Basic Law of the state to disputed acts and provisions of legislation [13, c. 116]. At the same time, P. Tkachuk notes that the legal positions of the Constitutional Court of Ukraine are the result of its interpretative activity in the form of conclusions, clarifications, legal provisions, doctrines, which contain the interpretation of the unclear content of the law, legal assessment or legal definition, the essence legal ideas and knowledge about solving a specific situation, which are mandatory for all subjects of legal relations [14, c. 21].

The above formulations demonstrate the diversity of approaches to understanding the concept of "legal positions" of the Constitutional Court of Ukraine. This contradiction and ambiguity is due primarily to the unique legal nature of the Constitutional Court, the peculiarities of its status and place in the system of state authorities. In other words, the existence of numerous, often contradictory interpretations of the term "legal positions" is explained by the very specificity of the Constitutional Court of Ukraine, the exclusivity of its role among the highest institutions of the state. The exceptionality of this constitutional body, the difference in its functions from other branches of government lead to a plurality of opinions among scientists regarding the essence and nature of the legal positions it formulates.

In this case, V. Campo expressed that, in fact, there cannot be a single understanding of the legal positions of the Constitutional Court of Ukraine, since from different doctrinal points of view, the same positions can be considered as containing somewhat different content [13, p. 115].

It is important to understand the very process of formation of this or that legal position, which usually does not arise as a result of the will of the legislator or the people through the usual legislative procedures of rulemaking. Legal positions are expressed by the Constitutional Court during consideration of cases in which proceedings were initiated in accordance with the established procedure in the presence of a clear practical problem of law enforcement that needs to be resolved. However, in the end, the Court examines the issue of law in general, and not only a narrow case, limited to the framework of specific persons - participants in the constitutional proceedings. Therefore, it is worth understanding that legal positions are not the result of the usual law-making process. They are formulated by the Constitutional Court during the resolution of specific cases initiated according to a certain procedure, when there is a need to solve a clear problem of the application of law. However, in the end, the Court considers a broader legal issue, not limited to only a narrow circle of participants in the proceedings. On this occasion, it is worth agreeing with the opinion expressed by P. Tkachuk that "legal positions of the Constitutional Court of Ukraine, as a rule, are based on the specific needs of the subject of the submission, which arose during the application of one or another provision of the Constitution or laws of Ukraine" [14, c. 10–21].

Giving legal positions signs of normativity and equating them with acts is ambiguous. As S. Shevchuk points out, legal positions in the acts of the judiciary, in particular, in the acts of the Constitutional Court of Ukraine, have signs of normativity, but at the same time they remain acts of application of the law, and not normative legal acts [15].

Taking as a basis the logical reasoning indicated above, about the need to take into account the nature and place of the acts of the Constitutional Court of Ukraine in the process of analyzing the nature of legal positions, it is possible to assume an organic combination of the issue of attributing the acts of the Court and the legal positions of the Court to the sources of law. Therefore, as V. Kravchuk claims, the legal positions of the Constitutional Court of Ukraine have properties and features that can be characterized as independent sources of law and the actual impossibility of unambiguously assigning them to any of the well-known legal theory sources of law. So, in particular, the legal positions of the body of constitutional justice express the will of the state (after all, they arise as an act of a state body); they are official and generally binding; they play the role of a normative basis in law-making and serve as a guideline in law-making and law enforcement for most subjects of legal relations; they have a universal character, that is, they are not the result of a decision and the subject of application in a specific case, but can also be used in similar or similar situations for the purpose of substantiating positions; legal positions are a reflection of legal certainty, and should be formulated in such a way as to prevent their unequal, distorted understanding or improper application; legal positions have a permanent nature, that is, when deciding the following cases, the Constitutional Court of Ukraine is guided by previously expressed legal positions. And therefore, it is concluded that the legal positions of the single body of constitutional jurisdiction should be considered an independent source of law in the Ukrainian legal system [16, p. 120-121].

The position outlined above seems quite convincing, but leaves, in our opinion, a number of open questions. In particular, it remains difficult to clarify the question of how the legal positions of the Constitutional Court of Ukraine should be correlated and agreed with other sources of law. Also ambiguous is the question of the possibility of attributing the legal positions of the Constitutional Court to the sources of law of branches of law other than constitutional, for example, criminal law.

The importance of decisions and legal positions of the Constitutional Court of Ukraine cannot be underestimated. Among the important ones, it is worth highlighting those that express the legal position of the Constitutional Court of Ukraine regarding the guarantees of constitutional rights and freedoms, the impossibility of their cancellation, the prevention of restrictions on the content and scope of existing rights and freedoms, which, in our opinion, have doctrinal significance. Thus, in Decision No. 5-pn/2005 dated September 22, 2005, the Constitutional Court of Ukraine determined that:

- cancellation of constitutional rights and freedoms is their official (legal or actual) liquidation;
- narrowing the content and scope of rights and freedoms is their limitation;
- from the point of view of the traditional understanding of human activity, the determining factors in the content of the concept of human rights are the conditions and means that constitute the capabilities of a person, necessary to meet the needs of his existence and development;
- the scope of human rights is their essential property, expressed by quantitative indicators of human capabilities, which are reflected by the corresponding rights, which are not homogeneous and general.

At the same time, the Constitutional Court of Ukraine noted that during the legislative definition and practical implementation of the fundamental right, its essence and content cannot be violated in any case [17].

Normativeness of decisions and legal positions follows from the analysis of the current legislation and the influence exerted by the Constitutional Court and its activities on legal relations. Legal positions formulated in the act adopted by the Constitutional Court of Ukraine, as a rule, acquire the properties of independent novels. At the same time, as components of its decision, they are self-sufficient, i.e. those adopted in the name of Ukraine are binding, final and have direct effect. After the entry into force of these acts, legal positions not only do not require confirmation or duplication by state authorities, but also become an integral part of the legislative support for the operation of the state authority mechanism, as noted by V. Ovcharenko [18, p. 69].

In this context, the issue of consistency and immutability of the legal positions of the Constitutional Court of Ukraine acquires special importance. This follows from the fact that the interpretative activity of the Court and its powers regarding constitutional control should be based exclusively on the provisions of the Constitution of Ukraine as a basic legal act. The development of constitutional norms in the legal positions of the KSU cannot go beyond the legal principles and postulates laid down in the Basic Law, because otherwise it would contradict the supremacy of the Constitution - its main property. Ensuring the stability and legal certainty of legal positions is extremely important for the establishment of the principle of the rule of law enshrined in the Constitution. The legal positions of the Constitutional Court should build a strong "constitutional protective wall", based on the totality of legal knowledge and the intellectual, creative activity of judges for the purpose of establishing constitutionalism.

On the other hand, the long-term activity of the Constitutional Court of Ukraine, as indicated by I. Dombrovskyi, as a fundamental stage of the formation of the institution of constitutional jurisdiction of Ukraine, covers the most problematic from a legal point of view the issues of solving political and social conflicts in the recent history of Ukraine. Despite this, the Court's legal positions must be consistent and balanced. In this aspect, the question of the possibility of revising previous legal positions becomes relevant [20, c. 143].

5. Conclusions.

Ukraine has already developed a mechanism for implementing decisions of the Constitutional Court. However, this system is not perfect, which is evidenced by the fact of non-execution of individual court decisions. Therefore, the issue of continuing the work on improving the existing mechanism for implementing decisions of the body of constitutional jurisdiction and securing it properly at the legislative level remains urgent. At the same time, the problem of the quality of such execution comes to the fore, for the solution of which it is necessary to develop criteria for the effectiveness of the execution of court decisions, which will allow to assess the quality of the legal acts that are introduced and the work of the responsible entities. Both outlined problems definitely need further thorough scientific research.

In addition, it should be noted that the issues of the legal nature of the legal positions of the Constitutional Court of Ukraine and the criteria for the effective implementation of its decisions

remain interacting categories and, therefore, require thorough scientific study. At the same time, clarifying the legal force of the Court's legal positions is complicated by the lack of their legislative definition, by a certain difficulty in understanding the role and place of the body of constitutional jurisdiction in the system of state power. At the same time, the legal positions have a normative and mandatory nature, reflected in the acts of the KSU. The need to ensure their immutability follows from the principles of legal certainty and stability of the Constitution. However, the possibility of revising some legal positions in connection with the change in the socio-political structure of the state is gaining relevance.

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PRINCIPLE OF HUMANISM AND HUMAN RIGHTS

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Annotation. Human and civil rights have emerged as a crucial legal institution, evolving through constitutional law, legal theory, and various legislative sectors. This institution gained prominence in the latter half of the 20th century, both nationally and internationally. It represents one of the most significant achievements in society's legal development, tracing back to ancient times and culminating in its current status as an essential feature of democratic, rule-of-law states.

However, the contemporary approach to democracy's principles is considered somewhat outdated. There's a global need to reassess established concepts and develop fresh perspectives on equality, justice, and protection.

The enduring stability of human and civil rights protection is rooted in scientifically and practically tested principles. This concept's viability and progressive nature stem from a blend of legal, moral, traditional, and other social regulatory norms. Such an approach helps prevent legal negativity from dominating the legal system and curbs legal nihilism and indifference.

Legal principles serve as indicators of law's development and starting points for legal regulation. They should reflect fundamental values, embodying the essence of "ideal" law. These principles aim to ensure ideological consistency in lawmaking, law enforcement, and overall legal order, guiding the legal system towards universal ideals like democracy, justice, equality, humanism, and individual freedom.

Humanism, as a legal concept, views humans as supreme, self-sufficient, and self-aware beings. It manifests in at least two ways: as a moral requirement for human behavior and as a recognition of human beings as the highest social value within the state.

Key words: human rights, constitutional principles, constitutionalism, humanism.

1. Problem statement.

Human and civil rights are the most important institution that has developed not only in constitutional law, but also in legal theory and other sectoral legislation. In the second half of the 20th century, this institution came to the forefront, both domestically and internationally. The institution of human and civil rights and freedoms represents one of the most significant outcomes of the legal development of society, from ancient times to the present day, when human rights have become an indispensable attribute of a democratic rule-of-law state. Adhering to the legal concept of human rights in its modern sense, T. Zhivulina writes, the Constitution declared the human, their rights and freedoms as the highest value. In modern states, human and civil rights and freedoms are guaranteed not only by the Constitution and other national legislation but also in accordance with universally recognized norms and principles of international law. This is an extremely important provision, as the universally recognized norms and principles of international law and international treaties of the respective state are proclaimed as part of its national legal system [1, p. 12].

The modern approach with declared principles of democracy is somewhat outdated, and the whole world needs to rethink the acquired and search for new approaches to understanding equality, justice, protection, etc.

The necessary stability of the concept of protection of human and civil rights and freedoms is achieved by relying on a system of principles tested by science and practice. The vitality and progressiveness of this concept are formed through a combination of legal, moral, traditional, and other socio-regulatory norms. Considering such an approach will prevent legal negativity from becoming a dominant phenomenon of the legal system and will restrain the onslaught of legal nihilism and indifference [2, p. 55].

2. Analysis of recent research on this topic.

The following domestic and foreign scholars have addressed the issue of clarifying the nature of the principle of humanism in their works: P.S. Berzin, V.O. Hatseliuk, K.V. Diadiun, S.H. Kelina, V.N. Kudriavtsev, M.A. Malyhina, V.V. Maltsev, V.O. Navrotskyi, V.D. Filimonov.

3. The authors aim to examine the peculiarities of implementing the principle of humanism, based on fundamental human rights.

4. Presentation of the main material.

The term "principle" (from Latin principium) means beginning, foundation. At the same time, a principle is what underlies a certain theory of science, an internal conviction of a person, a basic rule of behavior [3, p. 547]. According to V. Dal, the word "principle" means a scientific or moral beginning, a foundation, a rule from which one does not deviate [4, p. 431]. In legal doctrine, when defining the concept of principles of law, scholars use such categories as initial theoretical provisions, basic, guiding principles (ideas), general normative-guiding provisions, leading principles, regularity, essence, coordinate system, etc. Many categories are homogeneous. Therefore, principles are general, guiding (basic, main, starting, initial theoretical, general normative-guiding, directing) provisions [5, p. 41].

Thus, principles are a kind of indicators that demonstrate the degree of development of the law itself, starting points that show the vector of legal regulation. It is clear that the principles of law should reflect and express the basic values that the law is oriented towards, carry the basis of "ideal" law. The purpose of legal principles is to ensure the ideological unity of lawmaking, law enforcement, and legal order as a whole. They permeate the entire legal system of society, orienting its development towards universally significant, most valuable ideals: democracy, justice, equality, humanism, individual freedom, etc. [6, p. 44] Therefore, historically, principles precede in time the formation of a certain historical type of law. They serve as a kind of ideological plan according to which legislation is formed and the practice of its implementation is developed [7, p. 35-36].

Principles of law, as an important element of law, inherit this quality; in other words, principles of law are characterized by systematicity. In this regard, the thesis that "principles of law must be taken in a system" is absolutely correct [8, p. 155]. Outside of systematicity, organic interconnection and interdependence of the principles of law on the one hand, and their hierarchy and interdependence on the other, it would be impossible, or rather, meaningless to speak not only about their effectiveness but even about their social significance [9, p. 239]. The systematicity of the principles of law, according to V. Kolisnichenko, means both the presence of relevant components and their connection [10]. Therefore, this property of the principles of law sets the task of their classification.

It should be noted that today there is no single list of principles of law; each author highlights their own classification and adheres to their own opinion, but almost all scholars agree that principles are objectively inherent qualities of law.

For instance, V. Khropanyuk includes social freedom, social justice, democracy, humanism, equality before the law, unity of legal rights and obligations, responsibility for guilt, and legality among the basic legal principles [11, p. 215].

L. Yavich provided the most comprehensive classification of legal principles. There is a whole hierarchy of legal principles, in which there is a certain system and subordination. Legal principles and principles of law are constantly in dialectical development and formation. For example, the principles of the rule of law emerged long before the construction of the rule of law state and only in the process of creating new legislation in Ukraine found their reflection [12, p. 44].

Thus, the state's activity should be aimed at ensuring compliance with all established human rights and freedoms. It is quite obvious that all these legal axioms are designed to ensure individual rights and civil liberties. According to E. Trukhanov's correct assertion, the fundamental principle of law should be recognized as the principle of humanism, which is a social ideal according to which the human is the key value of a democratic society, and the leitmotif and goal of the entire legal system is to ensure their rights and freedoms. Humanism is the most fundamental principle of law, meaning recognition of human value, respect for dignity, ensuring necessary conditions and opportunities for observing their rights and freedoms, striving for their well-being as the goal of social progress. It is on how this principle is implemented in law, how deeply its meaning is comprehended by public consciousness, that the further development of law and all humanity as a whole depends [13, p. 27].

In modern philosophical literature, humanism (from Latin *humanus* - humane) is understood as a system of worldview guidelines, the center of which is the human, their personality, high purpose, and right to free self-realization. Humanism determines the liberation of human possibilities, their well-being as a criterion for evaluating social institutions, and humanity as the norm of relations between individuals, ethnic and social groups, states [13, p. 134]. Humanism as a feature of world culture has enriched ethical thought by recognizing the intrinsic value of human and earthly life. From here, the idea of happiness, justice, and equality of people gradually developed [14, p. 6].

There are many philosophical definitions of humanism. One of them defines humanism as the recognition of the value of human personality, their right to free development and manifestation of their abilities, the right to freedom and happiness, affirming human well-being as a criterion for evaluating social relations [15, p. 14].

Without aiming to study the history of this phenomenon's development, we'll just note that the most successful attempt to penetrate its essence is the dialectical opposition with its antipode - anti-humanism. Anti-humanism is, above all, restrictions that prevent the growth of creativity above the level considered usual in culture and society. It appears in the form of prohibition on innovations, in proclaiming the value and inviolability of certain dogmas. The specific content of human history constantly contains different directions of people. The history of humanity can be viewed as a history of the struggle between freedom and non-freedom, slavery, creativity - with its historical limitations. And the most important element of the content of the historical process is precisely the struggle between humanism and anti-humanism [16, p. 6].

According to S. Pohrebniak, in its essence, humanism is a worldview centered on the idea of human as the highest value, an ideology that focuses primarily on the positive aspects of humans while recognizing their negative aspects that require control and limitations. In the most generalized form, humanism is a philosophical, ethical, and natural-law principle that gives human the status of absolute value [17, p. 33]. At the same time, the cited scholar correctly notes that higher humanitarian principles, determined by the essence of society and human aspiration for a high, dignified position, are realized primarily in the values of natural law. However, the researcher notes, humanism, along with freedom, justice, and equality, is undoubtedly also one of the main principles of positive law. This must be taken into account during the creation, implementation, application, and interpretation of legal norms [17, p. 34-35].

The fundamental nature and universal recognition of the principle of humanism is determined by the system of its imperatives and sub-imperatives, its structural components. When considering the formal and practical aspects of implementing the principle of humanism, we inevitably face the problem of its polystructurality, because the implementation of this principle involves the need to implement its components [18, p. 25].

One of the components, in our view, is the state of the society's moral level; achieving the highest development of society is directly related to the level of development of a member of such society, a citizen, an official, etc. In a society with a high level of morality and ethics, it doesn't matter whether these rights are formalized or not, because the realization of human rights in such a society is natural [19, p. 35].

However, it should be noted that the category of humanism is not new. Even during the Soviet Union, the existing socialist law was considered the most humane law in the world, as socialism was seen as the most progressive world phenomenon. Soviet scholars saw the humanism of Soviet law primarily in the elimination of class and social antagonisms, as well as in the formally proclaimed fundamental rights and freedoms of Soviet citizens in all Soviet constitutions [6, p. 30].

5. Conclusions.

Humanism, as a legal category, is a worldview that considers human as the highest, self-sufficient, and self-aware value. Humanism expresses an attitude towards humans from at least two sides: it recognizes the social value of human personality and rejects everything incompatible with such an assessment. Therefore, humanism is a certain moral requirement for human behavior, that is, a certain category of moral recognition of human as the highest social value in the state.

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ECOLOGICAL AND CULTURAL NICHES IN THE ENVIRONMENTAL EDUCATION. LEGAL CONNOTATIONS

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Annotation. The human being is the only species in the Universe holding two existential niches: a cultural one, and an ecological one. Along the humankind development, the most often objectives were survival, fulfilling one's needs and the quality of life. To achieve these goals, the cooperation between the two niches is mandatory, due to the humankind's double nature, biological and spiritual. In this context, the process of environment education cannot be other than an integrated one, relying on training and self-training, and the environment community law has to enter into the EU efforts of implementing the "European Green Deal" which implies the achievement of the climate neutrality by 2050.

Key words: integrated environment education, sustainable development, cultural niche, European Green Deal

1. Introduction.

The humankind is in the paradox depressing situation of being the only mammal who destroys its own habitat [4]. However, the human being is the only species different from the other living beings by the skill to create culture. Therefore, the human is the only species possessing two existential niches: the ecological one, and the cultural one. Knowledge, science, and culture are characterised nowadays by an extraordinary dynamism, and this represents a real challenge to the environment education and to the contemporary law [1].

2. Material and method.

The material for this paper was the Questionnaires for environment education and for entertainment. Sample groups were formed of students, pupils and teaching staff from the preschool and school education. The questionnaires have been addressed during various actions taken to promote the "Lunca Muresului" Natural Park. An 1-4 assessment scale was applied for each question.

To know the current state of knowledge, we appealed to the method of information, scientific documentation, and the study of the juridical literature.

3. Results and discussion.

The most claimed goals found in the most recent definitions of the sustainable development concept are: survival, requirements compliance, human species welfare. To achieve the three goals, the "ecological niche" is primordial.

Nowadays, most environmentalists rule the "ecological niche" according to three aspects: trophic niche, spatial niche, multidimensional niche [5]. It is obvious that this niche provides for the survival of the humankind, but the human is characterised by its spiritual nature, besides the biological one.

Therefore, next to the “ecological niche”, the cultural niche represents an outstanding doubling of natural information, mostly genetical one, absolutely required for a species characterised by conscience [7].

After millennia of culture, the “cultural niche” comes to us in a complex architecture of unbalanced variety. Examining the development of “mankind’s cultural niche” while, even consider the human environment, we might claim that it possesses four distinct bases interconnected by a secret transfusion even if our statements might be opposed for. Metaphorically speaking, from these bases, four cultural pillars arose and were built in time, pillars that hold a cupola crossed by diverse “spiritual frescas” trying to render us an incomplete and pale image of the Universe.

Of these four pillars, two arose in the early hours of the human kind, even before the genesis and achievement of writing, and the other two came with the logical order of thinking, greatly conditioned by the writing. The “cultural niche” settled down by itself as soon as the strengthening of the pillars growth and development inserted itself in a quasi-infinite continuum. In its general shape, this structure on four pillars embraced by a cupola can be found in all evolved types of culture which we know. The presence of a general layout of structure of the “human kind cultural niche” in all the cultures leads us to think on the need of its existence in similar shapes for all times and areas where human beings lived.

The analogy between the ecological and the cultural niche make clear that we are placed in a multidimensional cultural area. Some thought, mostly in the area of the humanist culture, that arts and religion might oppose to natural sciences and ecology.

We regard each culture as having its significance and that they can be complementary.

Regarding the religious culture, the relation between the human being and God, between the human being and spirituality overall, nowadays the matter of the moral value and belief must be approached according to the huge successes registered by the scientific research in the field of the life sciences.

The philosophical-religious treasure of the first Christianity centuries secured for the setting up of some perennial moral values, but the danger of science without conscience is the great danger of the 3rd Millennium.

The integrated environment education, based on training and self-training, is called to address all these challenges.

The educational curriculum and the contents of the education reconfigured regularly according to the new values arising from culture and other fields of knowledge. [6]

If, in ecology, meta-ecology imposes, we believe that, in education as well, meta-cognition might guide the process of personality modelling into a society with bursting quality and quantity changes.

Essentially, meta-cognition is the return to oneself, being actively involved in learning, questioning concerning our success and in the importance of our deeds [2].

Synergically, etymologically as well, meta-ecology and meta-cognition allow for the structuring of intelligence and may be conjugated into actions of learning the behaviour ecological norms.

Reviewing the results of the Questionnaires for environment education and for entertainment achieved in the “Lunca Muresului” Natural Park, we mention that over 80% of the interviewed pupils assessed with “well” and “very well” that way how they were getting familiar on the ground, in the natural park, by playing games on how the trees participate in the nature great cycles: the water, the oxygen, and carbon dioxide cycles. High percentage, over 90%, were noticed at the entertainment questions on the growth in appetite, intellectual and physical labour productivity in students and professors as result of some workshops and activities in the woods surrounding Arad.

The cultural activities such as open air festivals were well appreciated as well (i.e. Rock Maris, folk festivals at Bata and Pecica, literary workshops in Savarsin, Santana, etc.) which provide for additional environmental education.

Lower percentage, below 50%, was noted in the questions asked to the students on the newly-launched EU concepts due to their efforts of implementing the “European Green Deal”: climate neutrality, environment dumping, environmental revolution.

4. Conclusions.

If the technical sciences illustrate the practical spirit of human thinking, the ecology is the science of global thinking as there is no other science to express itself more clearly in favour of the interdependence and dynamic balance. The efficiency of the worldwide environmental policies relies on the quality of the environment education of the decision-making bodies [3].

For the achievement of the climatic neutrality until 2050 to be a realistic goal, we believe that the efforts of the environment community structures must identify new financial and juridical mechanisms appropriate for the model of sustainable development. It is also required to align the environment legislation from all EU countries as phenomena such as environment dumping of the 90's were caused precisely by the incomplete environment law from some Central and East European countries [1]. This paper was intended to be a justifying plead for a model of integrated environment education, based on training and self-training, with cooperation between the two niches – the ecological and the cultural ones, the culture being defined as a learnt behaviour.

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REGULATORY AND LEGAL SUPPORT OF TAX POLICY IN TRANS CARPATHIA IN 1944-1946

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Annotation. A study of normative legal acts adopted by the People's Council of Transcarpathian Ukraine in the period 1944-1945 aimed at forming the tax system of Transcarpathian Ukraine was conducted. The structure of the financial and tax authorities of the region, their powers, the system of state and local taxation was studied, which allows us to draw certain conclusions about the state and legal direction of Transcarpathian Ukraine.

Key words: Transcarpathian Ukraine, tax system, finance, legislation.

1. Introduction.

The taxation activity of the state is an important economic factor, and therefore, tax systems of different countries are the subject of theoretical and practical discussions aimed at developing concepts for the formation of effective tax mechanisms. This issue is also relevant for Ukraine. From this point of view, the study of regulatory and tax traditions of different regions of Ukraine will allow to create a tax system that is maximally adapted to the historical traditions of the Ukrainian people. Based on this, Transcarpathia is of significant scientific interest - the territory that at the end of the Second World War underwent a process of reformation from the democratic system of the Czechoslovak Republic, through the Hungarian fascist regime of M. Horthy, to the Soviet totalitarian system. It was during this period, from the autumn of 1944 to the end of 1945, that an administrative-territorial entity called "Transcarpathian Ukraine" existed on the territory of the region. A number of scientists have been engaged in its research for a long time, among whom, first of all, M. Makara, P. Stercho, P. Magochia, P. Mosny and others can be noted [1]. However, when studying this issue, the authors focused on general historical facts, leaving aside certain legal aspects.

2. The purpose of this article is a general analysis of normative legal acts adopted by the People's Council of Transcarpathian Ukraine with the aim of ensuring an effective tax policy in the territory of the region as a basis for the functioning of the entire national economy.

3. Presentation of the research material.

In times of war, all countries try to directly control the activities on which the existence of state structures depends. This was the situation in Transcarpathia in 1944-1946, and therefore the People's Council of Transcarpathian Ukraine (hereinafter referred to as the PCTU), as the highest state body in this territory, paid considerable attention to the problems of taxation, as well as the formation and operation of financial and tax authorities.

Already in December 1944, normative acts aimed at ensuring tax revenues to the budget of Transcarpathian Ukraine began to be adopted. The first such document was Decree No. 26 of 21.12.1944 "On the Collection of Taxes, Fees, Duties, Excise Duties and Other Public Contributions" [2, p. 16]. However, at the first stage, such acts were episodic and did not create a single centralized system. Therefore, in 1945, the People's Council began planned activities to create a comprehensive tax system. All state bodies of PCTU participated in

financial activities, but the scale of their financial activities and the degree of participation in it were different due to differences in the tasks and legal status of each of these bodies in particular.

The financial and tax authorities were created by the Resolution "On the Organisation of Financial Bodies" adopted by the People's Council of Transcarpathian Ukraine on 12 April 1945, which approved the Regulation on Financial Bodies [3, p. 95-96].

The structure of the financial and tax authorities of the region consisted of:

- Financial Department of the People's Council of Transcarpathian Ukraine;
- Separate financial departments in district centres;
- People's Bank of Transcarpathian Ukraine.

Heads of district financial departments, the head of the People's Bank and heads of branches of the People's Bank were appointed by the chairman of the People's Council of Transcarpathian Ukraine on the proposal of the Commissioner for Finance, and all other employees of financial institutions were appointed by the Commissioner for Finance alone. At the same time, all financial institutions were independent of the District and City People's Committees.

The main financial body in Transcarpathia was the financial department of the People's Council, whose first head was Dr Yurii Ivashko. The task of the main financial department was to carry out effective taxation activities, the main purpose of which was to form the material basis for the implementation of state functions.

The financial department was responsible for:

- a) senior management of financial bodies;
- b) management of income and expenses, management of all property of Transcarpathian Ukraine, as well as state funds, if they were not subordinated to other departments of PCTU according to individual decrees or resolutions;
- c) managing the alienation of state property;
- d) preparing and implementing the budget of the Transcarpathian Ukraine together with the Accounting Department of PCTU, as well as supervising its implementation by the authorities;
- e) ensuring foreign exchange and other monetary transactions, managing public credit and debts, participating in the nationalisation of banks that remained after the Hungarian occupation;
- f) management of tax policy in the country, settlement of all issues related to taxes, duties and excises;
- g) liquidation of all property relations of Transcarpathian Ukraine with Hungary and Czechoslovakia;
- h) consideration of cases in which it is permissible to appeal against decisions of individual financial departments;
- i) resolving and reviewing cases that belonged to the jurisdiction of the Commissioner of PCTU in financial matters.

The structure of the Financial Department consisted of sections (departments), in particular:

- a) presidium;
- b) section of direct state taxes and turnover tax;
- c) stamp and legal fees section;
- d) department of excises and customs duties;
- e) section of land taxes;
- f) section of banking and currency affairs;

g) department of local budgets.

For the direct implementation of the state financial policy, separate financial departments were organized at all district centers. Their powers included:

- a) collection and use of all state taxes and fees, collection of fines, imposition of other financial penalties;
- b) assignment and calculation of tax duties, calculation of fines and penalties for violation of laws and orders of state authorities;
- c) keeping records of taxpayers, tax and other charges;
- d) control over taxpayers in the area of timeliness and amount of tax payments, correctness of tax returns;
- e) supervision of municipal authorities for compliance with the limits of use local budgets.

To ensure financial and banking operations, the People's Bank was created with its center in Uzhhorod, which was subordinated to the Commissioner of the Financial Department of PCTU.

The main tasks of the Bank were defined as follows:

- a) conducting financial and currency transactions;
- b) liquidation of nationalised banking institutions in Transcarpathia.

In order to fulfil its tasks, branches of the People's Bank were established in the district centres, which were subordinated to the central office.

Of course, the activities of all financial bodies, first of all, focused on tax collections, the task of which was to ensure the financing of public expenditures.

Therefore, on 20 April 1945, Decree No. 53 "On the Establishment of State and Local Taxes and Fees" was approved, which abolished all Hungarian laws on taxation and established new fees in Transcarpathian Ukraine. The formation of the new system was based on the principle of territoriality, so all taxes were divided into state and local [4, p. 101–112].

The main state taxes include:

a) personal income tax. The object of taxation included wages of citizens of Transcarpathian Ukraine, as well as all other incomes of the population. One-time bonuses and rewards, holidays and other benefits were not subject to taxation. The amount of income tax, depending on the salary received, could range from 3 to 12 per cent of earnings. Pensioners, employees earning less than the minimum wage (200 pengé), heroes of the Soviet Union, and state prize laureates were exempted from paying income tax. In addition, the Commissioner of the People's Council could establish additional benefits for certain categories of the population.

b) income tax on cooperatives and public organisations.

The following were taxed:

- organisations and enterprises of all co-operative systems;
- enterprises and economic bodies of public organisations (trade unions, voluntary associations) that carried out production economic activities, as well as rest homes, sanatoriums, clubs, cultural centres, etc;
- industrial and economic artels and joint-stock companies;
- private insurance companies;
- credit societies and savings banks;

Newly established enterprises that worked on local raw materials and economic enterprises owned by parties and public organisations (publishing houses, sanatoriums, rest homes, etc.) were exempted from the tax. Income tax was calculated on the sum of the profit and the percentage of profitability of enterprises or organisations.

c) turnover tax on individuals and enterprises. The following amounts were to be collected:

- turnover of movable property;
- various services;
- export of goods abroad.

Services and turnover of movable property of an official, charitable and educational nature, services and turnover of movable property of state institutions were exempted from taxation; The Commissioner for Financial Affairs of PCTU was given the right to establish additional benefits in order to support certain economic interests.

The payers of this tax were entrepreneurs who carried out independent permanent or periodic profitable activities.

The amount of the tax could vary from 2 percent of revenues (food transactions) to 20 percent (alcoholic beverage transactions).

d) turnover tax on state, municipal and cooperative enterprises. This tax was paid according to a similar procedure to the previous type, applied to state and municipal enterprises, enterprises of all cooperative systems and public organisations, and was paid in the amount of 1 to 15 per cent.

The system of state taxes also included land tax and rent tax, the procedure for payment of which was determined by a separate procedure. An interesting state levy was also the tax on excess wartime profits. This tax was levied on trade speculators, agents, intermediaries and other entrepreneurs who used wartime conditions to make excessive and easy profits and increase their capital. Excessive and easy profit was considered to be the profit of various trade or entrepreneurial activities, which exceeded the normal amount of commercial and entrepreneurial profit by at least 10%. This tax was determined simultaneously with the income tax in the amount of 10% of profits [4, p. 106-107].

In addition, in the territory of Transcarpathian Ukraine, special payments related to the provision of certain services also operated in the tax collection system. These included:

1) a single state duty, the payment of which was collected from the actions of state bodies, as well as for the execution of state documents. Such actions and documents included lawsuits, cassation appeals, issuance of court orders, certification of contracts and wills, copies of documents, facts and circumstances, other notarial and court documents [5, p. 18-19].

2) fees for grain milling and oil production [6, p. 86–88].

Along with state taxes and duties, the People's Council of Transcarpathian Ukraine created a fairly extensive system of local fees. It included: tax on buildings; land rent; tax on entertainment events; tax on vehicle owners; market tax; tax on livestock owners and some others.

The sums received for the payment of state taxes, except for the land and income tax from the cooperative, were credited to the budget of PSTU, and the sums received from the payment of local taxes and fees, as well as the state land tax and income tax from the cooperative were credited to the budget of the relevant district, city and village people's committees.

Local people's committees were forbidden to introduce and collect taxes and fees not provided for by the main Decree, as well as to increase the rates of taxes and fees.

The taxpayers were registered on the basis of applications and other certificates of the taxpayers themselves and their declarations. In addition, the objectivity and comprehensiveness of such accounting was ensured by the materials of state inspections of enterprises and organisations, for which tax officials were granted free access to the taxpayers' premises and the right to request accounting documents and other materials.

The effective functioning of the tax system was secured by the creation of an extensive system of punitive measures, primarily through the application of administrative and criminal legislation. The most typical violations and penalties in the financial sector were defined:

- 1) non-payment or incorrect payment of tax and duties by taxpayers, which resulted in an administrative fine of 20 to 1,000 pengé.
- 2) failure to submit a tax return within the appropriate timeframe resulted in a fine of 10% of the tax amount.
- 3) failure to submit tax returns was punishable by a fine of 25% of the tax amount or criminal liability.
- 4) the submission of intentionally incomplete or incorrect data and information in declarations and other reports was subject to criminal prosecution.

Administrative fines and criminal liability for non-payment or concealment of tax were entrusted to the heads of district financial departments.

4. Conclusions.

Thus, during 1944-1945, an extensive taxation system was created in Transcarpathia, which allowed to meet the urgent needs of the national economy of the region in the last period of the Second World War and to ensure relatively normal financing of the state system. At the same time, a full analysis of the regulatory framework aimed at ensuring tax revenues allows us to note a certain social orientation, which manifested itself in the possibility of obtaining a number of benefits and easing the tax burden for certain segments of the population.

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POLICY OF THE EUROPEAN UNION IN RELATION TO UKRAINE

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Annotation. The *aim of the work* is comprehensive analysis of the state of bilateral relations between Ukraine and the European Union at the stage after the opening of the accession negotiation process.

The *methodological basis of the study* official websites of specialized institutions in Ukraine and the European Union, laws, analytical reports, articles by other scientists, etc.

Results. In April 2024, the European Commission issued a Proposal for a Council Implementing Decision on the approval of the assessment of the Ukraine Plan. This Plan, in addition to the provisions on the reconstruction of Ukraine and financial support, also contains other important provisions. Yet, the document contains a reform plan that must be implemented by Ukraine. In general, the Ukraine Plan proposes 69 reforms and 10 investments accounting for 146 qualitative and quantitative steps. These reforms are based on 15 key sectors, which also cover sectors of the EU acquis. Sectors in which it is necessary to attract investments are additionally selected. An important feature of this Plan is also the fact that the number of steps necessary for the implementation of these reforms is determined.

An important feature of each of these reforms is that it takes into account the EU acquis. For example, the goal of the Public Administration reform cluster is strengthening the capacity and efficiency of the Ukrainian administration and the gradual alignment of the rules, standards, policies, and practices with the EU acquis. Accordingly, the introduction of certain reforms has a positive effect on Ukraine's implementation of the EU acquis in domestic legislation. It was found that out of 33 clusters of the EU acquis, the implementation of reforms will have broad alignment with recommendations in the 2023 Enlargement Report for 14 clusters. Another 11 clusters will be partially approximated.

Conclusions. As a result of the study, it was found that the European Union actively helps Ukraine in its European integration aspiration. Thus, in April 2024, the Proposal for a Council Implementing Decision on the approval of the assessment of the Ukraine Plan was presented. In addition to the provisions on the reconstruction of Ukraine, this report contains a reform plan that must be implemented by Ukraine in order to bring domestic legislation as close as possible to the EU acquis.

Key words: European Union, Ukraine, enlargement, implementation, progress, negotiation, association, agreement, area.

1. Introduction.

Bilateral relations between Ukraine and the European Union in recent years, and especially after the full-scale Russian invasion of Ukraine, have been characterized by dynamism. Thus, in 2022, Ukraine received the status of a candidate for membership in the European Union. However, this status was granted on condition of implementation of the reforms, which consisted of seven points. Already a year and a half after this event, the European Council decided to start negotiations on Ukraine's accession to the EU. In view of the above-mentioned provisions, the study of the state of Ukraine-EU relations at the current stage is actual.

2. Analysis of scientific publications.

Separate aspects of the study of this issue were considered by significant number of scientists, including N. MacFarlane, A. Menon, J. Sherr, G. Van der Loo, P. Van Elsuwege, M. Roth, V. Samokhvalov, T. Gehring, K. Urbanski, O. Yatsenko, V. Nitsenko, N. Karasova, S. Costea, B. Jarabik, G. Sasse, N. Shapovalova, T. Kuzio, H. Haukkala, O. Shumylo, M. Rabinovych, O. Spiliopoulos, P. Rieker, K.L. Gjerde, D. Cardier, R. Dragneva, K. Wolczuk, T. Valasek, K. Raik, K. Kubicek, C. Nitoiu, B. O`Loughin, A. Miskimmon etc.

3. The aim of the work is a comprehensive analysis of the state of bilateral relations between Ukraine and the European Union at the stage after the opening of the accession negotiation process.

4. Review and discussion.

In April 2024, the European Commission issued a Proposal for a Council Implementing Decision on the approval of the assessment of the Ukraine Plan. This Plan, in addition to the provisions on the reconstruction of Ukraine and financial support, also contains other important provisions. Yet, the document contains a reform plan that must be implemented by Ukraine. In general, the Ukraine Plan proposes 69 reforms and 10 investments accounting for 146 qualitative and quantitative steps. These reforms are based on 15 key sectors, which also cover sectors of the EU acquis. Sectors in which it is necessary to attract investments are additionally selected. An important feature of this Plan is also the fact that the number of steps necessary to implement these reforms is determined (Table 1).

Table 1. Reforms defined in accordance with the Ukraine Plan

Chapter	Reforms		Investments		Total quantity steps for reforms and investments
	Quantity of reforms	Quantity of steps	Quantity of investment	Quantity of steps	
Total	69	130	10	16	146
Public Administration Reform	3	5			5
Public Financial Management	5	9			9
Judiciary	4	14			14
Fight Against Corruption and Money Laundering	3	10			10
Financial Markets	4	6			6
Management of Public Assets	4	9			9
Human Capital	9	11	5	8	19
Business Environment	6	9	1	2	11
Decentralisation and Regional Policy	3	6	1	2	8
Energy Sector	7	17	1	1	18
Transport	4	6	1	1	7
Agri-Food Sector	6	8	1	2	10

Management of Critical Raw Materials	3	6			6
Digital Transformation	2	4			4
Green Transition and Environmental Protection	6	10			10

Source: [1]

An important feature of each of these reforms is that it takes into account the EU acquis. For example, the goal of the Public Administration reform cluster is strengthening the capacity and efficiency of the Ukrainian administration and the gradual alignment of the rules, standards, policies, and practices with the EU acquis. Accordingly, the introduction of certain reforms has a positive effect on Ukraine's implementation of the EU acquis in domestic legislation.

Out of 33 clusters of the EU acquis, the implementation of reforms will have broad alignment with recommendations in the 2023 Enlargement Report for 14 clusters. Another 11 clusters will be partially approximated with the cluster recommendations specified in the 2023 Enlargement Report (Table 2).

Table 2. The impact of the reforms defined in the Ukraine Plan on the recommendations for Ukraine in the 2023 Enlargement Report

Chapter in the Ukraine Plan	Cluster (chapter) defined in the 2023 Enlargement Report	Degree of alignment
1. Public Administration Reform	cluster 1: Functioning of the democratic institutions and public administration reform	●
2. Public Financial Management	cluster 1: Functioning of the democratic institutions and public administration reform	●
	chapter 16 Taxation	○
	chapter 17 Economic and monetary policy	○
	chapter 29 Customs union	○
	chapter 32 Financial control	○
	chapter 33 Financial and budgetary provisions	●
3. Judiciary	chapter 23 Judiciary and fundamental rights	●
4. Fight against Corruption and Money Laundering	chapter 4 Free movement of capital	○
	chapter 23 Judiciary and fundamental rights	●
	chapter 24 Justice, Freedom and Security	●
5. Financial Markets	chapter 9 Financial services	●
6. Management of Public Assets	chapter 8: Competition policy	○
7. Human Capital	chapter 19: Social policy and employment	○
	chapter 26: Education and culture	●
8. Business Environment	chapter 5: Public procurement	○
	chapter 20: Enterprise and industrial policy	●
9. Decentralisation and Regional Policy	chapter 22: Regional policy and coordination of structural instruments	○
10. Energy Sector	chapter 15: Energy	●
11. Transport	chapter 14: Transport	●
	chapter 21: Trans-European Networks	○
12. Agri-Food Sector	chapter 11: Agriculture and rural development	●

13. Management of Critical Raw Materials		○
14. Digital Transformation	chapter 10: Digital transformation and Media	○
15. Green Transition and Environmental Protection	chapter 27: Environment and climate change	●
chapters 2, 4, 5, 7, 8, 10, 11	cluster 1: Economic criteria	●

Notes: ● broad alignment with recommendations in the 2023 Enlargement Report;

○ partial alignment with recommendations in the 2023 Enlargement Report.

Source: [1]

Another important component in bilateral relations between Ukraine and the EU is the Association Agreement. In March 2024, during the 9th meeting of the Ukraine-EU Association Council, the Report on the implementation of the Association Agreement between Ukraine and the EU for 2023 was presented.

Thus, the progress of the implementation of the Agreement for 2023 increased by 5% compared to 2022. Most of the requirements were met in the Consumer Protection sector, where compared to 2022, the increase in the fulfilment of obligations was 66%. It is also worth noting that there were no changes in some areas: Financial Cooperation and Combating Fraud, Public Finance Management, Statistics and Information Exchange during the year (Table 3).

Table 3. Status of implementation of the Association Agreement 2015-2023

Area	2015-2020	2021	2022	2023
<i>Overall progress in implementation of the Association Agreement by areas</i>	54%	63%	72%	77%
Political Dialogue, National Security and Defence	89%	89%	89%	91%
Justice, Freedom, Security and Human Rights	85%	88%	91%	92%
Technical Barriers to Trade	85%	86%	87%	89%
Humanitarian Policy	84%	89%	91%	94%
Public Procurement	83%	86%	88%	89%
Entrepreneurship	81%	85%	88%	89%
Public Finance Management	74%	74%	90%	90%
Education, Trainings and Youth	69%	81%	86%	94%
Statistics and Information Exchange	68%	84%	96%	96%
Energy Efficiency and Housing and Utility Infrastructure	63%	70%	75%	78%
Taxation	60%	84%	88%	89%
Sanitary and Phytosanitary Measures	60%	64%	72%	82%
Intellectual Property	54%	61%	94%	98%
Environment and Civil Protection	50%	61%	77%	80%
Public Health	47%	64%	66%	78%
Science, Technology and Innovations, Space	46%	52%	60%	68%
Energy	45%	58%	75%	78%
Customs Matter	44%	52%	60%	61%
Agriculture	42%	52%	63%	70%
Consumer Protection	42%	48%	48%	80%
Social Policy and Labour Relations	40%	45%	54%	79%
Financial Services	36%	62%	67%	68%
Transport, Transport Infrastructure, Postal and Courier Services, Digital Integration	35%	47%	53%	56%
Financial Cooperation and Combating Fraud	24%	24%	24%	24%

Source: compiled by the author according to [2, 3, 4, 5].

Various authorities are responsible for the implementation of the Agreement. Thus, for the period from 2014 to 2023, the Cabinet of Ministers of Ukraine implemented 75% of the measures, the Verkhovna Rada of Ukraine – 64%, and other authorities – 62%.

5. Conclusions.

Therefore, the European Union in its policy actively helps Ukraine in its European integration aspiration. Thus, in April 2024, the Proposal for a Council Implementing Decision on the approval of the assessment of the Ukraine Plan was presented. In addition to the provisions on the reconstruction of Ukraine, this report contains a reform plan that must be implemented by Ukraine in order to bring domestic legislation as close as possible to the EU acquis. What is important is that out of 33 clusters of the EU acquis, the implementation of reforms will have broad alignment with recommendations in the 2023 Enlargement Report for 14 clusters, and 11 clusters will be partially aligned with the recommendations for clusters specified in the 2023 Enlargement Report. Ukraine is also working on fulfilling EU requirements. In particular, during the year, Ukraine fulfilled its obligations under the Association Agreement by 5%. The largest number of requirements compared to 2022 was fulfilled in the Consumer Protection sector.

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ADMINISTRATIVE LIABILITY FOR VIOLATION OF LEGISLATION IN THE FIELD OF VOLUNTEERING

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Annotation. The article analyzes the peculiarities of administrative liability for violating legislation in the field of volunteer activities. It is established that administrative liability is one of the forms of legal liability, providing for a negative response of the state, represented by its authorized bodies, to an administrative offense (misdemeanor), imposing an administrative penalty as determined by law on the guilty subject. The author examines the main grounds for administrative liability in the field of volunteer activities, and as a result, it is established that the Law “On Volunteer Activities” does not regulate this issue in detail, unlike the provisions of the Law “On Charitable Activities and Charitable Organizations”.

The author establishes that the main administrative offenses in the field of volunteer activities are those enshrined in Chapter 12 of the Code of Administrative Offenses, i.e., those provided for in Articles 155-166²⁸ of the Code of Administrative Offenses. Additionally, there are categories of administrative offenses in the field of taxation and financial reporting provided for in Articles 155¹, 163¹ and 163¹⁶ of the Code of Administrative Offenses. Furthermore, administrative liability of entities in the field of volunteer activities may also arise in case of violation of customs rules, as provided for in Article 472 of the Customs Code of Ukraine.

Having analyzed the main statistical indicators of the detection of administrative offenses under Articles 155-166²⁸ of the Code of Administrative Offenses, as well as the individuals who committed them, it was found that there is a tendency to increase their number. At the same time, the number of cases of administrative offenses under Article 472 of the CCU has significantly decreased since the beginning of the full-scale invasion, which may be due to the difficulty of detecting this category of offenses, especially in border regions.

Key words: administrative liability, administrative offense, administrative penalty, charitable organizations, volunteer activities.

1. Introduction.

After the beginning of the full-scale invasion of Ukraine, volunteer movements in our country have significantly intensified to provide humanitarian, medical and other types of assistance to military personnel, internally displaced persons and victims of Russian aggression. At the same time, as in any field, there is abuse of the opportunities provided by the status of a volunteer, and therefore the issue of bringing the perpetrators to legal responsibility, including administrative responsibility, becomes relevant. Despite the fact that Article 13 of the Law of Ukraine “On Volunteer Activity” provides for liability for violating legislation in the field of volunteer activity, this provision is a reference, which requires additional research of other legislative acts.

2. Analysis of scientific publications.

Certain aspects of administrative liability for violating legislation in the field of volunteer activity have been the subject of research by some domestic scholars, among whom we can single out the works

of such scholars as K. M. Gurtova, N. O. Derkachova, I. V. Mazy, V. S. Sirko, and others. However, so far, the scientific literature has not presented a single comprehensive study of administrative liability for violating legislation in the field of volunteer activities, and this is the reason for the relevance of our article.

3. The aim of the work.

The aim of the work is to study administrative liability for violating legislation in the field of volunteer activity from the perspective of analyzing statistical data of the National Police of Ukraine in the field under study.

4. Review and discussion.

The Law of Ukraine "On Volunteer Activity" is the main legislative act that regulates relations arising in the field of volunteer activity in Ukraine. According to Article 13 of the Law, volunteers, institutions and organizations that engage volunteers in their activities, as well as recipients of volunteer assistance, are liable in accordance with the law. In addition, similar provisions are enshrined in part four of Article 5 of the said legislative act [1].

A more extensive list of forms of legal liability for violations in the field of charitable activities is provided in Article 27 of the Law of Ukraine "On Charitable Activities and Charitable Organizations". The provisions of this rule stipulate that subjects of charitable liability, officials of executive authorities and local self-government bodies bear civil, administrative, disciplinary and criminal liability [2].

In the legal scientific and educational general theoretical literature, there is no unanimity of views regarding the necessary grounds for legal liability. From the point of view of L. I. Kalenichenko, legal liability is a negative measure provided for by law and implemented in a procedural form by specially authorized subjects, which is applied to the subjects of an offense in the presence of legally defined grounds [3, p. 16].

One of the forms of legal liability is administrative liability, which acts as a specific form of negative response by the state represented by authorized bodies to the relevant category of unlawful acts (primarily administrative offenses), and the perpetrators of these offenses must answer to the authorized state body for their illegal actions and incur administrative penalties in the forms and manner prescribed by law [4, p. 175].

Pursuant to Article 9 of the Code of Ukraine on Administrative Offenses (hereinafter - the Code), an administrative offense (misdemeanor) is an unlawful, culpable act that encroaches on public order, the rights and freedoms of citizens, property, and the established management procedure, for which the current legislation provides for administrative liability. At the same time, the condition for bringing to administrative liability is that they should not form the elements of a criminal offense by their nature [5].

When studying the issues of administrative liability in the field of volunteering, they can be committed in various industries, including trade, services, catering, business and finance, which are enshrined in a separate section of the CUAO, namely Chapter 12 of the Code (Articles 155-166²⁸ of the CUAO) [5]. According to the statistics provided on the official web portal of the National Police of Ukraine, in 2023, the police revealed the facts of committing 41,324 administrative offenses under the above articles, as well as 34,856 persons who committed them. At the same time, in 2019, this figure was significantly lower – 25,827 detected administrative offenses and 21,412 persons who committed them [6].

The dynamics of administrative offenses under Articles 155-166²⁸ of the Code of Administrative Offenses is shown in more detail in Figure 1.

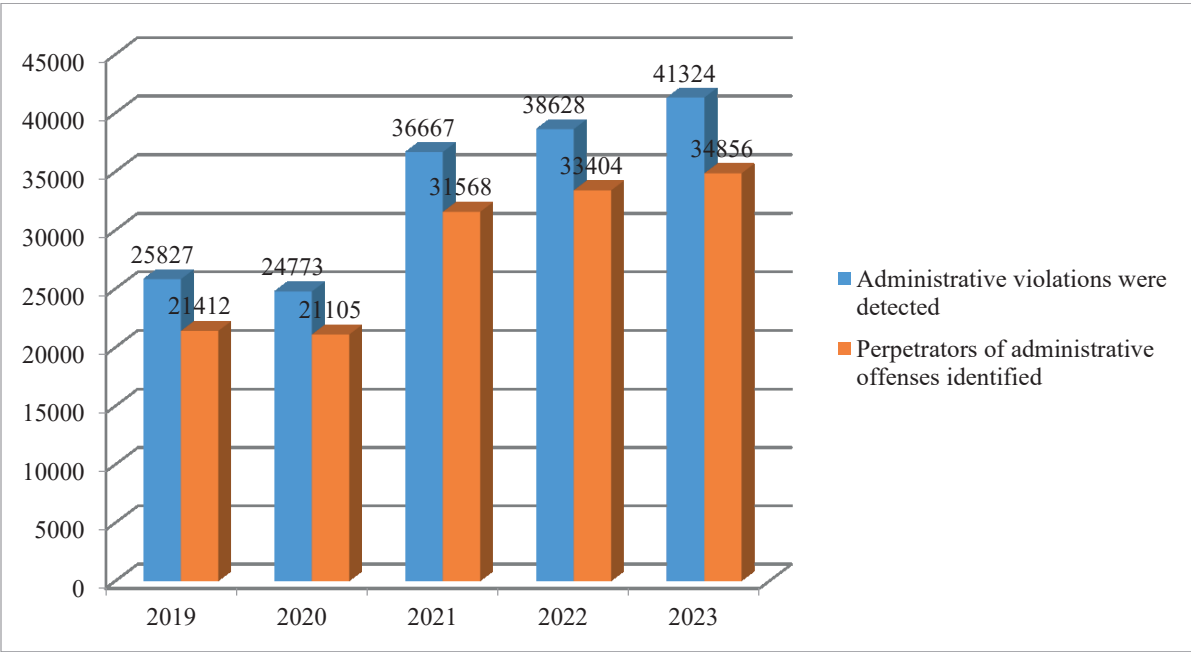


Fig. 1. Indicators of administrative offenses under Articles 155-166²⁸ of the Code of Administrative Offenses (2019-2023) [6].

An analysis of the information presented in Figure 1 shows that since 2021, there has been a significant increase in the detection of administrative offenses under Articles 155-166²⁸ of the Code of Administrative Offenses. Thus, in 2021, the number of detected administrative violations increased by more than 10 thousand cases and continues to increase under martial law in 2022-2023. Given that in the temporarily occupied territories and areas of active hostilities it is virtually impossible to detect and record the facts of offenses (latent offenses), it can be argued that these indicators are based on data from the territories controlled by the Government of Ukraine. Also, these figures may have been influenced by the intensification of volunteer activity at the beginning of the full-scale invasion of Ukraine by Russia.

In addition, the statistics provided cannot clearly determine the number of administrative offenses committed by volunteer organizations, which makes it impossible to formulate and analyze an objective situation in the field under study.

Article 27 of the Law of Ukraine “On Charitable Activities and Charitable Organizations” provides that the grounds for bringing charitable organizations to liability, which is carried out exclusively upon request of the state registrar of the authorized body for state registration or other interested persons, are as follows: use of income or assets of a charitable organization in violation of the requirements for charitable activities established by law for twelve months or more; inability to ensure the independent liquidation or reorganization of a charitable organization in cases established by the provisions of the legislation or the charter; conviction of authorized persons of a charitable organization for committing a criminal offense, liability for which is provided for in Article 111¹ of the Criminal Code of Ukraine [2].

Pursuant to Articles 7 and 23 of the Law of Ukraine ‘On Charitable Activities and Charitable Organisations’, the following entities may be held legally liable: persons who hold public charity fundraisers in favour of a charitable organisation on their own behalf in case of violation of the terms of the agreement (contract) or the procedure for using donations as defined by the provisions of such agreement; persons who make public charitable collections for the benefit of other beneficiaries, except for charitable organisations, to benefactors and beneficiaries in case of breach of contract; members of governing bodies of charitable organisations to the charitable organisation [2].

In addition, volunteer organisations with the status of a legal entity are obliged to comply with the requirements of tax legislation, for violation of which authorised tax authorities may draw up a protocol

on administrative offences under the following articles: violation of the procedure for making payments in the field of trade, catering and services established by law (Article 155¹ of the Code of Administrative Offences); violation of the procedure for keeping tax records, providing audit reports (Article 163¹ of the Code of Administrative Offences); violation of the procedure for disclosure of financial statements or consolidated statements (Article 163¹⁶ of the Code of Administrative Offences) [5].

According to the analysis of court rulings on administrative offences issued by the courts based on the results of consideration of administrative offences under Articles 155¹, 163¹ and 163¹⁶ of the Code of Administrative Offences, 7,494 cases were considered in 2023 [7].

More detailed information is provided in Table 1.

Table 1
Cases on administrative offences under Articles 155¹, 163¹ and 163¹⁶ of the Code of Administrative Offences (2019-2023)

	ct. 155 ¹ CoAO	ct. 163 ¹ CoAO	ct. 163 ¹⁶ CoAO
2019	4274	1168	1237
2020	4837	1534	1624
2021	4756	1248	2047
2022	2837	1439	1734
2023	4146	1527	1821

Source: compiled by the author based on [7].

Taking into account the data presented in Table 1, it can be stated that, in general, the rate of administrative offences and identification of perpetrators of such offences remains stable. Despite the existence of small changes in such indicators, there is no clear upward or downward trend.

Administrative liability is also provided for in the case of an offence under Article 472 of the Customs Code of Ukraine (hereinafter - the CCU), namely for failure to declare goods and vehicles for commercial purposes [8]. After analysing the information provided in the Unified State Register of Court Decisions, it was found that in 2023, courts issued only 201 decisions in cases of administrative offences under Article 472 of the CCU, although in 2019, 1094 such cases were considered [7].

The above information is presented in more detail in Figure 2.

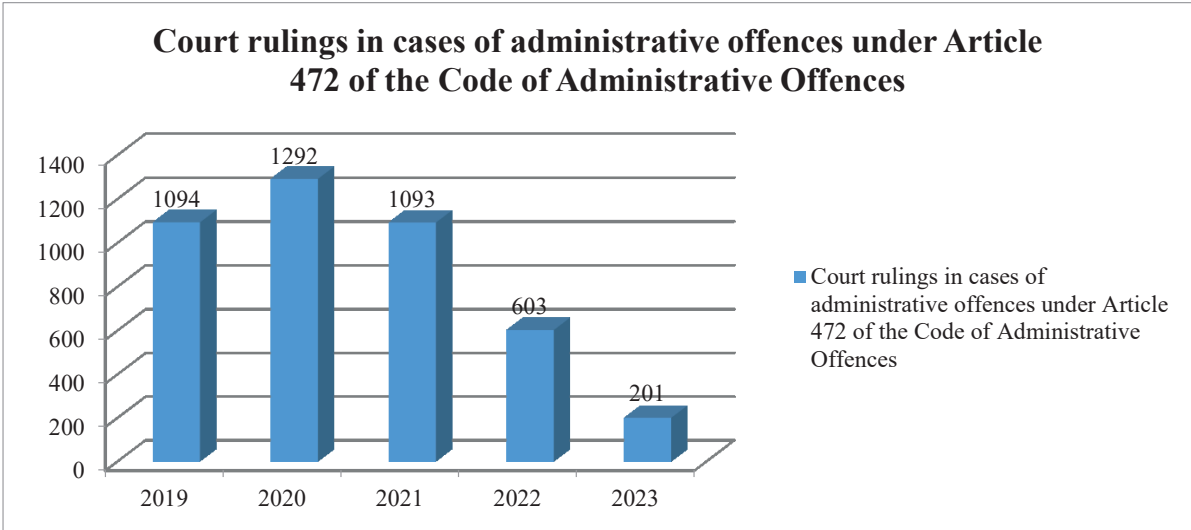


Fig. 2. The number of cases of administrative offences under Article 472 of the CCU considered by courts (2019-2023) [7]

The analysis of the information presented in Figure 2 makes it possible to conclude that, starting in 2019-2021, the overall rate of consideration of cases on administrative offences for failure to declare goods and vehicles for commercial purposes under Article 472 of the Customs Code of Ukraine was at the same level. However, since the start of the full-scale invasion, the number of cases of administrative offences in this category has significantly decreased, which can be justified by the introduction of stricter control measures and penalties for the relevant violation.

5. Conclusions.

Thus, administrative liability in the field of volunteering is a negative response of the authorized state authorities to the commission of a certain unlawful act, namely an administrative offense (misdemeanor), which results in an administrative penalty imposed on the guilty party as defined by the law.

After analyzing the statistical information for 2019-2023 posted on the official web portal of the National Police of Ukraine, it was found that there is a gradual increase in administrative offenses in this area. A slight decrease in the rates of detection and prosecution of perpetrators has been observed only since 2022, due to military operations on the territory of Ukraine, overload of law enforcement agencies and difficulties in detecting offenses in certain areas, including border areas.

Improvement of the legislation on bringing to administrative responsibility in the field of volunteer activity is possible only after a detailed analysis of this category of cases and can become the basis for further research.

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SUBJECTS OF ATTRACTING AND USING INTERNATIONAL MILITARY AID IN UKRAINE

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Annotation. The article is devoted to clarifying the subject composition of the involvement and use of international military aid in Ukraine. It was determined that the relevance of studying this issue is due to the need to minimize corruption risks during the involvement and use of international military aid, as well as to ensure the transparency of these processes in order to build trusting legal relations between Ukraine and the countries that provide such aid. Given the lack of comprehensive research on this issue, the basis of the study is the legislative and by-laws of Ukraine, which define the powers of the entities that participate in the involvement and use of international military aid. It was found that until 2024, despite 2 years of war, the concept of “international military aid” was absent in the legislation of Ukraine, which made it possible and complicated to develop and approve the procedure for attracting and using international military aid. It was emphasized that with the adoption by the government of Resolution No. 168 on February 13, 2024, the powers and limits of responsibility of the subjects of the general (the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine) and special (the National Security and Defense Council, the Ministry of Defense of Ukraine, the Armed Forces of Ukraine) competence in the field of attraction and use of international military aid. It was concluded that, in practice, the above-mentioned subjects’ implementation of their powers will contribute to the transparent receipt, distribution of such aid, its targeted use, and the preparation of appropriate reporting for partner countries.

Key words: international military aid, military administration, Ministry of Defense of Ukraine, Armed Forces of Ukraine.

1. Introduction.

Russia’s aggression against Ukraine became a catalyst for revising the country’s military doctrine and security strategies. In response to the threat of Russian aggression, Ukraine has determined its goal of joining NATO, seeking to strengthen its defense capabilities. Large-scale reforms in the security and defense sector of Ukraine include significant development of military infrastructure and improvement of military-technical potential. Extremely important factors in this process are the receipt of significant military aid from the USA and the EU [1, p. 137]. The receipt of a large amount of military aid, the high level of corruption, which significantly affects the effectiveness of its use for the needs of the state’s defense, as well as the insufficient openness of the processes of distribution and monitoring of the use of military aid, have actualized the issue of developing and approving the mechanism for attracting and using the latter.

Thus, until the middle of February 2024, there was no separate mechanism for attracting and using military aid in the national legislation, for this purpose the provisions of the legislation regulating the attraction of international technical assistance and humanitarian aid were used. At the same time, on February 13, 2024, the Cabinet of Ministers of Ukraine approved the Procedure for organizing the interaction of the central executive authorities and other state bodies regarding the attraction, receipt, transfer, accounting, monitoring and control of the use of international military aid to meet the needs of the security and defense forces during the period of martial law. This by-law not only regulates the procedure for attracting, using and monitoring international military aid, but

also defines the subjects involved in such a procedure accordingly. This significantly simplifies the identification of responsible persons in this direction and should increase the efficiency of attracting, using and monitoring international military aid by ensuring the transparency of such a procedure for partner countries. Therefore, it is obvious that the approval of the above-mentioned by-law by the government was the need of the hour.

2. The aim of the work.

The purpose of the article is to clarify the subjects of attracting and using international military aid in Ukraine in accordance with the latest changes in national legislation.

3. Analysis of scientific publications.

The analysis of the latest research and publications shows that the issue of the subject composition of the involvement and use of international military aid is presented fragmentarily in the scientific doctrine, since until 2024, the actual concept of "international military aid" did not exist in the legislation of Ukraine. However, scientists (V.Y. Pashynskyi, S.M. Melnyk, etc.) paid attention to the legal status of higher state authorities in the field of defense. This state of scientific development of the mentioned issue testifies not only to its novelty, but also to the need for its more detailed study.

4. Review and discussion.

Increasing the capabilities of the Armed Forces of Ukraine, the territorial defense forces in their composition, and other components of the defense forces to fulfill the tasks assigned is a priority of the state policy in the military sphere. Accordingly, one of the tasks defined by the Military Security Strategy is the development of capabilities for receiving assistance from foreign partners and providing it to other states [2]. After Russia's new invasion of Ukraine in February 2022, states provided Ukraine with "unprecedented" aid and support. Evidence of its scope is the fact that almost fifty contributor states have invested more than 45 billion US dollars in the defense of Ukraine. Moreover, for the first time in history, EU countries approved the provision of non-lethal and lethal weapons through their European Peace Fund (EPF) [3]. In the medium-term perspective, Ukraine's task is to integrate the state's defense capabilities, in particular through rational planning and effective use of available defense resources and international aid [4, p. 187].

Entities participating in the procedures of attracting, receiving, distributing and controlling the targeted and effective use of military aid are subjects of the administrative and legal support of the defense of Ukraine. V.Y. Pashynskyi proposes to understand this concept as a system of public administration entities that, with the help of administrative and legal means, methods and procedures, determine and organize the implementation of state policy in the field of defense, which covers all spheres of public life, and is aimed at preparing for defense of the state, its armed defense in case of armed aggression or armed conflict. The specified subjects can be classified into subjects of general competence and special competence. The former include the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, local self-government bodies, while the latter include the National Security and Defense Council of Ukraine (hereinafter – NSDC), the Ministry of Defense of Ukraine, the Armed Forces of Ukraine, military formations and others [5, p. 149–150].

According to Art. 102 of the Constitution of Ukraine The President of Ukraine is the head of the state and speaks on its behalf. The President of Ukraine is the guarantor of state sovereignty, territorial integrity of Ukraine, compliance with the Constitution of Ukraine, human and citizen rights and freedoms. It is the above-mentioned constitutional norm that is key in determining the scope of powers of the head of state.

As noted by S.M. Melnyk, the President of Ukraine actually heads the system of subjects of military administration and, carrying out systematic management of it, he himself acts as a kind of subject

of military administration with powers determined for the organization and functioning of the country's security and defense sector [6, p. 142]. The powers of the head of state include the adoption of a decision on the introduction of martial law, appointment to positions and dismissal from the positions of the higher command of the Armed Forces of Ukraine. The President of Ukraine also has powers in the field of conscription for conscript military service and dismissal from it, fairly broad rule-making powers related to the organization and functioning of military administration entities, and control powers over the main military administration entities. In particular, as the Supreme Commander of the Armed Forces of Ukraine, the President issues orders and directives on defense issues [6, p. 142–144]. The control powers of the head of state are discussed in Art. 5 of the Law of Ukraine "On the National Security of Ukraine", according to the content of which he can exercise control over the security and defense sector directly and through the NSDC and advisory, advisory and other auxiliary bodies created by it [7].

According to the Constitution of Ukraine, the Verkhovna Rada of Ukraine is the legislative body of the state. In July 2022, the Verkhovna Rada of Ukraine established the Temporary Special Commission of the Verkhovna Rada of Ukraine on monitoring the receipt and use of international material and technical assistance during the war (hereinafter – Temporary Commission). Its tasks included: 1) preparation and submission to the parliament of legislative initiatives to create a model of parliamentary control over the use of international material and technical assistance, in particular, weapons provided by international partners to Ukraine to fight against Russian military aggression, with the aim of ensuring transparency and the legality of the process of using the provided international material and technical assistance during the war; 2) collection and analysis of information for holding parliamentary hearings on cases of improper or non-targeted transportation, distribution or use of international material and technical assistance (in particular, weapons provided by international partners (allies) of Ukraine during martial law) [8]. In April 2023, the Temporary Commission published the first report on its work. According to it, the work of the Temporary Commission included cooperation with representatives of state bodies that directly deal with issues of logistics, distribution, accounting, monitoring and use of weapons and military equipment within the framework of international logistical assistance, in particular the Ministry of Defense, the Main Directorate of Intelligence of the Ministry of Defense, the Armed Forces of Ukraine and The General Staff of the Armed Forces of Ukraine, the Command of the Special Operations Forces of the Armed Forces of Ukraine, the Command of the Logistics Forces of the Armed Forces of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Infrastructure of Ukraine and other central executive authorities [9].

On July 13, 2023, in accordance with the Resolution of the Verkhovna Rada of Ukraine "On some issues of parliamentary control over the receipt and use of international material and technical assistance during martial law" No. 3242-IX, the above-mentioned Temporary Commission completed its work, but a new one was created [10]. In February 2024, the parliament considered the report of the new Temporary Commission.

The Cabinet of Ministers of Ukraine, in accordance with the national legislation, implements measures to strengthen the national security of Ukraine, develops and approves state programs on these issues, implements measures to ensure the combat capability of the Armed Forces of Ukraine, takes measures to ensure the defense capability of Ukraine, equipping the Armed Forces of Ukraine and others established in accordance with the law military formations (Art. 20 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine") [11]. In order to ensure the fulfillment of the tasks entrusted to the government, the latter approved several important by-laws that regulate the procedure for Ukraine to attract and receive international military aid, in particular: 27.12.2018 No. 1208 and the Procedure for organizing the interaction of central executive authorities and other state bodies regarding the attraction, receipt, transfer, accounting, monitoring and control of the use of international military aid to meet the needs of the security forces and defense forces during the period of martial law from 13.02.2024 No. 168. In addition, the Cabinet of Ministers of Ukraine is entrusted with the authority to coordinate and control the implementation of tasks in the field of military security in relation to the development of the institutional capabilities of the Ministry of Defense of Ukraine and other management bodies of the defense forces [2]. Thus, for this purpose, in 2022, the Coordination Center for the Provision of Security and Defense Forces of Ukraine was

established by a government resolution. The latter is a temporary consultative and advisory body of the Cabinet of Ministers of Ukraine, which, in accordance with the tasks assigned to it, collects, summarizes, and analyzes information related to the provision of the security and defense forces of Ukraine; formulates proposals and recommendations regarding the provision of security and defense forces of Ukraine for consideration in the work of representatives of central and local bodies of executive power, other state bodies, enterprises, institutions and organizations, etc. [12].

If we analyze the Plan of Priority Actions of the Government for 2024 approved by the Cabinet of Ministers of Ukraine dated February 16, 2024 No. 137-p, then one of the government's steps for 2024 is to deepen cooperation with foreign partners in order to attract aid and purchase weapons and military equipment, respectively to the updated needs of the security and defense forces. The indicators of the fulfillment of the specified task are defined as, firstly, the provision of new packages of military aid to Ukraine by the partner states, secondly, the expansion of the range of military aid received and the increase in the production of the necessary weapons and military equipment (item 64) [13].

In accordance with the Law of Ukraine "On the National Security and Defense Council of Ukraine" dated 05.03.1998, the competence of the NSDC covers the development and consideration at its meetings of issues related to the sphere of national security and defense, and submission of proposals to the President of Ukraine, decision-making on material, financial, personnel, organizational and other measures to ensure the implementation of national security and defense measures [14].

In accordance with Part 3 of the Regulation on the Ministry of Defense of Ukraine approved by the Resolution of the Cabinet of Ministers of Ukraine dated November 26, 2014 No. 671 The Ministry of Defense of Ukraine ensures the vital activities of the Armed Forces, their functioning, combat and mobilization readiness, combat capability, preparation for the performance of tasks assigned to them, deployment, staffing and training, supply of weapons and military equipment, maintenance of serviceability, technical suitability, carrying out repair and modernization of the specified weapons and equipment, material, financial, other resources and property in accordance with the needs determined by the General Staff of the Armed Forces within the limits of the funds provided for in the state budget, and exercises control over their effective use, organizes the performance of works and the provision of services in the interests of the Armed Forces; and according to the Regulation provides for the acceptance into service (supply, operation) of the Armed Forces of weapons, military and special equipment; organizes the receipt of international technical assistance in the military sphere, supervises the implementation of relevant programs (projects); carries out international cooperation in military-political, military-technical and other areas with relevant bodies of foreign states and international organizations, coordinates and controls the organization and implementation of military cooperation [15]. Since the beginning of the full-scale invasion of the Russian Federation on the territory of Ukraine, the organization of attracting international aid for the security and defense forces of our country, as well as the organization of training of the personnel of the Armed Forces of Ukraine abroad, have become priority areas of activity of the Ministry of Defense. Currently, in accordance with the resolution of the Cabinet of Ministers of Ukraine dated 13.02.2024 No. 168, both the Ministry of Defense and the central bodies of the executive power, other state bodies (for example, the National Guard of Ukraine, the Security Service of Ukraine, the State Emergency Service, etc.) can initiate the receipt of international military aid). That is, the Ministry of Defense is not the only entity that can form a request for the provision of international military assistance, taking into account existing needs. However, in order to coordinate the actions of the central executive authorities and other state bodies, issues regarding the involvement of international military aid may be referred to the Coordination Center for the Provision of Security and Defense Forces of Ukraine.

The Armed Forces of Ukraine, in accordance with Art. 1 of the Law of Ukraine "On the Armed Forces of Ukraine", is a military formation that, according to the Constitution of Ukraine, is entrusted with the defense of Ukraine, the protection of its sovereignty, territorial integrity and inviolability [16]. The Armed Forces of Ukraine are organizationally composed of military command bodies, units, military units, higher military educational institutions, military educational units of higher education institutions, institutions and organizations (Art. 3). Separately, within the structure of the Armed

Forces of Ukraine, military management bodies function, which are entrusted with the functions of forming a generalized need for international military aid, receiving, accounting, distributing, monitoring and controlling the use of international military aid by classes of supply. Such bodies are determined by the Commander-in-Chief of the Armed Forces on the proposal of the General Staff of the Armed Forces.

The General Staff of the Armed Forces of Ukraine determines priorities and plans to provide the Armed Forces with types of material resources by supply classes, the accumulation of non-perishable stocks, controls the acquisition, use and renewal of non-perishable stocks [17]. In particular, the General Staff forms the needs for logistical support of the Armed Forces of Ukraine. This document is approved by the Chief of the General Staff of the Armed Forces of Ukraine and approved by the Commander-in-Chief of the Armed Forces of Ukraine. The formed document is delivered through the relevant bodies, structural units of the Ministry of Defense of Ukraine to the defense attaché at the embassies of foreign countries, to the European Command (EUCOM), the International Coordination Center for Donor Aid and other units that take care of the provision of material and technical assistance. From these structural divisions and organizations, information is provided to partner countries, which make decisions about provision.

5. Conclusions.

Thus, the state leadership is aware of the importance of ensuring transparency in the process of attracting and using international military aid. In accordance with the latest legislative changes, the mechanism for attracting and using international military aid includes subjects of general competence – the parliament, the head of state, the government and subjects of special competence – the National Security and Defense Council of Ukraine, the Ministry of Defense of Ukraine, the Armed Forces of Ukraine (General Staff and Commander-in-Chief of the Armed Forces of Ukraine, etc.). Government Resolution No. 168 dated February 13, 2024, which for the first time enshrined the concept of “international military aid” in the legislation of Ukraine and defined the procedure for the organization of interaction between central executive bodies and other state bodies regarding the attraction, receipt, transfer, accounting, monitoring and control of use of international military aid to meet the needs of security forces and defense forces during the period of martial law, demarcates the spheres of responsibility of the above-mentioned subjects. It is obvious that the implementation of the specified order in practice will allow not only to minimize corruption risks accompanying these processes, but also to increase the trust of partner countries that provide military aid.

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SOME ASPECTS OF COMBATING TRANSNATIONAL ORGANIZED CRIME

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Annotation. The article is devoted to the study of the problem of transnational organized crime, which is a relevant and negative manifestation of public life not only in Ukraine but also in most foreign countries. Crime is a stable phenomenon and inseparable from human society, and it should be noted that organized crime is stable in its essence and structure, but variable depending on the requirements of time. At present, Ukraine is facing the emergence of a fundamentally new form of transnational organized crime, which is a crime against national security. In particular, the military-political situation in our country, which is associated with the military aggression of the Russian Federation, contributes to the intensification of the movement of weapons, explosives and other military items, as well as the recruitment of citizens to participate in illegal state activities.

The article examines the problem of combating transnational crime and suggests ways to counteract this type of crime. At the national level, combating this type of crime requires coordination of law enforcement agencies, formation of joint operational and investigative teams and think tanks. There is also a need to improve the legal framework for combating this phenomenon, which should take into account existing international standards and the implementation of the UN Convention against Transnational Organized Crime into Ukrainian legislation. It is determined that in the current socio-political environment, this problem is actually becoming a matter of national security of Ukraine. According to the Strategy of National Security and the Fight against Organized Crime, the search for new ways and answers to the challenges and prevention of transnational organized crime and corruption in the context of military operations, aggression and internal instability necessitates the study of an international mechanism of protection against such extremely dangerous actions. The author believes that it is advisable for Ukrainian law enforcement officers to study the experience of leading foreign organizations so that they have a real opportunity to work proactively in preventing corruption, countering terrorism and other segments of transnational organized crime.

Key words: organized crime, criminal offenses, transnational crime, counteraction, prevention.

1. Introduction.

Transnational organized crime is an urgent problem of our time, which is a clear manifestation of the truth that the problem of crime is a global problem that cannot be solved at the level of a single state, law enforcement agency or legislative act. At the same time, the problem of combating transnational organized crime in Ukraine is no less urgent. Understanding this fact should be the basis for a global restructuring of the organizational framework for combating this negative phenomenon.

2. Analysis of scientific publications.

The relevance of the proposed topic is due to the problems of spreading and combating transnational crime. The works of such Ukrainian scholars as O. Busol, P. Yepryntsev, G. Zharovska, I. Pshenychnyi, B. Romaniuk, V. Sevruk, I. Servetskyi, O.Y. Shostko, V.P. Shelomentsev and others, who have created an appropriate scientific and practical basis for countering this criminal segment. The works of specialists

clearly reflect the idea that the problems of counteracting the destructive impact of organized crime on the world order are global in nature and require their prompt resolution.

3. The purpose of the work.

The purpose of the article is to study the role, problematic aspects and areas for improvement of the organization of counteraction to transnational organized crime, which is dictated by the realities of the current socio-political and criminogenic situation in Ukraine.

4. Review and discussion. In recent years, a fundamentally new economic and political situation has emerged in Ukraine, which has resulted in an increase in criminal activity on a transnational scale, and this requires further reflection on the issues of combating transnational organized crime. It is advisable to reveal the definition of the concept of "transnational crime". Thus, I.V. Pshenychnyi understands this concept as a form of international activity of organized criminal groups or organizations using various methods, including coercive methods, and prohibited goods and services. At the same time, such activities should go beyond the borders of one country [1, p. 11]. G.P. Zharovska notes that among the main features of transnational organized crime are high profits and constant increase in income; global scale of criminal activity, its constant and diverse nature; identity with the activities of the largest legal corporations; penetration into the authorities and governance of states; rapid adaptation to counteraction of law enforcement agencies; social control [2, p. 142-143].

It is a complex systemic formation with an internal hierarchical structure and distribution of roles, a high level of interaction and controllability, intra-network obligations, systems of own security and information acquisition, mechanisms for protecting investments [3, p. 294]. The tactics of transnational organized crime primarily involve the desire to create alliances with local criminals, especially ethnic criminals, so in Ukraine there is a tandem of mutually beneficial alliances between transnational and domestic organized criminal groups, which means gaining economic and political influence [4, p. 161].

Crimes committed by organized criminal associations are the most dangerous of all types of group unlawful acts and occupy a leading position in the statistics of group crime [5, p. 289].

At the same time, the most attractive for criminal structures are such areas of activity as terrorist, economic, general criminal activities: counterfeiting money; legalization of proceeds of crime; illegal drug trafficking; activities related to deliberate and fictitious bankruptcy; illegal arms trafficking; illegal export abroad and exploitation of people, criminal hacking (cybercrime). But, a special specific activity of organized crime in Ukraine is the close interaction of organized As O.Y. Busol and B.V. Romaniuk aptly note, "organized crime has reached its professional level, has become disguised, echeloned, firmly rooted in government structures, in particular in law enforcement, and has secured protection, and now operates openly, boldly, through deep corruption ties. If at first, organized crime was engaged in the accumulation of capital, then - striving for power, today it practically governs the state" [7]. At the same time, it should be understood that Ukraine is currently facing the emergence of a fundamentally new form of transnational organized crime, which is a crime against national security. In particular, the military-political situation in our country, which is associated with the military aggression of the Russian Federation, contributes to the intensification of the movement of weapons, explosives, and other military items, as well as the recruitment of citizens to participate in illegal state activities.

As we understand that crime is a stable phenomenon and inseparable from human society, we should note that organized crime is stable in its essence and structure, but it changes depending on the requirements of the time. Classical groups of the past had a pyramid structure, with the organizer and leader of the organized criminal group at the top, followed by centurions, then brigadiers, and ordinary fighters at the bottom of the pyramid. Thus, having tracked one fighter, it was possible to gradually follow the chain to the organizer. Nowadays, organized groups have a

structure of beehives, which are often not connected to each other. The connections between these cells are formed chaotically, the combinations can be the most unexpected, and there seems to be no general coordination center. This is where the viability of modern organized crime groups lies. The segregation of one cell does not lead to the death of the entire organism, because it is extremely difficult to trace further connections [5, p. 289].

It should be noted that transnational organized crime is the most dangerous form of criminal activity that threatens the social development of humanity as a whole [8, p. 322]. At the same time, recent wartime events in Ukraine show that law enforcement agencies are late in responding to new threats, which requires establishing work with obtaining information, blocking the channels of supply of finance, weapons, and printed materials of an anti-state nature. These measures require coordination of law enforcement agencies with the Security Service of Ukraine, tax authorities, military intelligence and counterintelligence agencies, customs and border guards [9, p. 13]. In addition, combating organized crime requires coordinated actions of international cooperation in law enforcement [8, p. 322].

The authors believe that in modern historical formations, the process of combating transnational organized crime can be presented as the activity of law enforcement agencies regulated by law and aimed at preventing the detection and suppression of transnational crimes. Article 5 of the Law of Ukraine "On the Organizational and Legal Framework for Combating Organized Crime" defines the system of bodies that combat this type of crime: the Coordination Committee for Combating Corruption and Organized Crime under the President of Ukraine, special units for combating organized crime of the Ministry of Internal Affairs (hereinafter - MIA) of Ukraine, special units for combating corruption and organized crime of the Security Service of Ukraine (hereinafter – SSU) [10]. At the same time, the special unit of the Ministry of Internal Affairs of Ukraine that was responsible for countering and combating organized crime was liquidated. The massive amount of information on the activities of organized criminal groups and criminal organizations, including those with international ties, was completely lost. And the Department of Strategic Investigations, which was created with a great delay and in a half-hearted manner within the National Police system, which is engaged in the fight against organized crime, has proved ineffective, as its units operate only in regional centers and are not subordinate to the heads of the National Police in the regions, so there is no reason to talk about interaction with other units on the ground [4, p. 180]. In addition, given that this unit recruits mainly criminal investigation officers, the direction of their activities is already clear, and as O. Dotsenko notes, there are fears that the entire system of preventing organized crime will be reduced to general criminal crime again [11, p. 113].

We support the opinion of G.P. Zharovskaya, who in turn agrees with the position of V.S. Ovchinsky that "the threat posed by transnational organized crime can only be eliminated if law enforcement agencies are as resourceful, flexible and cooperative as the criminal organizations themselves. In particular, to succeed, they need to be more creative in using existing and new bilateral and multilateral legal mechanisms, and activities at the national level need to be the same or harmonized to ensure that law enforcement officials are as mobile and as effective as the criminals themselves" [12, p. 476]. At the national level, combating this type of crime requires coordination of law enforcement agencies, the formation of joint operational and investigative teams and analytical centers. There is also a need to improve the legal framework for combating this phenomenon, which should take into account existing international standards and the implementation of the UN Convention against Transnational Organized Crime in Ukrainian legislation.

An analysis of international experience in fighting crime shows that in the current environment, criminal manifestations pose a real threat to democratic development and national security in most countries. According to the Strategy of National Security and the Fight against Organized Crime, the search for new ways and answers to the challenges and prevention of transnational organized crime and corruption in the context of hostilities, aggression and internal instability leads to the study of the international mechanism of protection against such extremely dangerous actions [13, p. 700].

The experience of the US legislation providing for responsibility for fighting organized crime is interesting. The relevant functions are assigned to law enforcement agencies at all levels: federal, state and local. However, the FBI should be considered the main agency in the fight against organized

crime. The structure of the FBI's regional offices is based on linear specialization. Most regional agencies have departments for investigating particularly dangerous crimes. In addition, the FBI has well-trained and equipped special forces units for conducting power operations to apprehend armed criminals. An interesting organizational and managerial solution to strengthen the interaction of various law enforcement agencies in the fight against organized crime is the creation of specialized "strike forces". Their tasks include: fighting corruption; practical coordination of efforts and capabilities of all state institutions in combating organized crime; overcoming interagency barriers and contradictions; creating the most favorable conditions for quick resolution of any problems arising during investigations. It should be noted that the task of the "strike forces" is not to coordinate interagency actions in the fight against organized crime in general (as, for example, the Coordination Committee in Ukraine), but to eliminate specific organized criminal groups. Therefore, the main form of their work is not holding meetings, but practical operational and investigative activities [14, p. 37]. In the UK, since April 1, 2006, the Serious Organized Crime Agency has been operating to combat the most dangerous form of organized crime, whose priority areas of activity are to increase the amount of returned funds obtained illegally as a result of solved criminal cases; increase the threat to the activities of criminal organizations; introduce new ways to combat organized crime [15, p. 180].

It should be noted that the "professional" activities of criminal organizations often involve a set of interrelated criminal offenses, which may often involve certain individuals and organizations that are under investigation by different agencies for separate crimes. Despite the legal interfaces that allow agencies to exchange information, a number of countries have mechanisms in place to help agencies cooperate directly in the investigation of crimes through joint investigative teams [16, p. 97]. In the author's opinion, it is advisable for Ukrainian law enforcement agencies to study the experience of leading foreign organizations so that they have a real opportunity to work proactively in preventing corruption, countering terrorism and other segments of transnational organized crime. The above measures are certainly not exhaustive, but they outline the most promising areas of combating transnational organized crime that should be implemented today to prevent further development of this form of crime in Ukraine.

5. Conclusion.

The situation with the development of transnational organized crime requires that the organizational system of law enforcement agencies undergo a radical transformation based on the best practices that have already proven their effectiveness, as well as in the direction of increasing the professionalism and responsibility of law enforcement officers involved in this fight. At the national level, combating this type of crime requires coordination of law enforcement agencies, the formation of joint operational and investigative teams and analytical centers.

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THE ROLE OF NON-GOVERNMENTAL ORGANIZATIONS IN THE FUNCTIONING OF INTERNATIONAL HUMAN RIGHTS PROTECTION MECHANISMS

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Annotation. Effective protection of fundamental human rights is one of the main features of a modern democratic state governed by the rule of law. Non-governmental human rights institutions are an important component of the international human rights protection mechanism, as they operate at the local, regional, national and international levels. The relevance of the study is due to several factors, including: increased attention to human rights in the international legal system, increasing cases of human rights violations in the world, and the lack of effectiveness of national human rights mechanisms. Among other things, the Russian-Ukrainian war is of particular relevance, as the level of human rights violations in the conflict zone is extremely high. In view of this, a comprehensive study of the role of international non-governmental organisations in international human rights mechanisms is clearly relevant.

The aim of the work is defining the role of non-governmental organisations in the international human rights protection mechanism and determining the forms of participation of international non-governmental organisations in the protection of human rights at the international level.

The methodological basis of the study. In order to achieve this goal, an integrated approach is applied, which determines the use of general and special scientific research methods. In particular, the functional method was used to determine the functions of international non-governmental organisations in the field of human rights protection. The formal legal method was used to analyse the provisions of international legal acts. The systemic-structural method was used to identify the main features of the participation of international non-governmental organisations in the mechanism of human rights protection at the international level. The methods of analysis, synthesis, induction, deduction, and analogy were also used to formulate conclusions and proposals.

Results. The article examines the role of international non-governmental organisations in the international human rights mechanism. The study covers the results of the activities of international non-governmental organisations Amnesty International, Human Rights Watch, International Federation for Human Rights, Human Rights First, Interights and other non-governmental organisations that draw the attention of citizens and governments around the world to human rights violations. It is noted that the activities of non-governmental organisations in addressing the issue of human rights protection are effective and have an important impact on the resolution of human rights violations. It is emphasised that the role of international non-governmental organisations is growing in the current context, as their activities have an impact on addressing human rights violations in the context of the Russian-Ukrainian war.

Key words: non-governmental organisations, international human rights mechanisms, protection, human rights, international non-governmental organisation.

1. Introduction.

Effective protection of fundamental human rights is one of the main features of a modern democratic state governed by the rule of law. Non-governmental human rights institutions are an important

component of the international human rights protection mechanism, as they operate at the local, regional, national and international levels. The relevance of the study is due to several factors, including: increased attention to human rights in the international legal system, increasing cases of human rights violations in the world, and the lack of effectiveness of national human rights mechanisms. Among other things, the Russian-Ukrainian war is of particular relevance, as the level of human rights violations in the conflict zone is extremely high. In view of this, a comprehensive study of the role of international non-governmental organisations in international human rights mechanisms is clearly relevant.

2. Analysis of scientific publications.

The theoretical basis of the study is the work of scholars who have devoted their work to the study of the international human rights mechanism and the role of non-governmental organisations in its functioning, namely: M. Almashi, A. Babenko, R. Berezovsky, Z. Zaluzialk, O. Krasnikova, H. Lutsyshyn, Y. Sydoruk, O. Skrypnyk, I. Shumilo, N. Shurak and others. However, the absence of a comprehensive study of the role of non-governmental organisations in the functioning of the international human rights mechanism makes the article relevant.

3. The aim of the work is to define the role of non-governmental organisations in the functioning of the international human rights mechanism and to determine the forms of participation of international non-governmental organisations in the protection of human rights at the international level.

4. Review and discussion.

The main purpose of international human rights mechanisms is to ensure the observance and protection of human rights at the international level. The components of this mechanism are universal and regional bodies and organisations that operate on the basis of international treaties and conventions. International human rights protection mechanisms are international bodies and organisations that ensure the observance and protection of human rights in accordance with international standards. In addition to intergovernmental bodies and organisations, there are also non-governmental human rights organisations that play an important role in protecting human rights. International mechanisms for the protection of human and civil rights and freedoms are a set of international institutions, norms, principles and procedures that ensure the observance and protection of human and civil rights and freedoms at the international level [1].

Y. Sydoruk defines international human rights protection mechanisms as a system of intergovernmental bodies and organisations that function to implement international standards of human rights and freedoms or to restore them in case of their violation [2, p. 34].

In the scientific literature, scholars have repeatedly defined the concept of 'mechanism of international human rights protection' as a system of international bodies and organisations that function to implement international standards of human rights and freedoms or restore them in cases of violation [3, p. 12].

Also, L.R. Nalyvaiko and K.V. Stepanenko define international human rights protection mechanisms as international bodies functioning within the framework of human rights agreements, which include independent experts or representatives of governments and adopt general recommendations, international non-judicial bodies for monitoring compliance with human rights agreements, which include specialist experts and adopt specific recommendations, the imperative of which is based on the moral authority of the international body, international jurisdictional bodies of non-judicial or judicial nature to protect human rights, which make binding decisions and can guarantee the implementation of these decisions [4, p. 27].

Thus, M.A. Gora defines the term 'international mechanism for the protection of human rights' as a system of international (interstate) bodies and organisations acting to ensure compliance with international standards of human rights and freedoms and restore human rights in case of their violation. The scholar notes that the international human rights protection mechanism is diverse and complex, as it is the result of unsystematic law-making activities of international organisations that tried to restore order in the world after the Second World War and prevent gross and massive human rights violations, rather than the result of systematic and pre-thought-out development. This mechanism includes a system of universal and regional human rights institutions. Most international human rights NGOs monitor the implementation of numerous human rights laws and the general observance of human rights in the states parties to international treaties. Such monitoring is limited to reviewing reports from member states and rarely conducting on-site inspections. Some of these institutions consider individual complaints only to obtain information on the general human rights situation in member states, and some of the international human rights institutions have the power to consider and decide on individual complaints of human rights violations. However, their decisions are not binding on member states [5, p. 48].

In their turn, V. Shostak and L. Arkhiry understand the concept of 'mechanisms of international human rights protection' as a system of intergovernmental organisations that facilitate the implementation of international standards of human rights and freedoms or their restoration in case of violation [6, p. 164].

Therefore, in view of the above, we propose to define international human rights mechanisms as a system of international bodies and organisations that function to monitor compliance with international standards of human rights and freedoms or to restore human rights in cases of their violation.

Thus, there is no single approach to the definition of 'international non-governmental organisation' in international law. In view of this, we agree with the definition set out in the United Nations General Assembly (hereinafter – the UN) resolution No. 1296 (XIV) of 23 May 1968, which states that an international non-governmental organisation is any international organisation that has a non-governmental character of representation, is voluntary in nature, is not established on the basis of an intergovernmental agreement and is not intended to make a profit [7].

Also, in accordance with the Convention on the Recognition of International Non-Governmental Organisations as Legal Entities of 24 April 1986, the following requirements for an international non-governmental organisation are defined: 1) have a non-commercial purpose of international public benefit; 2) are established under the application of international law by a party to the Convention; 3) carry out their activities, exercising influence in at least two states; 4) have their registered office in the territory of one Party; 5) have a central management and control body in the territory of that Party or another Party [8].

For example, O.V. Krasnikova notes that international non-governmental organisations are not bodies that express the will of the state, so their resolutions are not covered by the rulemaking process. However, such organisations in the international arena can actively influence the position of a particular state or international governmental organisation [9, p. 138].

Among other things, as M.M. Almashi rightly points out, the powers of non-governmental organisations in the human rights sphere include clarifying the circumstances of human rights violations, collecting information about the circumstances of such violations and disseminating this information. Certain human rights NGOs periodically publish reports with their findings. Most human rights NGOs operate at the national level, promoting respect for human rights in their respective countries, while some human rights NGOs operate at the international level and are part of the international human rights mechanism. Thus, the role of non-governmental organisations in the international human rights protection mechanism is to monitor the human rights situation at the international level and report information to international governmental human rights organisations, in particular, special rapporteurs of the UN Commission on Human Rights or UN conventional bodies, establish contacts with international institutions that can support them in improving the human rights situation in specific states. In the course of practical activities of non-governmental human rights organisations

in the field of human rights protection, they often focus their activities on the protection of certain rights or groups of human rights. For example, there are organisations that defend mainly women's rights, children's rights, national minority rights, religious rights, prisoners' rights, refugees' rights and others [10, p. 100].

In today's conditions, the increase in the number of non-governmental organizations, the trends in their development are determined, in particular, by such reasons as: the aggravation of global problems of civilization and the insufficient capabilities of individual states and international governmental organizations to solve them, the strengthening of democratic processes in the field of internal and international relations, the institutional expression of which there are non-governmental organizations, the transformation in the sphere of national interests of states, the movement from state interests to universal human values, such as human rights and environmental protection and their interaction, the growing desire of individuals to increase control over the decision-making process in matters that concern their interests, the expansion of opportunities cross-border relations and activities of the public of different countries, possibilities of technological progress [11, p. 164].

Thus, the most well-known international non-governmental organisations in the field of human rights protection are Amnesty International, Human Rights Watch, International Federation for Human Rights, Human Rights First and Interights, which are independent NGOs that operate thanks to funding from individuals and various international foundations. These organisations refuse, as a matter of principle, any possible funding from governments of particular states.

Thus, the non-governmental organization Amnesty International was founded in 1961, after the publication of an article in "The Observer" by London lawyer Peter Benenson, dedicated to Portuguese students who were condemned for making a toast "For freedom!" in cafe. Peter Benenson campaigned for people with joint opportunities to start a struggle for the release of the specified prisoners. As a result, the world public reacted to the specified article. Among other things, Amnesty International is also actively involved in the situation in Ukraine and aims to conduct research and actions aimed at preventing and ending violations of the rights to physical and psychological integrity, freedom of conscience and expression, as well as freedom from discrimination in the context of its work with promotion of human rights. Recognition at the global level of effective work in the field of human rights protection of Amnesty International is confirmed by the organization receiving the Nobel Peace Prize in 1977 "For the protection of human dignity from torture, violence and disintegration." Also, at the beginning of the 21st century, Amnesty International focuses its activities on the following priority areas of human rights protection, namely: the fight for the abolition of the death penalty, the fight for ending violence against women, the protection of the rights of people living below the poverty line, the protection of the rights of refugees and migrants, control of arms trade, cessation of torture and inhumane treatment of detainees in the framework of the fight against terrorism. Today, Amnesty International is the most influential international non-governmental human rights organization in the world, includes more than 70 national sections, more than 7,500 affiliated local groups, more than 9 million members who monitor cases of human rights violations in 150 countries of the world [12, p. 145].

Another well-known international human rights NGO is the International Federation for Human Rights (FIDH), which unites 188 organisations from 116 countries. The FIDH takes measures to protect victims of human rights violations, prevent violations and bring perpetrators to justice. The International Federation for Human Rights has a general mandate to protect all the rights set out in the 1948 Universal Declaration of Human Rights, including civil, political, economic, social and cultural rights. Its activities are based on three strategic principles: ensuring freedom and opportunity for human rights defenders to act, the universality of rights and their effectiveness. The activities of the International Federation for Human Rights are aimed at states as the main guarantors of human rights. FIDH seeks to bring to justice those responsible for international human rights crimes through the international criminal justice system. As a federal movement, the International Federation for Human Rights works through the cooperation of its member organisations. This unique combination is embodied in the joint actions of the International Federation for Human Rights and its member organisations at the national, regional and international levels aimed at remedying human rights violations and consolidating democratisation processes [13].

Among other things, the international non-governmental organisation Human Rights Watch was established in 1978 in response to calls for help from human rights groups from the then USSR, Warsaw and Prague, which were collecting information on compliance with the Helsinki Human Rights Agreements. Today, the non-governmental organisation Human Rights Watch monitors, investigates and documents human rights violations in more than 70 countries, conducts awareness-raising campaigns to influence a particular situation, and speaks out against violations of fundamental human rights, including the death penalty and discrimination based on sexual orientation. The organisation is known for its accurate facts, impartial reporting and effective use of the media, often collaborating with local human rights groups [14, p. 116].

Human Rights First (HRF) is an international non-governmental human rights organisation that believes that American leadership is essential in the fight for human rights. Its mission is to influence the US government and private organisations to respect the rule of law and human rights. Human Rights First demands justice, reform, and accountability for those who violate human rights and focuses on change by protecting refugees, opposing torture, and defending persecuted minorities. Human Rights First conducts pressure campaigns on politicians in the United States to make them aware of human rights issues [15, p. 221].

INTERIGHTS is an international non-governmental organisation that protects and promotes human rights and freedoms around the world through a range of activities aimed at strengthening human rights jurisprudence and providing redress to people whose rights have been violated. INTERIGHTS provides expertise and advice on human rights litigation on issues of particular international, regional or national importance. In certain cases, INTERIGHTS may act as a co-representative, amicus curiae or counsel for a lawyer. INTERIGHTS works with local lawyers, judges and non-governmental organisations to strengthen their capacity to effectively defend human rights at both the national and international levels through tailored training programmes, including practical case-based 'court operations', internship programmes and the development of judicial partnerships, and the production and dissemination of a range of publications on human rights developments. INTERIGHTS supports efforts to develop international and regional human rights standards, often through support for emerging institutions such as the African Commission on Human and Peoples' Rights, the recently established African Court on Human and Peoples' Rights, and the European Court of Human Rights [16].

Another important role in the protection of human rights is played by the International Committee of the Red Cross, an independent humanitarian non-governmental organisation whose main activity is to protect the life and dignity of people affected by armed conflicts and other situations of violence. The main objectives of the International Committee of the Red Cross include: visiting prisoners of war and civilians detained in conflict, assisting in the search for missing persons, organising the exchange of letters between family members bordering on conflict, reuniting separated families, providing civilians with food, water and medical care, disseminating knowledge of international humanitarian law and monitoring compliance with its norms, drawing attention to violations of humanitarian law and promoting its development. Non-governmental organisations such as the International Committee of the Red Cross are often involved in really dangerous events and are the first to enter the conflict zone and the last to leave the 'battlefield'. Extremely qualified staff involved in the work of NGOs allows representatives of various NGOs to quickly establish contacts with the population of conflict areas, as well as with representatives of the parties to the conflict [17].

Also, according to Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, no one shall be subjected to torture or to inhuman or degrading treatment or punishment. Thus, violation of Article 3 of the Convention is usually a violation of violent acts against a person. An important method of preventing such types of human rights violations would be for the state to take the necessary measures to familiarise the population through various media with the main provisions of the Convention against Torture and Inhuman or Degrading Treatment or Punishment, and, above all, such familiarisation is necessary for law enforcement officers through training in the rules and norms of the Convention. It is important to note that non-governmental human rights organisations fill this gap in legislation by publishing and distributing numerous publications on the prevention of offences referred to in Article 3 of the Convention, as well as conducting special trainings and seminars for law enforcement officers, judges, and lawyers [18, p. 228].

Today, a large number of intergovernmental and non-governmental organisations are engaged in law enforcement activities. The tasks of law enforcement organisations include identifying the causes of human rights violations and drawing the attention of the international community to human rights abuses. Due to the current situation in Ukraine, many international non-governmental organisations are actively working in the armed conflict zone and helping victims of military aggression. Human rights NGOs play an important role in the East of Ukraine, in particular, they provide objective information to the authorities and international institutions competent in human rights violations and international humanitarian law, and provide legal assistance to victims of human rights violations that occurred during the armed conflict in Ukraine. In addition, the civilian population has a special trust in non-governmental organisations due to the fact that they have declared their neutrality and independence from state structures [19, p. 39].

Thus, in order to protect human rights, non-governmental organizations can take the following actions: 1) Directly provide assistance to persons who have suffered human rights violations in a certain form (humanitarian aid, protection or training in a new profession, legal assistance or consultations on filing a lawsuit). 2) Collect reliable information about cases of violation of human rights. Quite often, governments can evade obligations under signed international agreements because the results of their policies are simply not known to the general public. The collection of such information and its use to promote transparency of government human rights records is necessary to bring perpetrators to justice and is therefore often used by non-governmental organizations in efforts to pressure the public and governments by identifying cases that appeal to a human sense of justice. For example, Amnesty International and the International Committee of the Red Cross are the most well-known organizations that have a good reputation for monitoring and reporting accuracy, and also have authority in the United Nations, where their reports are considered as an element of official monitoring of the activities of governments that have agreed to sign international agreements in the field of human rights protection a person 3) Conduct campaigns and lobby, namely, most often non-governmental organizations use the following methods of pressure: a) campaigns to send thousands of letters from all over the world to government officials (Amnesty International); b) street actions or demonstrations involving mass media; c) dissemination of information in mass media and Internet sites; 4) Send shadow reports to UN human rights monitoring bodies with the aim of providing the organization with information about the real situation regarding the use of human rights in a particular country. 5) Conduct informal meetings or briefings for government officials. 6) Educational work on human rights by informing the public or conducting educational activities. Non-governmental organizations try to convey to individuals as much information as possible about human rights issues [20].

Thus, international human rights non-governmental organisations are one of the important components of the international human rights mechanism and carry out important activities to protect human rights. Non-governmental human rights organisations are an important component of civil society, which ensures the successful development of a democratic and law-based state. International non-governmental organisations are a powerful element of the modern system of global governance and the international human rights mechanism through the following forms of their human rights activities: 1) Providing various types of assistance directly to individuals who have suffered human rights violations in a particular form. 2) Collecting and disseminating information on the circumstances and cases of human rights violations. 3) Conducting campaigns, actions and lobbying (letter writing campaigns to governments, street actions, demonstrations with the involvement of the media, dissemination of information in the media; 4) Preparing and submitting shadow reports to UN human rights monitoring bodies. 5) Holding informal meetings or briefings for government officials. 6) Educational activities to inform individuals as much as possible about human rights issues. Thus, non-governmental human rights organisations play an important role in ensuring the effective functioning of the international human rights mechanism through cooperation with state authorities, local governments and international governmental organisations in the field of human rights protection.

5. Conclusions.

International human rights non-governmental organisations are one of the important components of the international human rights mechanism and carry out important activities to protect human rights. Non-governmental human rights organisations are an important component of civil society, which ensures the successful development of a democratic and law-based state. International non-

governmental organisations are a powerful element of the modern system of global governance and the international human rights mechanism through the following forms of their human rights activities: 1) Providing various types of assistance directly to individuals who have suffered human rights violations in a particular form. 2) Collecting and disseminating information on the circumstances and cases of human rights violations. 3) Conducting campaigns, actions and lobbying (letter writing campaigns to governments, street actions, demonstrations with the involvement of the media, dissemination of information in the media; 4) Preparing and submitting shadow reports to UN human rights monitoring bodies. 5) Holding informal meetings or briefings for government officials. 6) Educational activities to inform individuals as much as possible about human rights issues. Thus, non-governmental human rights organisations play an important role in ensuring the effective functioning of the international human rights mechanism through cooperation with state authorities, local governments and international governmental organisations in the field of human rights protection.

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LEGAL ASPECTS OF THE APPLICATION OF ARTIFICIAL INTELLIGENCE IN JURISPRUDENCE: THE EXPERIENCE OF UKRAINE

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Annotation. The aim of the work is to study and analyze the role of artificial intelligence in jurisprudence in the context of the European integration of Ukraine.

The methodological basis of the study is the dialectical method of scientific knowledge, since with its help the genesis of the development of artificial intelligence in society in general, including in jurisprudence, interaction with other elements of the legal system of Ukraine, prospects for development in domestic criminology, etc. was revealed. The anthropological approach helped reveal the importance of reforming domestic criminology in the context of international legal standards in the field of human rights. From the standpoint of the value approach, the role of artificial intelligence in modern criminology is investigated. The work uses such general scientific methods as: system analysis, going from the general to the specific, analogy, generalization, comparison. Special-legal methods, such as comparative-legal, formal-dogmatic, sociological-legal, cultural-legal.

Results. The article found that artificial intelligence is popular in many areas of human activity, in particular in jurisprudence: for checking documents, conducting legal research, forming accounts for court costs, distributing court cases between judges, drawing up contracts, searching and highlighting the necessary information in the text legal document, detection and investigation of crimes, conducting forensic examinations, etc. It has been proven that the field of digital forensics covers the detection, recording, preliminary investigation and use of computer information, digital traces and means of processing them to solve tasks related to the detection, detection, investigation and prevention of crimes.

Conclusions. Digital forensics focuses on the patterns of occurrence and use of digital traces, the development of technical means, techniques and methods for the detection, recording, extraction and study of digital information (evidence), as well as the development of techniques and methods for processing digital information. This is a branch of criminology that studies the means to uncover targets based on knowledge of these patterns, investigate and prevent crimes. During martial law, the possibilities of using artificial intelligence in Ukraine are implemented in three areas of criminal justice: preventive activities, pre-trial investigation activities, and trial activities.

Key words: artificial intelligence, jurisprudence, new technologies, legal system, digital forensics.

1. Introduction.

Today in Ukraine, artificial intelligence is becoming an effective tool that is actively used in jurisprudence. This trend can be explained by the European integration processes of Ukraine, the expediency of technological modernization of civil, economic and criminal justice, taken by Ukraine as a candidate for joining the European Union, obligations to build artificial intelligence systems that will be useful for citizens, business and society.

The archival importance of the use of artificial intelligence in Ukraine was determined by the challenges of the full-scale invasion of Russia into Ukraine: the «huge number» of war crimes, the need to collect and process a «mountain» of evidence, work with a million different types of documents, the need to find an evidence base in the occupied territory or which is dangerous to approach, etc. The representatives of the judiciary understand that it is no longer possible to solve these problems by “traditional” methods, and that they should resort to the latest technologies.

All this testifies to the importance for domestic jurisprudence of research into the role of artificial intelligence in jurisprudence.

2. Analysis of scientific publications.

Some aspects of the investigated problem (the development of artificial intelligence as a direction of scientific knowledge; types of artificial intelligence; the influence of European standards on the reformation of the concept and practice of criminology; specifics of the investigation of war crimes, etc.) were carried out by modern scientists and practitioners: I. Avramuk, O. Baranov, Yu. Baltrunene, D. Boyko, I. Horodyskyi, A. Wittenberg, M. Demura, V. Zhuravel, V. Konovalova, A. Kolodina, A. Kostin, D. Klepka, S. Matuyelene, O. Striltsiv, O. Tarasenko, T. Fedorova, V. Khrapach [4], V. Shepitko, V. Shevchuk, V. Yaremchuk and others.

3. The aim of the work is to study and analyze the role of artificial intelligence in jurisprudence in the context of the European integration of Ukraine.

4. Review and discussion.

Artificial intelligence is a scientific discipline that deals with the modeling of the human mind. Its systems are purely software-based and operate in a virtual world or can be integrated into hardware. Today, artificial intelligence is also popular in jurisprudence, where it is used to perform such tasks as: checking documents; conducting legal research; invoicing for court costs; allocation of judges to consider court cases; drawing up contracts; extracting the necessary information from the text of the legal document; etc.

However, it is worth realizing that, like any «human creation», artificial intelligence also involves potential risks associated with its development, probable technical problems and, most importantly, with the possibility of using it for «evil» to humanity, i.e. in a way that is not legal. For example, artificial intelligence can be used to create autonomous weapons that can harm people and, like any human achievement, gain popularity among the actors of criminal activity. Therefore, it is important to develop both ethical principles for the use of artificial intelligence and to take care of the proper legal framework in the field of artificial intelligence.

People of the 21st century, cannot imagine its existence without modern technologies, which are progressing every day. She uses them in various spheres of social relations: education, medicine, social security, home economics, economics, jurisprudence, the labor market, etc. It is noteworthy that with their help a person in the 21st century. can be both a «creator» and a «destroyer». Moreover, it tends to use the achievements of the latest technologies to commit crimes, violating the legal rights and interests of society, the state, and other people.

At the same time, law enforcement agencies of almost all countries of the world today resort to the use of modern scientific and technical achievements in the fight against the activities of persons who commit crimes, and are highly qualified in the selection, licensing, implementation and adaptation of technological innovations (including artificial intellect) in jurisprudence, in particular, in criminal justice.

All this testifies to the importance of scientific and technical achievements in the field of information, communications, computers, digital and other technologies, as well as to the expediency of

introducing artificial intelligence technologies in the fight against crime (in the activities of subjects of forensic medical examination, pre-trial investigation, trial, etc.).

It is worth paying attention to the opinion of the leading domestic criminologist V. Shepitka that the creation of an information society environment influenced the development and implementation of modern technologies, such as criminal technologies, information, telecommunications, digital and artificial intelligence. Under the new modern conditions, Ukrainian criminology is moving from the usual study of physically fixed traces to the study of acoustic, electronic or genomic traces. The methods, techniques and rules of collecting, researching and recording such traces have also changed. Modern crimes in the field of information and other technologies have acquired an international and transnational character, in addition, the victims of such crimes and the criminals themselves can be located in different countries of the world [8].

Artificial intelligence systems are pure software and can also operate in the virtual world (e.g. speech synthesis, video analysis software, search engines, voice and face recognition systems) or integrated into hardware (robots, unmanned vehicles, etc.), drones, objects, etc.). Therefore, artificial intelligence as a modern scientific achievement requires new forensic ideas and methods for use in the fight against crime.

Today, many Ukrainian forensic scientists implement in their works the results of scientific research devoted to the examination and development of relevant aspects of the use of digital technologies in the law enforcement activities of law enforcement and judicial bodies of a foreign state, including artificial intelligence.

In the study of the questions raised by forensic scientists, there are a lot of archival discussed aspects, in particular regarding:

- determination of the role of artificial intelligence in the operational activities of law enforcement and judicial bodies;
- analysis of regulatory gaps in the context of the use of digital technologies and the need for their improvement within the framework of European integration processes;
- comparison of the legal system of Ukraine and the legal systems of the countries of the European Union in the light of the possible use of artificial intelligence.

In addition, there are other significant aspects that are worthy of attention when studying the prospects for the use of artificial intelligence in the legal system of Ukraine (including in forensic activities).

Recently, «modern» criminals increasingly use artificial intelligence technologies, developing new methods of criminal activity using digital technologies, which leads to an increase in the level of crime [6]. Add to this the fact that the criminogenic effects of artificial intelligence create new threats and challenges for the protection of the legal rights and interests of individual citizens, the state and society as a whole, which makes countering such criminal legal measures more difficult.

It is important to note that international standards and the principles of the European strategy for the development of artificial intelligence technologies are laid down in the formation of the legislative framework in Ukraine both on the issues of using the achievements of artificial intelligence and on the issues of its «destructiveness» [2]. By developing a legislative framework based on human rights and fundamental values (as stated in the strategy we mentioned), Ukraine, as a candidate for joining the EU, undertook to build an artificial intelligence system that would be useful for its citizens, businesses and society. EU member states, Ukraine and the European Commission need to cooperate in this direction in order to ensure the advanced status of artificial intelligence technologies and the conditions for the prospects of their implementation.

Taking into account Ukraine's path to European integration, the process of improvement and development of domestic legislation on the regulation of artificial intelligence should be based on existing EU standards, rules and recommendations.

The development and introduction of «new institutions» into national legislation should incorporate the progressive European experience of law-making and law enforcement in important areas of human activity, in particular, those related to artificial intelligence. This process includes the analysis of both positive and negative results, as well as the determination of accountability procedures for errors that may lead to negative consequences [3].

The defining stage in establishing the course chosen by the European strategy for artificial intelligence in national policy is the Concept of the Development of Artificial Intelligence in Ukraine [7]. The main goal of this concept is «determining the strategic direction and main tasks in the field of artificial intelligence technology development», as well as «protecting the rights and legitimate interests of individuals and legal entities, maintaining the competitiveness of the economy and improving the administrative system» [7].

An important stage for Ukraine is the adoption in 2018 by the Council of Europe's European Commission for the Efficiency of Justice of the Ethical Charter on the use of artificial intelligence in the judicial system and its environment, known as the «Ethical Charter». This document acts as a system of unity of principles and rules for the use of artificial intelligence in the judicial system, clearly defining the main categories of application of artificial intelligence: analysis that is predicted; advanced search systems of court practice; online dispute resolution; assistance in drafting claims; using chatbots to inform parties or provide support during litigation; categorization of provisions of legal norms according to various criteria and identification of incompatible provisions or discrepancies [1].

The adoption of the Ethical Charter resolved the issue of the introduction of artificial intelligence and contributed to the transformation of information technologies in the judicial system of Ukraine.

Another important achievement in the development of a European strategy in the field of artificial intelligence is the accession of Ukraine (which is a member of the Special Committee on Artificial Intelligence at the Council of Europe) to the Recommendations of the Organization for Economic Cooperation and Development regarding artificial intelligence (in English – Organization for Economic Cooperation and Development, Recommendation of the Council on Artificial Intelligence, OECD/LEGAL/0449) in October 2019 [6].

It is important to consider that artificial intelligence systems are often used in the activities of law enforcement agencies to solve typical tasks. However, when making decisions based on these systems, it should be remembered that, even if the results of artificial intelligence work are of high quality, the final procedural decisions still depend on the authorized person, and they have only the nature of recommendations. At the same time, it should be noted that the complexity of artificial intelligence systems can lead to shortcomings that can affect the correctness of court decisions.

Modern forensic medicine has also responded to the development of digital technologies by creating means and methods for extracting forensically important information from new types of media. Scientific and technological progress has allowed the use of digital technologies in the activities of law enforcement agencies, making pre-trial investigations more efficient and faster, and contributing to a better evidence base in solving crimes and, ultimately, improving criminal investigations.

It is known that almost any activity of individuals, including criminals and their groups, in the modern world leaves behind a unique «trace», and special importance is attached to digital traces as a key source of forensically significant information [6]. Digital, not electronic traces, now form the basis of the evidence base in solving such crimes. When it comes to your digital footprint, one thing remains constant (despite the ever-changing ways information is stored). That is, analog signals were replaced by digital coding of information.

The use of European standards of evidence in the criminal process in Ukraine indicates the orientation of the development of criminology and forensics to the European level. In such a situation, it is possible to support a new scientific direction, namely the activation of trends in the formation and application of digital forensics.

In the scientific literature, one can find various approaches to the definition and location of digital forensics in the system of criminology and forensic science. Some scientists consider digital forensics as

an independent branch of forensic science, which is a system of scientific methods for studying digital evidence for the purpose of detecting and investigating criminal violations. Others believe that digital forensics is related to the processes of collecting, receiving, storing, analyzing and presenting electronic (digital) evidence for the purpose of obtaining investigative information, evidentiary information and conducting investigations and prosecutions regarding various types of criminal offenses [5, p. 176]. Some sources define digital forensics as a complex process of collecting, obtaining, storing, analyzing and presenting electronic (digital) evidence in pretrial and judicial proceedings. From this perspective, digital forensics is considered as an important strategic direction in the development of forensics.

5. Conclusions.

The study and analysis of the role of artificial intelligence in jurisprudence made it possible to formulate the following provisions:

Today, artificial intelligence is popular in many areas of human activity, in particular in jurisprudence: for checking documents, conducting legal research, forming accounts for court costs, distributing court cases between judges, drawing up contracts, searching and extracting the necessary information in the text of a legal document, identifying and investigating crimes, conducting forensic examinations, etc.

Artificial intelligence, like any other «human creation», involves the risk of being used in an illegal way. Therefore, it is important to develop a proper deontological and legal framework in the field of artificial intelligence.

The field of digital forensics covers the detection, recording, preliminary investigation and use of computer information, digital traces and means of processing them to solve tasks related to the detection, detection, investigation and prevention of crimes. Technical tools, methods and methodological recommendations are also being developed within the framework of this field in order to optimize activities in the field of combating criminal activity in the digital space.

Thus, digital forensics is focused on the patterns of occurrence and use of digital traces, the development of technical means, techniques and methods for the detection, recording, extraction and study of digital information (evidence), as well as the development of techniques and methods for processing digital information. This is a branch of criminology that studies the means to uncover targets based on knowledge of these patterns, investigate and prevent crimes.

During martial law, the possibilities of using artificial intelligence in Ukraine are implemented in three areas of criminal justice: preventive activities, pre-trial investigation activities, and trial activities.

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ACADEMIC INTEGRITY OF SCIENTISTS: PROBLEMS OF IMPLEMENTATION AND RESPONSIBILITY IN UKRAINE

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Annotation. The article outlines the concept of academic integrity as a component of academic culture and states the academic integrity of researchers is a key aspect in determining the quality and reliability of scientific research, as well as the reputation of the scientific community. Adherence to the principles of academic integrity is the foundation for the development of scientific knowledge and innovation.

It was noted that Ukrainian legislation provides a clear framework for the regulation of academic integrity, establishing fundamental principles, requirements, and sanctions for violations. This contributes to the assurance of the quality of education and research, as well as the enhancement of trust in the outcomes of educational and research activities. A critical assessment of the list of violations of academic integrity is given. Particularly emphasized the shortcomings of the legal regulation of the definition and application of the institute “academic responsibility” as a form of ensuring “academic integrity”. The authors analyze and summarize the basic ethical principles that form the basis of academic integrity.

Conclusions. Thus, academic integrity violations, such as plagiarism, can result in serious consequences, including the revocation of academic degrees and academic titles. At the same time, maintaining academic integrity is a researcher’s moral and professional obligation, as it affects public trust in scientific results. Maintaining academic integrity is essential for the development of a scientific environment that is conducive to intellectual honesty and transparency in scientific research. Furthermore, the culture of academic integrity encourages high standards of ethics and professional behavior among scientists. Consequently, the quality and credibility of research results are contingent upon the research process being conducted in an honest and ethical manner, free from practices that are deemed unacceptable within the scientific community and that compromise academic integrity. In this regard, all the efforts of the scientific community should be aimed at preventing academic dishonesty, hindering and stopping it by creating a responsible and honest scientific environment.

Key words: integrity, academic responsibility, measures of responsibility, academic freedom, principles of academic integrity.

1. Formulation of the problem.

The academic integrity of researchers is a key aspect in determining the quality and reliability of scientific research, as well as the reputation of the scientific community. Adherence to the principles of academic integrity is the foundation for the development of scientific knowledge and innovation.

Around the world, codes of ethics are based on the understanding that good practice in science promotes trust both among the scientific community and between scientists and society. This is essential for the advancement of science. Scientists must have confidence in the reliability of the work of their colleagues, and society needs to have confidence in the integrity of scientists and the validity of their research results. It is regrettable that this trust has been called into question by serious ethical violations in many countries. Such incidents may potentially erode the authority of

science and public trust in scientists. To prevent similar situations in Ukraine, all scientists would be well-advised to consider the importance of moral conduct and their role in influencing public opinion about science.

2. The purpose of the scientific article is to consider the concept of the academic integrity of scientists, problems of implementation and responsibility in Ukraine.

3. The state of problem solving.

Many scientists have devoted their research efforts to exploring ways, methods, and tools to enhance the level of academic integrity within the educational and scientific community. One noteworthy example is the collective scientific research project, "Academic Virtue: Problems of Observance and Priorities for Dissemination Among Young Scientists", which was conducted under the scientific editorship of N. Sorokina, A. Artiukhova, and I. Dehtiarova [1]. The authors devoted significant attention to the concept of academic integrity within the context of young science, research careers, and the organizational, technical, and legal aspects of academic life. In accordance with the terms of the grant agreement with the U.S.A. Embassy in Ukraine, research was conducted on the subject of academic integrity as a foundation for the sustainable development of the university [2]. The legal framework for combating academic integrity was analyzed in detail by YA. Tytska [3]. The categorical content of academic integrity is studied in the work of O. Chumak [4]. The works of Yu. Malohulko and M. Zatkhei [5], V. Zinchenko [6], O. Semenoh [7], T. Ishchenko, H. Shyshkina, I. Nikolieva [8], A. Kolesnikova [9], and others are also worthy of attention.

4. Presentation of the research material. The International Center for Academic Integrity defines academic integrity as adherence to five fundamental values: honesty, trust, fairness, respect, and responsibility, as well as courage to act. It is insufficient to espouse fundamental values. These values must be upheld, even when faced with pressure from others or different views. "And this requires dedication, commitment, and courage" [10].

Academic integrity is a set of ethical principles and rules defined by the laws of Ukraine, including "On Education" and "On Higher Education". These principles and rules should guide the participants of the educational process during learning, teaching, and scientific (creative) activities. Their purpose is to ensure confidence in the results of learning and/or scientific (creative) achievements.

Ukrainian legislation provides a clear framework for the regulation of academic integrity, establishing fundamental principles, requirements, and sanctions for violations. This contributes to the assurance of the quality of education and research, as well as the enhancement of trust in the outcomes of educational and research activities.

Article 6 of the Law of Ukraine "On Education" of September 5, 2017 No. 2145-VIII states that among other principles, such as human-centeredness, the rule of law, ensuring the quality of education, etc., academic integrity occupies a prominent place. Article 42 is fully dedicated to academic integrity, defining its terminology, classification of violations, means of maintaining integrity, and responsibility for non-compliance. Furthermore, Article 54 of this Law requires pedagogical, scientific, and pedagogical and scientific workers to adhere to academic integrity and ensure that students comply with it throughout the educational process and scientific activities.

The Law of Ukraine "On Higher Education," dated July 1, 2014, No. 1556-VII, states the following with regard to intellectual property rights and their protection: "Higher education institutions and research institutions shall implement measures to prevent academic plagiarism, defined as the publication (in part or in full) of scientific (creative) results obtained by other persons as the results of their own research (creativity) and/or the reproduction of published texts (published works of art) of other authors without attribution" [11].

The principles of academic integrity for researchers include the following:

Honesty (this means avoiding any form of deception, lying, fraud, theft, or other forms of dishonest behavior in scientific activities);

Justice (this means maintaining an impartial attitude towards colleagues, objectively evaluating research results, and ensuring transparency and independence in the evaluation process);

Trust (i.e., the existence of an atmosphere of mutual trust in the scientific community that encourages the free exchange of ideas and information, promotes cooperation and creativity, the free production of new ideas, and creates an environment that prevents the misappropriation of the results of others' activities or the undermining of the reputation of scientists);

Respect (this concept is revealed through showing respect both for oneself and for other scientists, regardless of age, gender and status, as well as understanding new, diverse, sometimes opposing opinions and ideas, avoiding abuse of office, etc.);

Partnership (is defined as the focus on cooperation and partnership between scientists and research units, with the objective of improving the quality of research work and research results. It also entails counteracting any forms of discrimination and negative influence, as well as combating shameful acts);

Responsibility (encompasses the fulfillment of obligations in good faith and the ability to take responsibility for the results of one's activities);

Transparency and Information Openness (providing access to any information related to scientific, organizational, research, scientific, technical and financial activities, except for the information restricted by law);

Legality (compliance of researchers with the norms of the current legislation of Ukraine in their activities).

It is of particular importance to highlight the significance of academic integrity violations, including: 1) academic plagiarism is the presentation of publicly (in part or in full) scientific (creative) results obtained by others as the results of one's own research (creativity) and/or reproduction, as well as the publishing of texts (publicized works of art) of other authors without indicating authorship under the name of a person who did not participate in their creation; 2) deception – the act of knowingly providing false information about one's own scientific research or the activities of one's organization, providing feedback or reviews on scientific works or publications without proper examination; 3) academic fraud (falsification or fabrication of information, scientific results, and their further use in the work. It also includes the references to sources that were not used in the work, the provision of data on experiments, empirical studies, measurements, calculations, surveys, and other types of research that were not conducted, as well as the incomplete or distorted information on the testing of research and development results); 4) unauthorized cooperation is defined as intentional or deliberate assistance or attempt to assist another person in committing an act of academic dishonesty, as well as custom-made or sold academic texts; 6) inclusion of individuals in the authorship lists of scientific research papers who were not themselves involved in the research process.

In accordance with Article 42, Part 5 of the Law of Ukraine "On Education" "for violation of academic integrity, pedagogical, scientific-pedagogical and scientific employees of educational institutions may be brought to such academic liability: the refusal to award a degree of educational-scientific or educational-creative level or to confer an academic title; the deprivation of the awarded degree of educational-scientific or educational-creative level or of the conferred academic title; the refusal to award or deprivation of the conferred pedagogical title; the refusal to award a degree of educational-scientific or educational-creative level or of the conferred academic title; the refusal to award or deprivation of the conferred pedagogical title, or deprivation of the conferred academic title" [12].

At the level of academic institutions, researchers, structural units, and specialized academic councils for the defense of dissertations may be held accountable for violations of academic integrity.

A review of the decisions of the Certification Board of the Ministry of Education and Science of Ukraine for the period 2021-2023 reveals that: in 2021, the decisions of specialized academic councils to award the degrees of one Doctor of Technical Sciences and two Candidates of Economic Sciences were overturned due to violations of the requirements of paragraph 14 of the Procedure for Awarding Academic Degrees regarding the identification of textual borrowings and materials of other authors in the dissertation without reference to the source. As a result, the supervisors were also deprived of the right to participate in the training of scientific personnel for a period of two years; in 2022, the decisions of specialized academic councils to award the degree to one candidate of medical sciences and one candidate of technical sciences were canceled due to violations of paragraph 14 of the Procedure for Awarding Academic Degrees regarding the identification of textual borrowings and materials of other authors in the dissertation without reference to the source. Supervisors were deprived of the right to participate in the training of scientific personnel for a period of three years, and members of the expert commission and official opponents for a period of two years; in the year 2023, 1 Doctor of Technical Sciences and 1 Doctor of Pedagogical Sciences were deprived of their academic degrees for violating the requirements of the third paragraph of part two, second paragraph of part four of Article 42 of the Law of Ukraine "On Education" in terms of compliance with the legislation on copyright and related rights, academic plagiarism, and textual borrowings without reference to the source in their dissertations. Consequently, their diplomas were invalidated.

According to Article 28-1, part 7 of the Law of Ukraine "On Scientific and Scientific-Technical Activity", the decision of the dissertation council on awarding the degree of candidate of sciences or doctor of sciences should be canceled in case of established fact of academic plagiarism, forgery or falsification. According to the legislation, the National Agency for Quality Assurance in Higher Education is responsible for investigating cases of academic plagiarism, forgery or falsification. These investigations are conducted in accordance with the procedure approved by the Cabinet of Ministers of Ukraine and may be appealed in accordance with the legislation. Paragraph 38 of the Procedure for awarding and depriving the scientific degree of Doctor of Sciences states that a person to whom the diploma of Doctor of Science (candidate) has been issued by the decision of the Ministry of Education and Culture (Ministry of Youth and Sports of Ukraine) may be deprived of the corresponding degree in case of violations of the requirements of the normative legal acts on the attestation of scientific personnel, valid at the time of the decision of the MES (Ministry of Youth and Sports of Ukraine, Higher Attestation Commission) on the issuance of the corresponding diploma or approval of the council's decision on awarding the degree of Doctor of Philosophy. Pursuant to Paragraph 39 of the Awarding Procedure, in order to consider the issue of deprivation of a degree, the National Agency submits an application to the Ministry of Education and Science of Ukraine for the deprivation of the relevant degree.

It is, however, important to note that the Cabinet of Ministers of Ukraine Resolution No. 502 of May 19, 2023 introduced a new Paragraph 50 into the Procedure for awarding, according to which "a person with a scientific degree may voluntarily renounce the relevant scientific degree by submitting a notarised application to the Ministry of Education and Science. Within ten business days of receipt of the application, the MES revokes the decision of the relevant council and declares the diploma to be invalid, as evidenced by an order posted on the official website of the MES" [14].

Issuance of the order of the Ministry of Education, Culture and Science, canceling the decision of the specialized academic council on awarding a scientific degree and recognizing the diploma awarding a degree as invalid, makes it impossible to implement the application of the National Agency on the deprivation of a scientific degree, since the decision of the specialized academic council on awarding a scientific degree has been canceled, and the diploma awarding a scientific degree has already been declared invalid. Despite the existence of numerous committees within the National Agency for Quality Assurance in Higher Education, which are specifically tasked with preliminary consideration of issues within the competence of the National Agency, in particular the Ethics Committee, the Committee on the Activities of One-time Specialized Academic Councils and other committees. At the same time, in accordance with the second subparagraph of paragraph 23 of the Procedure for consideration of complaints/reports on the facts of academic plagiarism, fabrication, falsification, approved by the decision of the National Agency of June 21, 2022, which defines the procedure for consideration by the Ethics Committee of complaints/reports regarding the presence of facts of academic plagiarism, fabrication, falsification in dissertations for the degree of Doctor (Candidate) of Sciences, establishes that, based

on the results of the case, the Committee decides to submit to the National Agency a submission on the detection/non-detection of academic plagiarism in the dissertation, upon the defense of which the degree of Doctor (Candidate) of Sciences was awarded and/or scientific publications, which highlighted the scientific results, as well as instances of academic plagiarism, fabrication, and falsification. However, in cases of a voluntary renunciation of the degree and the issuance of an order by the Ministry of Education and Science of Ukraine, which cancels the decision of the specialized academic council to confer a degree and invalidates the degree diploma, the dissertation cannot be considered as having been awarded a degree based on the results of its defense, and therefore lacks the essential feature set forth in Paragraph 23 of the Procedure. Consequently, the Ethics Committee is unable to make any decision.

Therefore, raising awareness among researchers of the values, principles, and rules of academic integrity, minimizing the possibility of violating academic integrity, and identifying mechanisms and measures to prevent and resolve conflicts of interest, effective response to violations of academic integrity by researchers, proportionality of the violation and response measures, transparency of procedures for reviewing reports of violations of academic integrity, and determination of response measures for established violations will contribute to the proper maintenance of academic integrity in research institutions.

Each researcher is required to comply with the current legislation in the field of education and science, intellectual property, ethical principles, and the norms of academic integrity as defined by the current legislation. This includes providing reliable information about their research activities, promoting the creation of effective mechanisms for the implementation of the principles of academic integrity in the scientific environment, and reporting cases of violation of academic integrity to the relevant officials and/or authorized bodies of the research institution.

5. Conclusions.

In light of the aforementioned, it can be reasonably concluded that Ukrainian legislation clearly defines academic integrity as an integral part of scientific activity and provides for compliance with ethical principles, avoidance of plagiarism, and other forms of scientific dishonesty. Academic integrity violations, such as plagiarism, can result in serious consequences, including the revocation of academic degrees and academic titles. At the same time, maintaining academic integrity is a researcher's moral and professional obligation, as it affects public trust in scientific results. Maintaining academic integrity is essential for the development of a scientific environment that is conducive to intellectual honesty and transparency in scientific research. Furthermore, the culture of academic integrity encourages high standards of ethics and professional behavior among scientists. Consequently, the quality and credibility of research results are contingent upon the research process being conducted in an honest and ethical manner, free from practices that are deemed unacceptable within the scientific community and that compromise academic integrity. In this regard, all the efforts of the scientific community should be aimed at preventing academic dishonesty, hindering and stopping it by creating a responsible and honest scientific environment.

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COMPARATIVE LEGAL ANALYSIS OF THE LEGAL REGULATION OF OVERUSE IN UKRAINE AND THE REPUBLIC OF ITALY

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Annotation. The article is devoted to the study of the legal regulation of subsoil use in Ukraine and the Republic of Italy. It has been studied that starting with Ukraine's declaration of independence, a new stage of development of the subsoil use institute began, which was marked by the adoption of a wide range of laws in the specified area.

It has been established that in the context of adapting legislation in the field of subsoil use to the requirements of the European Union, it seems appropriate to improve the norms of national legislation to international norms of environmental legislation.

It is noted that the legal regulation of subsoil use in Ukraine is carried out in accordance with general normative acts that regulate the right of ownership, the right to use subsoil resources, the activities of mining enterprises, namely: the Code of Ukraine on Subsoil; The Mining Law of Ukraine, as well as special regulatory acts regulating the extraction of certain types of minerals – precious stones, precious metals, oil, gas.

It has been investigated that despite the existing legal framework in the field of subsoil use, there are problems of legal regulation of mining of precious stones, including amber, in Ukraine. It is noted that in order to improve the legislation in the field of mining of precious stones, it seems appropriate to adopt a legislative act that will contain provisions on the specifics of mining, sale of precious stones and responsibility for its illegal mining.

The article examines the historical and legal aspects of the formation of Italian legislation from the earliest times. The legislation of the Republic of Italy is analyzed. It has been established that legal regulation in the field of subsoil use is regulated by both general legislative acts and laws that carry out legal regulation of subsoil use in individual regions of Italy.

The article analyzes the legal regulation of the mining police (Polizia Mineraria), whose activities are aimed at preventing offenses in the field of subsoil use.

It was concluded that it is necessary to borrow the experience of the Republic of Italy in the field of subsoil use in the formation of a special unit of the mining police of Ukraine and the adoption of the Law of Ukraine "On the Mining Police of Ukraine".

Key words: minerals, subsoil use, legal regulation of subsoil use in Ukraine and the Republic of Italy, legislation in the field of subsoil use, problems of legal regulation in the field of subsoil use.

1. Introduction.

With Ukraine's declaration of independence, a new stage in the development of the Institute of Subsoil Use begins. The need to develop and consolidate the foundations of legal regulation of subsoil use was foreseen in the Declaration on State Sovereignty of Ukraine dated July 16, 1990 [1].

One of the significant events of the early 1990s was the formation of environmental legislation, namely: the adoption of the Law of Ukraine "On Environmental Protection" on June 25, 1991, in which special attention was paid to the legal regulation of subsoil use [2, p. 51].

During the period of Ukraine's independence in the field of subsoil use, a significant list of normative legal acts was adopted, the basis of which is: the Code of Ukraine on Subsoil; Mining Law of Ukraine, Law of Ukraine on Environmental Protection, etc.

At the same time, the legal regulation of subsoil use has certain shortcomings that require improvement, namely: issues related to the legal regulation of mining of precious stones, including amber.

In the context of adapting domestic legislation in the field of subsoil use to the requirements of the European Union (hereinafter referred to as the EU), it seems appropriate to improve the norms of national legislation to international norms. Adaptation of domestic environmental legislation to EU requirements is due to European integration processes taking place in Ukraine. The strategy of Ukraine's integration into the EU should ensure the country's entry into the European political, informational, economic and legal space.

In this context, the study of the legal regulation of subsoil use of the Republic of Italy, as one of the leading EU countries, which has significant experience in legal regulation in the specified area, is of particular importance.

The development of legal regulation in the field of subsoil use through the mechanism of adaptation of Ukrainian legislation to the EU legal system should ensure the fulfillment of the requirements of European energy legislation in accordance with the Partnership and Cooperation Agreement between Ukraine and the EU, the Program for the Integration of Ukraine into the European Union [3, p. 241].

2. Analysis of scientific publications.

The study of the legal regulation of subsoil use in Ukraine was the subject of research by such scientists, namely: I. Bulgakova, V.L. Bredikhinoy, O.A. Hrytsan, A.S. Yevstigneeva, R.S. Kirina, I.M. Kozyakova, A.V. Makarenko, I.B. Machuska, S.V. Razmetayeva, O.O. Surilova, V.V. Strelnyk, O.P. Svitlychnoy, Yu.S. Shemshuchenko, V.K. Filatova.

The subject of research into the legal regulation of subsoil use in Italy was the work of the following scientists, namely: M. Bessone, V. Cirulli Irelli, R. Caccin, P. La Rocca, F.A. Roversi Monaco, M. Sertorio.

3. The purpose of the work.

The purpose of the article is to conduct a comparative legal analysis of the legal regulation of public use in Ukraine and the Republic of Italy.

4. Presenting main material.

The Institute of Subsoil Use in Ukraine and in the world has a centuries-old history. The emergence and development of civilization is directly related to the use of subsoil [2, p. 51].

Ukraine has significant natural resource potential. The mineral and raw material base of Ukraine includes: 20,000 deposits and manifestations of 117 types of minerals [4].

Legal regulation of subsoil use in Ukraine is carried out in accordance with the following regulatory acts, namely: the Code of Ukraine on Subsoil; Mining Law of Ukraine; Laws of Ukraine "On production sharing agreements", "On state regulation of mining, production and use of precious metals and precious stones and control over operations with them" dated November 18, 1997 No. 637/97-BP 4,

“On gas (methane) of coal deposits”, “On oil and gas”, On the approval of the Classification of mineral reserves and resources of the state fund of natural resources.

It is worth noting that in Ukraine for a long time there is a problem of improving legal regulation in the field of subsoil use. Thus, one of the significant problems is the legal regulation of mining of precious stones, including amber. Despite significant efforts of the legislator, a significant number of legislative acts in the specified area were not adopted. At the same time, the problem of illegal amber mining remains unresolved for many years, which is directly related to environmental, socio-economic, political and cultural aspects. One of the mechanisms to overcome it is the improvement of the legal regulation of the mining of precious stones by adopting the Law of Ukraine “On Precious Stones”, which should contain provisions relating to the specifics of mining, control, supervision over the mining and sale of precious stones, legal responsibility, and the application of sanctions for the illegal mining of such a special type of minerals that have significant market, cultural and aesthetic value.

In order to improve legal relations in the field of subsoil use, it is advisable to consider the experience of the Republic of Italy.

Mineral development in the Republic of Italy dates back to (the end of the 4th - the beginning of the 1st millennium BC) – Montano, Monte Tabuto [5].

In the period of the Roman Empire, the development of marble (the city of Carrara) was of particular importance [6]. Until 1751, there was no clear legislation in the field of subsoil use, the rule of law concerned only the legal regulation of land relations. From 1751 to 1852, by the Dukes of Massa and Carrara, and then by their successors, the Dukes of Modena, relations in the field of subsoil use were regulated by a normative act known as the law of Este (La legislazione estense) - the laws of la Legge 1/2/1751, and later la Legge 6/4/1844 [6].

In the future, the mining legislation of Carrara was regulated by the Regulation of 14/7/1846 of 14/7/1846, approved by the governor (Nicolò Bayard Conte de Volo), which established rules for the use of marble [7, p. 85].

Today, the mining industry remains an important sector of the Italian economy [7, p. 85].

At the beginning of the 20th century in Italy, legislation in the field of subsoil use begins to be formed, which was affected by the adoption of the Mining Law of 1927 (legge mineraria n. 1143/1927) [8]. In accordance with the provisions of the law, norms were established regarding geological exploration of the subsoil and mining and private ownership of quarries.

By Presidential Decree Decreto del Presidente della Repubblica 7 maggio 1958, n. 574. Costituzione dell’Ente autonomo di gestione per le aziende minerarie. (G.U. 13 giugno 1958, n. 140), created an autonomous authority for the management of mining companies [9].

Jurisprudence establishes that quarries are private property, as stated in the Decision of the Italian Constitutional Court No. 20 of 1967 (la Corte Costituzionale, la quale, con sentenza n° 20 del 1967). The decision of the Court of Cassation (La Corte di Cassazione) No. 6270/80 and No. 6354/81 “denied ownership of the space below the ground in favor of a person who is not the owner of the soil” [10].

The legal regulation of subsoil use in Italy is also carried out by other normative legal acts, namely: Norme per l’attuazione della politica mineraria L. 6 ottobre 1982, n. 752 (Rules for the implementation of mining policy [11]. The regulation of the procedure for granting permits for the exploration of the territory and concessions for the development of mineral deposits of national and local importance is carried out in accordance with the Disciplina dei procedimenti di conferimento dei permessi di ricerca e di concessioni di coltivazione di giacimenti minerari di interesse nazionale e di interesse locale D.P.R. 18 aprile 1994, n. 382 [12].

It is appropriate to note that legal regulation in the field of subsoil use is carried out not only in accordance with general legislative acts, but also with normative acts relating to individual regions of Italy, namely: Legge Regionale 5 novembre 2009, n. 40. Attività estrattiva nel territorio della Regione Calabria.- Regional law of November 5, 2009, n. [13]; Legge regionale Toscana (Regional Law of Tuscany 5/12/1995 No. 104), La Legge Regionale Toscana 3/11/1998 n. 78 [14].

Also, in connection with changes in the provisions of Article 117 of the Constitution of Italy, new provisions were introduced regarding the extraction of minerals in the regions of Italy [15, p. 43]. Regional Law No. 36/80 (La Legge Regionale n° 36/80) provides for transitional provisions regarding the exploitation of quarries and environmental protection [16].

Features of the management of the regional park "Apuan Alps" are regulated by: Regional Law No. 65/1997 (Legge Regionale n° 65/1997 - istituzione dell'Ente per la gestione del "Parco Regionale delle Alpi Apuane"). In accordance with the provisions of the law, a special management body was established to manage the territory of the Aswan Alps; whose main task is the formation of a policy on balanced environmental management [17], the Regional Law of Tuscany 3/11/1998 (La Legge Regionale Toscana 3/11/1998 n. 78), regulates activities related to the extraction of mineral substances belonging to the category of "car "years" [14], the Regulation on the concession of the marble quarries of Carrara is stated in the Decree of the City Council of Carrara dated 21/7/2005 No. 61 (Delibera del Consiglio Comunale di Carrara del 21/7/2005 n°61). [15].

In order to prevent violations of safety rules at mining enterprises, investigate accidents, and prevent offenses in the field of subsoil use, a special unit of the mining police (Polizia Mineraria) has been operating in Italy for sixty years [18].

The activities of the Polizia Mineraria are regulated by the following regulations, namely: Norme di polizia delle miniere e delle cave (D.P.R. 9 aprile 1959, n. 128. Norme di polizia delle miniere e delle cave. [19], Regionale n° 44 del 26.4.2000 (artt. 27, 28, 29, 30, 31, 32, 33) [20].

Thus, taking into account the positive experience of the Republic of Italy in the field of subsoil use and in the context of the adaptation of Ukrainian legislation to EU legislation, the formation of a special unit of the mining police of Ukraine is a necessary measure to ensure the safety of employees of mining enterprises and will contribute to the protection and rational use of subsoil resources. For this purpose, in our opinion, to make a proposal regarding the expediency of adopting the Law "On the Mining Police of Ukraine" [21].

5. Conclusions.

Taking into account the above, it is appropriate to draw the following conclusions. Today, Ukraine is at a new stage of formation, which is connected with its formation as a European-level state. The defining element of such reform is the formation of legal regulation of subsoil use. In the context of adapting legislation in the field of subsoil use to the requirements of the European Union, it seems appropriate to improve the norms of national legislation to international norms of environmental legislation.

Despite a significant list of legal acts in the field of subsoil use, in Ukraine there are problems of legal regulation of mining of precious stones, including amber. In order to improve legislation in the field of mining of precious stones, it seems appropriate to adopt a legislative act "On precious stones", which will contain provisions on the peculiarities of mining, sale of precious stones and responsibility for its illegal mining.

In order to improve legal relations in the field of subsoil use in Ukraine, it is advisable to borrow the experience of the Republic of Italy in this field. Taking into account the existence of illegal mining of precious stones, including amber, in Ukraine, it seems appropriate, taking into account the positive experience of the Republic of Italy in the field of subsoil use, the formation of a special unit of the mining police of Ukraine, which will be a measure to ensure the safety of employees of mining enterprises and will contribute to ensuring the protection and rational use of resources subsurface For this purpose, it seems appropriate to submit a proposal for the adoption of the Law "On the Mining Police of Ukraine".

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GENDER STEREOTYPES REGARDING WOMEN IN THE LEGAL SPHERE: ISSUES AND WAYS TO ADDRESS THEM

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Annotation. Equality is the foundation of a democratic society that strives for social justice and respect for human rights. Unfortunately, due to various circumstances, women are discriminated against in almost all spheres of life. The relevance of the scientific article is due to the fact that, despite Ukraine's recognition of basic international documents in the field of ensuring gender equality, the establishment of the principle of non-discrimination on the basis of gender at the constitutional level, the adoption of a special law on ensuring equal rights and opportunities for women and men, the creation of appropriate institutional guarantees in this area, the problem of insufficiently effective protection of women and observance of gender equality in various spheres of public life remains open for our state. Gender stereotypes represent a significant issue in contemporary society, particularly within professional environments such as the legal sphere. Women working in this field often encounter certain stereotypes that may limit their opportunities for professional advancement and development. These stereotypes may include the perception that women are less competent in the legal domain or that they are better suited for other types of professional activities.

It is important to consider that gender stereotypes can affect women's self-esteem in the legal sphere, as well as their ability to advocate for their rights and interests. This may lead to women feeling less confident in their abilities, which in turn can restrict their career trajectory.

To address this issue, it is necessary to pay attention to gender equality issues in the legal sphere. This may involve conducting campaigns to educate and raise awareness about gender stereotypes, as well as promoting the development and support of female leaders in this field. Additionally, it is important to create conditions for women to have equal opportunities for professional growth, including access to education and training in the field of law.

Key words: stereotypes, women, gender stereotypes, negative impact, legal sphere.

1. The purpose of this article is to analyze the issues and explore solutions to gender stereotypes regarding women in the legal sphere.

2. Presentation of the main material.

The legal sphere, traditionally perceived as dominated by men, has undergone significant changes in recent decades. Women are increasingly involved in various legal professions, breaking down gender stereotypes and advocating for equal opportunities.

However, despite considerable progress, gender stereotypes regarding women in the legal sphere remain prevalent. This phenomenon not only negatively impacts women's career prospects but also the overall effectiveness of the legal system.

Persistent stereotypes about which societal roles are better suited for women often hinder their professional advancement in the legal sphere. For instance, the notion that women are more

suitable for caretaking roles may result in them predominantly occupying certain positions, while opportunities for career growth in other legal fields may be limited. This perception may also lead to the general belief in the limited competence of women in the legal sphere, especially in challenging and high-status professions traditionally seen as “male-dominated.” [1].

If left unaddressed and uncorrected, such stereotypes can become obstacles for women aspiring to develop in the legal sphere. They may experience psychological pressure and insecurity about their abilities, as well as encounter difficulties in their relationships with colleagues and leadership. This may lead women to abandon their career ambitions or refrain from actively pursuing higher positions in the legal sphere [1].

The notion that women are less capable of addressing complex legal issues compared to men is a stereotype that complicates their professional standing in the legal sphere. This stereotype may result in women being offered fewer opportunities to participate in important cases and may lead to the perception of their competence as limited. These perceptions may arise from the stereotypical belief that women are less capable of restraint and analytical thinking, necessary for resolving complex legal matters.

This stereotype complicates women’s career advancement in the legal sphere, as it may lead to limitations on their opportunities to handle significant cases. It may also affect women’s self-esteem and how they are perceived by colleagues and leadership, potentially leading to a loss of confidence and low motivation for professional development.

It is also important to note that there may be a stereotype in the legal sphere regarding the role of women in conflict resolution. Women are often perceived as less aggressive and more conflict-averse. This may result in women in the legal sphere being offered fewer opportunities to participate in complex and important cases, as well as the perception of their competence as limited.

The stereotype of “softness” and “emotionality” of women is often used to limit their opportunities and treat them with a certain degree of mistrust in various areas of life. This stereotype emphasizes existing societal perceptions of gender roles, where women are attributed a more emotional character compared to men, who are considered to exhibit more rational and logical behavior. This may lead to underestimation of women’s abilities in areas requiring logical thinking and making important decisions, such as legal matters [2, c. 23].

This stereotype can also affect women’s self-assessment, encouraging them to feel less competent in areas requiring rational thinking. At the same time, this bias can influence attitudes towards the female representative group as a whole, creating certain obstacles for their professional and personal development. To overcome this stereotype, it is necessary to actively work on changing perceptions of gender roles and support equal opportunities for women in all spheres of life.

The stereotype of “insufficient authority” of women in managerial positions can be harmful and limit women’s opportunities in areas requiring influence and decisiveness, such as law enforcement or the judiciary. This stereotype is based on perceptions of gender roles, where women are perceived to possess softer and calmer qualities, making them less suitable for leadership positions requiring a firm approach and decisiveness in problem-solving [3].

However, this stereotype fails to consider the individual characteristics and professional qualities of each woman. Many women successfully work in fields requiring authority and decisiveness, demonstrating their competence and effectiveness in performing duties. It is important to realize that authority and leadership qualities are not exclusively male attributes but can be equally inherent in women.

To overcome this stereotype, it is important to create conditions for the development and support of leadership qualities in women, as well as to highlight their successful work in relevant fields. It is also crucial to abandon notions of gender roles and consider each individual based on their professional abilities and achievements rather than gender stereotypes.

The stereotype of “career-family incompatibility” puts additional pressure on women and presents them with a choice between professional growth and family responsibilities. This stereotype is based

on traditional perceptions of gender roles, where a woman is considered the primary homemaker and mother, who should focus more on raising children and supporting the family. However, this notion complicates the possibility for women to succeed in their careers and realize their potential in the legal sphere [4, c. 142].

The “glass ceiling” in the legal sphere underscores the problem of bias and unequal opportunities for women in attaining leadership positions. This stereotype entails that women face challenges in advancing up the career ladder due to the implicit barriers and prejudices existing in society. Women may encounter obstacles such as lesser support, limited opportunities for development and growth in the professional environment.

To overcome these stereotypes, it is necessary to work on changing perceptions of gender roles and creating conditions for women’s career development in the legal sphere. It is important to support a balance between family responsibilities and professional growth, as well as actively counteract bias and discrimination in the workplace.

Gender stereotypes have serious consequences for women in the legal sphere. One of the main problems is the low representation of women in leadership positions. This is reflected in the sparse selection of women for leadership roles in courts, prosecution, police, and the legal profession, leading to the absence of a female voice and perspectives in important decisions and strategies in the legal field [5, p. 113].

Another consequence is wage discrimination. Women in the legal sphere often face receiving lower salaries than men in similar positions, even if they have the same qualifications and work experience. This practice is unfair and discriminatory, as every worker, regardless of gender, should have the right to equal pay for equal work.

An additional consequence of gender stereotypes is the limitation of opportunities for professional development for women in the legal sphere. Prejudice and limitations created by these stereotypes can lead to feelings of insecurity and loss of motivation among women to achieve high goals in their careers. To overcome these consequences, it is necessary to actively work on changing perceptions of gender roles and ensuring equal opportunities for all employees in the legal field.

Gender stereotypes can significantly impact the self-esteem of women working in the legal sphere. This can lead to underestimating their abilities and loss of motivation for professional development. Women may feel less competent or incapable due to societal stereotypes about their abilities and potential, complicating their career growth and advancement in the legal field [6, p. 223].

The negative impact of gender stereotypes can also affect the effectiveness of the legal system as a whole. Gender inequality in the legal sphere can lead to unjust court decisions and inadequate regulation of legal relations. This can violate the principles of justice and the effectiveness of justice, making the legal system less fair and accessible to all citizens.

To address these problems, it is necessary to actively work on eliminating gender stereotypes in society and creating a favorable environment for the development and professional growth of women in the legal sphere. It is important to support women in their careers, provide them with opportunities for self-realization, and create equal conditions for all employees in the legal system.

To address the problems associated with gender stereotypes in the legal sphere, comprehensive measures are necessary. First and foremost, it is important to raise public awareness of gender equality issues and overcome stereotypes. Information campaigns, training, and explanatory activities can help raise awareness of the harmful effects of stereotypes and promote the construction of more equal and just relations in the legal field [7, p. 301].

One effective tool for ensuring greater representation of women in leadership is the use of quotas. Introducing quotas for leadership positions can stimulate an increase in the number of women holding key positions in the legal sphere. This can help shift entrenched stereotypes and promote more equal gender representation in leadership, which, in turn, can lead to improved gender equality and the effectiveness of the legal system as a whole.

It is also important to create mentoring and support programs for women who aspire to pursue a career in this field. This will help them find the right path in professional development and overcome possible obstacles arising from gender stereotypes.

It is important to conduct educational activities and training for judges, prosecutors, lawyers, and law enforcement officers on gender equality issues and stereotypes. This will help improve their awareness and understanding of the problem and contribute to creating a more friendly and equal environment in the legal sphere [8, p. 133].

Finally, it is important to work on changing the cultural environment permeated by gender stereotypes. This includes creating a positive and supportive environment for all employees of the legal system, regardless of their gender. Such changes can be a significant step towards building a more just and equal society.

Overall, it is important to recognize that overcoming gender stereotypes requires systematic work at the societal, legal system, and institutional levels. Only through joint efforts can significant changes be achieved in this area and build a more just and equal society for all its members.

3. Conclusions.

Gender stereotypes regarding women in the legal sphere are a serious problem that requires immediate regulation and changes in societal perceptions and practices. These stereotypes not only limit women's opportunities in a professional capacity but also affect their self-esteem and overall status in society. Overcoming these problems requires comprehensive measures aimed at strengthening gender equality and creating a favorable environment for all participants in the legal sphere.

First and foremost, it is important to conduct systematic campaigns on education and awareness about the harmfulness of gender stereotypes and their impact on society. These campaigns should incorporate various forms of informational activities to achieve maximum audience coverage. Additionally, it is crucial to support female leaders in the legal sphere and promote their professional development.

Furthermore, it is necessary to implement policies aimed at ensuring equal opportunities for women and men in the legal sphere. This may include measures to stimulate female participation in decision-making, increase the representation of women in higher positions, and ensure equal working conditions for all employees.

Overall, overcoming gender stereotypes in the legal sphere requires a comprehensive approach and joint efforts from society, the state, and professional associations. Only through this can equal conditions for the development and professional growth of all participants be ensured, regardless of gender.

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CONTROL IN THE FIELD OF BANKING ACTIVITY: PROBLEMS, PROSPECTS OF DEVELOPMENT AND LEGAL REGULATION

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Annotation. The aim of the work is to study the problems of control in the field of banking. During the writing of the work, the concept, essence and content of the concept of control in the field of banking activity are studied. By working through a large number of works of scientists on this issue and using the method of comparison and analysis, ways to overcome more significant shortcomings have been identified. The most effective ways to solve the problem, which consist in the integration and differentiation of banking legislation, have been found. The process of integration of banking legislation, in our opinion, consists in carrying out high-quality work on the creation of the Banking Code of Ukraine. The mechanism for creating a banking code should include the process of systematization of banking legislation, which includes incorporation and codification. The legal regulation of banking activity in foreign countries, which is characterized by the diversity of the legal nature of the sources of banking law, a highly developed system of normative acts on banks and banking activities, the thoroughness of their legal regulation and the penetration of a foreign element into the national banking legislation, has been studied. Therefore, in connection with Ukraine's aspiration to join the European Union, considerable attention should be paid to the legal regulation of the principles of control in the field of banking activities in the EU.

Key words: Control in the field of banking, Lima Declaration, Codification of banking legislation, Banking Code of Ukraine

1. Introduction.

Today, Ukraine is integrated into the world economic and legal community and it is obvious that the established control system must comply with the provisions of the Lima Declaration on Guiding Principles of Control, adopted in 1977 by the IX Congress of the International Organization of Supreme Audit Institutions (INTOSAI).

In addition, the Declaration of the XX INTOSAI Congress also calls on all members of the International Organization of Supreme Audit Institutions to use INTOSAI standards as reference material when developing their own standards.

In view of this, the system of state control bodies should be structurally and methodologically unified, functionally defined, with clearly defined rights that cover the entire set of budgetary resources that ensure the functioning of the economy. This will allow, on the one hand, to eliminate unnecessary duplication, optimize public spending on ensuring the functioning of control bodies and, on the other hand, significantly increase their efficiency.

At this stage of development of the national economy and the banking system of Ukraine, the issue of maintaining the liquidity and solvency of banks is particularly acute. The banking system of Ukraine is currently in

a state of protracted recession, which is directly influenced by the indicative regulation of banking activities represented by the regulator – the National Bank of Ukraine.

2. Analysis of scientific publications.

The issue of control in the field of banking and the problems that arise on the formation and development of control is currently understudied. A large number of discussions arise around this issue. Among the scientists who have devoted their works to the study and research of the problems that arise in the implementation of control in the field of banking activities, the following can be distinguished O. Kostyuchenko [24], O. Orliuk [25], D. Kyryliuk [23], E. Karmanov [22] and others.

3. The aim of the work.

The purpose of the study of this work is to find possible ways to overcome the problems that arise during the exercise of control in the field of banking activity on the basis of research and systematic analysis of available scientific sources.

4. Review and discussion.

The central place among all the problems related to the exercise of control is occupied by the problem of efficiency, since it should be considered in the context of the efficiency of the use of budget funds and state property, as well as the effectiveness of state financial control.

Increasing the efficiency of the state's budgetary policy and the use of budgetary funds and state property is called upon by the need to create a new system of state financial control – the most important lever for building a competitive national economy.

Ensuring the efficient and economical use of public funds requires mechanisms of sanctions and incentives, respectively, for inefficient and effective use of budget resources, the introduction of a system of their measurement and evaluation, which should be reflected in the Budget Code of Ukraine, the Law of Ukraine "On the Accounting Chamber of Ukraine" and other normative legal acts.

A detailed analysis of the legislative regulation of the banking system shows that it is at the stage of formation and its development has a progressive vector, but does not yet fully meet the needs of the market economy.

In particular, such scholars as O. Kostyuchenko [1], O. Orliuk [2], D. Kyryliuk [3], E. Karmanov [4] and others identify a number of negative features of the current banking legislation, which can be grouped as follows:

- multi-level nature of legal regulation, the presence of a large number of by-laws;
- making frequent changes and additions to normative legal acts;
- contradictions with other branches of law;
- lack of a single codified act on banking;
- insufficient number of special laws in the banking sector;
- limited access to operational information on law-making activities of authorized bodies [1, p. 137; 7, p. 23–29; 3, p. 80–83; 2, p. 44–46].

We consider it possible to overcome these shortcomings through the integration and differentiation of banking legislation. The process of integration of banking legislation, in our opinion, consists in carrying out high-quality work on the creation of the Banking Code. The mechanism for creating a banking code should include the process of systematization of banking legislation, which includes incorporation and codification.

Incorporation of banking legislation should be understood as bringing to a certain system of normative legal acts that regulate banking relations, according to certain criteria.

Taking into account the specifics of banking legislation, O.M. Seleznyova proposes to incorporate banking legislation not according to one criterion, but according to several, moreover, with the allocation of the main and auxiliary. As the main one, it is advisable to choose a subjective criterion (grouping of normative legal acts into several subsystems depending on which state body adopted these acts), and to determine the chronological criterion as an auxiliary criterion [5, p. 82-83].

As for the codification of banking legislation, it should be carried out on the basis of incorporated normative legal acts in order to combine these acts and make some changes and additions to them by forming a codified act.

The logical conclusion of the codification of banking legislation should be the Banking Code of Ukraine. The structure of the Banking Code should not differ from the generally accepted standard, i.e. it should consist of a general and a special (special) part. This thesis is supported by the domestic scientist E. Karmanov, who believes that the general part of the Banking Code should contain the norms applied in the regulation of all banking legal relations, apply to the entire subject of banking legislation, and the special part should determine the general provisions for the provision of banking services, highlight active and passive operations of banks, as well as financial management services [4, p. 45]. There is no unanimity among scholars on the expediency of including in the Banking Code legal relations arising with the participation of the National Bank of Ukraine. Thus, according to Y. Karmanov, the general part of the Banking Code should cover the functions of the banking system as a whole, the National Bank of Ukraine, banks and banking associations [4, p. 46]. In contrast, D. Kyryliuk believes that the regulation of vertical relations arising between the National Bank and commercial banks should be carried out by separate regulations, and the content of the Banking Code should be limited to the norms governing the relations of banks with other banks or financial institutions, as well as with their customers.

T.G. Klikh believes that the Banking Code should include provisions regulating legal relations between the National Bank and other participants of the banking market, in particular, those provisions that give the National Bank the right to exert direct influence on the banking system should be subject to detailed coverage [3, p. 82]. Therefore, we consider it appropriate to dwell in detail on the structure of the Banking Code. The general provisions should be disclosed in Part I, which would contain three sections. In the first section, it is expedient to highlight the essence of legal relations subject to regulation by banking legislation, to consider the objects, subjects and participants of banking legal relations. There is a need to highlight the structure of the banking system, the functions of the Central Bank, banks and banking associations. Particular attention needs to be paid to the disclosure of the basic principles of banking activity in Ukraine and the relationship between subjects and participants of banking legal relations. The second section of the general provisions should be devoted to the legal status of the National Bank in the banking system, highlight its organizational and legal structure and features of functioning, in particular, related to the formation of the authorized and reserve funds of the bank, the results of activities, the distribution of profits, the preparation of financial statements, and the conduct of audits. According to T.G. Klikh, the functions and operations of the National Bank should be covered in a special part of the Code. The third section of the general provisions should disclose the legal status of the bank, types and possible organizational and legal forms of bank establishment. The process of inclusion in this part of the procedure for registration and licensing, reorganization and liquidation of banking institutions is important. It is expedient to turn a number of provisions from the following current regulations into legislative norms: Regulation on the procedure for registration and licensing of banks, opening of separate subdivisions (approved by the Resolution of the Board of the National Bank of Ukraine dated 08.09.2011, № 306), Regulation on the application by the National Bank of Ukraine of measures of influence for violation of banking legislation (approved by the Resolution of the Board of the National Bank of Ukraine dated 17.08.2012, № 346).

The special part of the Banking Code of Ukraine should contain two sections. The first section should reveal two main areas of the NBU's activities, namely: mechanisms for implementing instruments of direct and indirect influence on the state's money market and mechanisms for the Central Bank's

influence exclusively on the banking system. T.G. Klikh believes that the mechanism of the NBU's influence on the money market can be covered in the Banking Code by setting out the procedure for the Central Bank's application of the required reserve ratios, discount rate, and open market operations; use of the right to issue money and regulation of money circulation, the procedure for carrying out foreign exchange interventions and currency regulation. In order to present the mechanism of the NBU's influence on the banking system in a special part, it is expedient to cover in more detail the procedure for refinancing banking institutions, the mechanism for banking regulation and supervision, and the application of measures of influence to violators of banking legislation. At the same time, this section of the special part would make it possible to combine a number of provisions contained in two specialized laws and some specialized ones, in addition, it would be expedient to transfer certain provisions from subordinate legal acts to legislative postulates. This, in particular, concerns the Regulation on the Regulation of the Liquidity of Ukrainian Banks by the National Bank (approved by the Resolution of the Board of the National Bank of Ukraine dated 30.04.2009, № 259), the Regulation on the application by the National Bank of Ukraine of measures of influence for violation of banking legislation (approved by the Resolution of the Board of the National Bank of Ukraine dated 17.08.2012, № 346).

At the same time, an increase in the number of legal norms brought to the legislative level will contribute to the stabilization of banking legislation. In the second section of the special part, it is advisable to disclose the procedure for the provision of banking services and the implementation of banking operations. This should include provisions devoted to the description of the general principles of the provision of banking services. It is expedient to specify the procedure for carrying out deposit, credit and cash transactions. Most of the provisions of by-laws, in particular the Instructions on the Procedure for Opening, Using and Closing Accounts in National and Foreign Currencies, could become legislative norms (approved by the Resolution of the Board of the National Bank of Ukraine dated 12.11.2003, No. 492), Instructions on non-cash payments in Ukraine in the national currency (approved by the Resolution of the Board of the National Bank of Ukraine dated 21.01.2004, No. 22), Instructions on interbank transfer of funds in Ukraine in the national currency (approved by the Resolution of the Board of the National Bank of Ukraine dated 16.08.2006, No. 320), instructions on cash transactions by banks in Ukraine (approved by the Resolution of the Board of the National Bank of Ukraine dated 01.06.2011, № 174), Instructions on the organization of collection of funds and transportation of currency valuables in banking institutions of Ukraine (approved by the Resolution of the Board of the National Bank of Ukraine dated 14.02.2007, № 45), Regulation on the procedure for carrying out deposit transactions by banks of Ukraine with legal entities and individuals (approved by the Resolution of the Board of the National Bank of Ukraine dated 03.12.2003, № 516), etc.

Therefore, we believe that the adoption of the Banking Code of Ukraine would significantly reduce the number of by-laws by bringing important provisions to the legislative level and reduce the excessive regulation of banking procedures, which can be quite realistically fixed at the level of internal bank documentation. An integrated approach to the analysis of all the accumulated material would allow to achieve harmonization of a significant number of regulations on the activities of banking institutions, eliminating their internal contradictions and filling in the gaps in the legal regulation of relations in the banking system.

S.M. Lobozyńska [6] believes that the development and adoption of the proposed Banking Code would indicate that there is no need for the existence of the current Laws of Ukraine "On the National Bank of Ukraine" and "Pro banki i bankivsku diyalnist"[7]. However, it should be emphasized that the process of codification of banking legislation should not abolish the institution of special legislation, on the contrary, the process of codification should necessarily take place in parallel with the process of developing new special banking laws that would regulate specific legal relations arising in the process of development of banking. Also, it is necessary to support the position on the adoption of such special laws as: "On State-Owned Banks and Nationalization of Banking Institutions", "On State Regulation of the Banking System in a Special Period", "On Virtual Banks and Internet Banking", "On the Activities of Banking Associations", "On Consumer Lending", "On Bankruptcy of Banks", "On State Regulation of Foreign Banking Capital in Ukraine", "On Protection of Competition in the Banking System" [6, p. 189-190].

Thus, the analysis of the legal support of banking activity shows that it needs to be improved. Intensification of the process of codification of banking legislation along with the development and adoption of special laws, the effect of which would be aimed at regulating specific legal relations between subjects and participants of the banking market, would contribute to the improvement of banking legislation by clearing it of norms that have long lost their relevance, and supplementing it with new provisions regulating modern aspects of banking relations. It should also be noted that the banking system of Ukraine over the years of independence, unfortunately, has not become powerful, in particular, the lion's share of the negative impact on the legal support of banks in Ukraine belongs to the global financial crises, the deplorable general state of the country's economy and the inadequate system of banking supervision, which is entrusted to the National Bank of Ukraine by the current legislation and bears the signs of a vestige of the past, borrowed from the practice of Soviet times.

What should banking supervision be like in a modern developed, and above all, rule-of-law state? It should be an independent, non-corrupt and politically biased central body of state power. The National Bank of Ukraine is essentially the same commercial structure as any commercial bank. The National Bank has the same estimate, the same expenses and profits, and its own enterprises that conduct economic activities. Never, under any circumstances, should one commercial entity control and audit another. Objectivity here is a big question by definition. The National Bank, as a commercial structure, although state-owned, also needs constant banking supervision and regulation by the state. Internal and external audits are not designed to produce the same results as banking supervision. This important state body cannot be uncontrolled. Otherwise, again and again we will have rumors about abuses committed or not committed by his leadership, as has happened more than once. In democratic, law-based countries of the world with developed economies, the state body tasked with banking supervision is not only separate from the Central Bank, but also controls the Central Bank on an equal basis with other banks. Such a system has been working for a long time, for example, in Germany. Therefore, there is a need to improve the current legislation of Ukraine aimed at establishing a transparent, maximally objective system of state banking supervision and regulation of banking activities.

Thus, modern trends in improving legislation are associated with the creation of new complex branches of legislation (in particular, banking, privatization, tax, etc.), which is a significant factor influencing the real solution of economic and social issues.

In connection with the improvement of legislation, which entails reducing the gap between the current law and the changed social relations, the system of legislation should approach its own ideal – the system of law. Summarizing the above, it can be concluded that it is necessary to systematize and codify all the norms of banking legislation into one normative legal act – the Banking Code. Its goal is to create stable legal instruments necessary for the activities of all participants in the banking system of Ukraine on the basis of the most valuable provisions of the current banking legislation and new approaches to the activities of banks in Ukraine. With the adoption of the Banking Code, the legal status of the National Bank of Ukraine and individual institutions of the banking system, as well as the regime of banking activities, will be determined, will be a fact that testifies to the consolidation of new approaches to the management of the monetary system of the state in market relations, will contribute to the consolidation of the demonopolization of the banking system as a whole, as well as ensuring its stability and legal protection of the interests of clients – legal entities and individuals. The gradual harmonization of the national banking legislation with the legislation of the European Community, the development and improvement of banking rules and standards enshrined in the Banking Code, all this will contribute to attracting funds of the population and enterprises to the credit system, strengthening the loan capital market, and, accordingly, the financial stability of the state as a whole.

The above gives us grounds to express an opinion on the need for further improvement of banking legislation and its systematization. Prospects for further research in this direction should contribute to the development of an integral scientifically grounded concept for the development of the banking system of Ukraine.

Also, in addition to the systematization and codification of banking legislation, in order to increase the efficiency of financial control, it is necessary to improve the quality of the work of controllers,

who should identify the maximum possible number of violations in the banking sector, as well as reduce the cost of control work.

5. Conclusions.

So, the legal regulation of banking activity in foreign countries is characterized by a variety of sources of banking law in terms of legal nature, a highly developed system of regulations on banks and banking activities, the thoroughness of their legal regulation and the penetration of a foreign element into the national banking legislation.

In connection with Ukraine's aspiration to join the European Union, considerable attention should be paid to the legal regulation of the principles of control in the field of banking activities in the EU.

One of the most important features of the legal nature of the European Union is that the legal system of interstate association, which was formed on the basis of national and international law and under the conditions of their interaction, has signs of a supranational character. The essential features of EU law are: 1) the complex nature of law, which combines international and national features; 2) dynamic changes in law, the consequence of which is a change in the nature, structure, scope and mechanism of action; 3) incompleteness of formation, and therefore it is possible to note its effect on the border of international and national law.

To achieve the optimal efficiency of state financial control, it is necessary to move simultaneously and fairly evenly in several directions at once, in particular, such as the formation of a legal framework of control that corresponds to the political system and economic development of the country; creation of a single field of financial control throughout the country in the presence of a pronounced control vertical; formation of stable qualified personnel potential of financial control bodies.

The results of the analysis of the problems and prospects for the development of state control in the sphere of banking and its legal regulation in Ukraine allow to identify the existing obstacles that stand in the way of its sustainable development and restructuring, emphasize the need to reform the existing organizational and legal mechanism of state control in this area. The above gives us grounds to express our opinion on the need for further improvement of banking legislation and its systematization. Prospects for further research in this direction should contribute to the development of an integral scientifically grounded concept for the development of the banking system of Ukraine.

Also, in addition to the systematization and codification of banking legislation, in order to increase the efficiency of financial control, it is necessary to improve the quality of the work of controllers, who should identify the maximum possible number of violations in the banking sector, as well as reduce the cost of control work.

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THE ADMINISTRATIVE AND LEGAL STATUS OF MILITARY ADMINISTRATIONS IN UKRAINE DEPENDING ON THE ORDER OF THEIR CREATION

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Annotation. The article is dedicated to the study of the system of public administration under martial law and the administrative and legal nature of military administrations. The author notes that the military administrations are a new and less studied institution of public administration for the modern stage of state formation.

The author aims to research the priority directions for improving the public administration system under martial law, outline the strategic orientations of the state's development and the optimal institutional model of public administration under martial law.

It has been found that, depending on territorial competence, subordination, grounds and order of formation and termination of activities, as well as the order of recruitment, military administrations are divided into: 1) regional military administrations; 2) district military administrations; 3) military administrations of settlements. At the same time, the powers of regional and district military administrations are completely identical, and therefore, the author believes that there is no reason to distinguish them into separate levels for the purposes of this study. Regional and district military administrations are one type of administration, as opposed to military administrations of settlements.

It has been proved that the Law of Ukraine "On the Legal Regime of Martial Law" does not contain an exhaustive list of grounds for terminating the powers of local self-government bodies of settlements and, accordingly, legal grounds for the formation of military administrations of settlements.

The author proves that the military administration in the city of Kyiv could be formed only as a military administration of the settlement, that is, in the event of failure by the Kyiv City Council and/or the executive body of the Kyiv City Council to exercise the powers assigned to them. Considering that the Kyiv City Council continues to exercise, and the executive body of the Kyiv City Council exercised its powers before receiving the status of the Kyiv City Military Administration, the formation of the Kyiv City Military Administration seems legally problematic.

It has been argued that the legislator has established different approaches to determining the fate of regional, district local state administrations and military-civilian administrations after the introduction of the legal regime of martial law and the formation of military administrations. This approach of the legislator seems unreasonable and gives rise to a number of problems.

Key words: military administrations, military administrations of settlements, regional and district military administrations, the legal regime of martial law, public administration under martial law, institutions of public administration, the President of Ukraine.

1. Introduction.

The use of special forms and methods of exercising state power under martial law is conditioned by the need for a timely response to threats of a military, political and economic nature, within which

the use of ordinary, traditional legal mechanisms of public administration by state authorities and local self-government is not always sufficient.

With the introduction of martial law in Ukraine, a number of problems arose related to the implementation by local authorities of the powers assigned to them, which negatively affected the life and safety of the population of the corresponding territorial communities [17]. Given this, the need arose to search for a new mechanism for public administration of territories in the conditions of armed aggression of the Russian Federation (hereinafter referred to as the RF) and to determine the powers of local executive authorities and local self-government bodies in these territories.

As evidenced by practice and modern administrative and legal research, public administration bodies that functioned in peacetime, in the event of emergency circumstances, as a rule, cannot act quickly due to the complexity of tasks and the increase in their volume [10, p. 96–99]. Under such conditions, there is a need to create a system of emergency authorities that would be able to mobilize society to fight the emerging danger. At the same time, various public administration systems can be introduced in such conditions.

Usually, when the legal regime of martial law is introduced, the existing bodies of executive power are preserved, but become directly subordinated to the head of state and/or the commander-in-chief; to coordinate efforts to eliminate the circumstances that led to the introduction of this regime; temporary special bodies of public administration are created in case of improper implementation of their functions by the bodies of state power and administration.

The introduction of the legal regime of martial law in Ukraine created special conditions for the activities of executive authorities, local self-government, law enforcement agencies, military formations, etc. Complicating the process of public administration, these conditions provoked the need for special legal, organizational and logistical support and require the creation of new public administration bodies that are not typical for ordinary everyday activities [13, p. 518–523; 11; 10, p. 96–99].

Administrative and legal science has developed the concept of public administration under the legal conditions of martial law, according to which, under martial law, public administration is carried out in the form of military cooperation, which is an interaction aimed at ensuring national security and defense, as well as socio-political and socio-economic processes of territorial development, taking into account the features of the martial law.

Among all possible models of public administration under martial law, Ukraine has chosen the model of creating temporary bodies for public administration of territories - the model of military administrations.

2. Analysis of scientific publications.

The military administrations are a new and less studied institution of public administration for the modern stage of state formation. Its emergence is conditioned by the difficult military and political situation in which our country found itself. Accordingly, the formation of the legislative framework regulating the administrative and legal status of military administrations took place through the resolution of many problematic issues of both an organizational and legal nature.

The administrative-legal nature of military administrations has been little studied in administrative-legal science.

Given the novelty of the research object, its scientific and resource base is only being formed at the moment. At the same time, some scientific works, which constitute the source base for this study, have already been published. In particular, certain aspects of the administrative and legal nature of military administrations have been studied by such scientists as: O.S. Arsentieva, N.I. Didyk, I.V. Kovbas, V.V. Dulher, T.S. Zhuravel, S.O. Kuznichenko, Ya.I. Maslova, Ya.P. Pavlovych-Seneta, A.A. Poltavets, S.A. Potapenko, M.M. Tyshchenko, O.D. Chepel, V.Y. Shevchenko, T.O. Kolomoiets, V.K. Kolpakov etc.

Paying tribute to the significant contribution of these scientists to the study of the administrative-legal nature of military administrations, it should be recognized that the rapid development of legislation on the legal regime of martial law actualizes the need for a comprehensive study of the institution of military administrations, their administrative-legal nature, features, types, powers, etc.

3. The aim of the work.

The study aims to determine the priority directions for improving the system of public administration under martial law, outline the strategic orientations of the state's development and the optimal institutional model of public administration under martial law.

To achieve this goal, the following tasks have been defined: to investigate the current state of administrative and legal regulation of the order of formation and operation of military administrations; to determine the specifics of the administrative and legal status of military administrations depending on the order of their formation; to outline problematic points in the formation and operation of military administrations; to establish the place of military administrations in the system of institutions of public administration; to justify the need to introduce new approaches to public administration under martial law; to determine directions for reforming the institution of military administrations; to formulate recommendations and proposals for improving the legal and regulatory framework on this issue.

4. Review and discussion.

Depending on territorial competence, subordination, grounds and order of formation and termination of activities, as well as the order of recruitment, military administrations are divided into: 1) regional military administrations; 2) district military administrations; 3) military administrations of settlements [16].

The study of the content of the Law of Ukraine "On the Legal Regime of Martial Law" (in particular, Clause 2 of Article 5 and Clause 3 of Article 15) shows that the powers of regional and district military administrations are completely identical, and therefore, we believe that there is no reason to distinguish them into separate levels for the purposes of this study. Regional and district military administrations are one type of administration, as opposed to military administrations of settlements.

Sometimes in administrative and legal science, military administrations of regions, districts and settlements, in which military-civilian administrations operated before the formation of military administrations, are singled out as a separate type of military administrations within the named three varieties (regional, district, those of settlements) [14, p. 10–14].

Military administrations of settlements. The formation of military administrations in settlements is carried out according to a separate legal procedure and must have compelling reasons. According to Part 3 of Art. 4 of the Law of Ukraine "On the Legal Regime of Martial Law", military administrations of settlements are formed within the territories of territorial communities wherein village, settlement, city councils, and/or their executive bodies, and/or village, settlement, city mayors do not exercise the powers assigned to them by the Constitution and laws of Ukraine, as well as in other cases provided for by the Law [16].

As we can see, Part 3 of Art. 4 of the Law of Ukraine "On the Legal Regime of Martial Law" does not contain an exhaustive list of grounds for terminating the powers of local self-government bodies of settlements and, accordingly, legal grounds for the formation of military administrations. Moreover, such a legal basis as "failure to exercise powers" is quite subjective, as it does not detail the failure to exercise the scope of powers that creates a certain discretion of the President of Ukraine regarding the formation of a military administration. However, there is an opinion that in this case this is completely justified, because the Head of State has a much larger amount of information and has the opportunity to act proactively [9]. We believe that failure to exercise powers by local councils and/or their executive bodies, and/or village, settlement, city heads in wartime is not always related to

reluctance or inaction – in most cases, such exercise of powers is impossible for reasons independent of the local self-government body.

Military administrations of settlements are actually formed “from scratch”, from military personnel of military formations, law enforcement agencies, civil protection service, employees who have concluded an employment contract with the General Staff of the Armed Forces of Ukraine. However, the parliament is already considering a draft Law on improving the powers of local self-government bodies and their officials during the period of martial law, which is designed to correct this situation [9; 15]. And this is logical, because it is local government bodies (primarily elected ones) that have the mandate to represent the interests of members of their territorial community.

The problem of the formation of military administrations in cities with special status [1; 4], in which local state administrations operated in peacetime, deserves special attention. These administrations have been formed in the same order as other local state administrations, but their actual status was much more significant, since their appearance in cities with a special status has called into question the possibility of creating a full-fledged system of local self-government bodies in the cities of Kyiv and Sevastopol, which significantly distinguishes the latter from other cities of the country. This is confirmed by the evolution of public administration models in cities with special status. Administrative institutes in cities with special status have been entrusted with a wider range of powers, which is associated with additional functions performed by state authorities in these cities, as well as with the need to perform the functions of local self-government [12, p. 229–306].

Taking this into account, we can pay attention to the controversial status of the Kyiv City Military Administration [6], created by Decree of the President of Ukraine No. 68/2022 of February 24, 2022, because despite the fact that the city of Kyiv as the capital of Ukraine has a special status determined by the Constitution of Ukraine and the Law of Ukraine “On the Capital of Ukraine - Hero City of Kyiv” [4], the Law of Ukraine “On the Legal Regime of Martial Law” [3] does not single out the city of Kyiv as a separate territorial unit along with regions and districts, in which the military administration can be formed for public administration in the sphere of defense, public safety and order.

It can be assumed that the military administration in the city of Kyiv can be formed only as a military administration of a settlement, i.e. in case of failure by the Kyiv City Council and/or the executive body of the Kyiv City Council (Kyiv City State Administration) to exercise the powers assigned to them by the Constitution and laws of Ukraine. Considering that the Kyiv City Council continues to exercise, and the executive body of the Kyiv City Council exercised its powers established by the Constitution and laws of Ukraine before receiving the status of the Kyiv City Military Administration, the formation of the Kyiv City Military Administration seems legally problematic.

Regional and district military administrations. In contrast to the military administrations of settlements, when a military administration is formed in a district or region, they acquire the status of district and regional state administrations, respectively, and the heads of district and regional state administrations acquire the status of heads of the corresponding military administrations. Thus, in fact, already existing bodies of state power are given new powers, acquiring a different status. The legislator has laid down a simple logic here: both the state and military administrations are formed by the President of Ukraine who appoints the heads of such administrations.

In the context of the establishment of the Institute of Military Administrations in Ukraine, attention should be paid to parts 4 and 9 of Art. 4 of the Law of Ukraine “On the Legal Regime of Martial Law”, which determined the specifics of the formation and organizational and legal basis of military administrations.

The legislator determines that if a decision is made on the formation of district and regional military administrations, their status will be acquired respectively by district and regional state administrations (Part 4 of Article 4 of the Law of Ukraine “On the Legal Regime of Martial Law”).

In connection with this legislative provision, it seems somewhat illogical to conclude that:

– regional and district military administrations are formed on the basis of local state administrations, as well as on the basis of military-civilian administrations existing in Donetsk and Luhansk regions;

– the powers of the relevant district, regional military-civilian administrations are terminated on the day of entry into force of the act of the President of Ukraine on the formation of regional and district military administrations, military administrations of settlements on the territory of Ukraine, where military-civilian administrations functioned [16].

The provisions of Part 4 of Art. 4 of the Law of Ukraine “On the Legal Regime of Martial Law”, as noted by O.S. Arsentieva, cannot in any way be extended to Donetsk and Luhansk regions, in which since 2015, on the basis of the Law of Ukraine “On Military-Civilian Administrations” and the Presidential Decree “On the Formation of Military-Civilian Administrations”, regional and district military-civilian administrations have operated instead of regional and district state administrations.

According to Part 9 of Art. 4 of the Law of Ukraine “On the Legal Regime of Martial Law”, in the event of formation of district, regional military administrations, the powers of the respective district, regional military-civilian administrations are terminated on the day of entry into force of the act of the President of Ukraine on their formation.

Thus, we can talk about establishing a different approach of the legislator to determine the fate of regional, district local administrations and the corresponding military-civilian administrations after the introduction of the legal regime of martial law and the formation of military administrations. This approach of the legislator seems unfounded and creates a number of problems [8].

In particular, disruption of continuity in the formation of military administrations in regions where military-civilian administrations operated seems harmful. In practical terms, this means that a military administration created on the basis of a local administration has a number of advantages over a body created “from scratch”. The legislation does not contain any provisions on the transfer of the affairs of the military-civilian administration, the powers of which have been terminated, to the military administrations of the relevant administrative units. This situation has inevitably led to a complication in the performance of their functions by military administrations. Therefore, on the basis of the above provisions of the legislation, from the moment the Presidential Decree “On the formation of military administrations of settlements in the Luhansk region” came into force [7], the simultaneous occurrence of two legal facts can be claimed: 1) formation of Donetsk and Luhansk regional state administrations, corresponding district state administrations; 2) termination of the powers of regional, district military-civilian administrations of these regions [8, p. 11–24].

Under these conditions, appropriate personnel appointments have been made to ensure the functioning of the newly created bodies, because, unlike the case with local state administrations, there are no grounds for the heads of the military-civilian administration to automatically occupy the positions of heads of military administrations. No acts of law enforcement on this issue have been issued by the state authorities of Ukraine. At the same time, there is actually a situation where, contrary to the provisions of the law, the military administrations of the Luhansk and Donetsk regions act as if they are the legal successors of the regional military-civilian administrations of these regions, for which they have no grounds [8, p. 11–24].

We believe that the legislative consolidation of a different approach to the legal succession of military administrations from local state and military-civilian administrations creates problems for the newly created bodies on a practical level. In order to avoid them, the authorities have chosen to ignore the law, which raises the question of the legitimacy of the Luhansk and Donetsk military administrations.

Also, in the issue of determining the administrative-legal status of military administrations, the issue of distinguishing the institute of military and military-civilian administrations occupies an important place.

Thus, in 2015, on the basis of the Law of Ukraine “On Military-Civilian Administrations” [2], 19 military-civilian administrations have been formed in the Donetsk and Luhansk regions by the Decree of the President of Ukraine “On the Formation of Military-Civilian Administrations”. Two of them were regional - Luhansk and Donetsk regional military-civilian administrations, the remaining 17 were city, village and settlement military-civilian administrations [5].

Since the introduction of the legal regime of martial law, the established military-civilian administrations continued to function for a long time in accordance with the Law of Ukraine “On

Military-Civilian Administrations" [2].

Military and military-civilian administrations have a number of common features. At the same time, they have a different administrative and legal nature, goal and purpose.

Their common features are that military administrations and military-civilian administrations are temporary bodies of public administration that act / acted on the territory determined by the President of Ukraine as a forced event with elements of a military management organization to ensure security and normalize the life of the population in the area of repulse of armed aggression of RF.

As for the distinguishing features, the distinction between the administrative-legal status of military administrations and military-civilian administrations, in our opinion, should begin with the normative-legal regulation of their activities:

1) military-civilian administrations have been formed by the Decree of the President of Ukraine "On the formation of military-civilian administrations" [5] and operated in accordance with the Law of Ukraine "On military-civilian administrations" [2], while military administrations have been formed by the Decree of the President of Ukraine "On the formation military administrations" [6] and act on the basis of the Law of Ukraine "On the Legal Regime of Martial Law" [3].

2) in accordance with the Law of Ukraine "On Military-Civilian Administrations", military-civilian administrations, as temporary state bodies in villages, towns, cities, districts and regions, operated as part of the Anti-Terrorism Center under the Security Service of Ukraine or as part of the Joint Operational Headquarters of the Armed Forces of Ukraine. Their main task was to fulfill the powers of local executive authorities and local self-government bodies in cases established by the Law of Ukraine "On Military-Civilian Administrations" in the area of repulsing the armed aggression of the Russian Federation, in particular in the area of the anti-terrorism operation. Whereas, military administrations are temporary state bodies that act during the period of martial law, to ensure the operation of the Constitution and laws of Ukraine, to ensure, together with the military command, the implementation of measures of the legal regime of martial law, defense, civil protection, public safety and order, protection of rights, freedoms and legitimate interests of citizens (Art. 4, Art. 8 of the Law of Ukraine "On the Legal Regime of Martial Law") [3].

5. Conclusions.

1. Administrative and legal science has developed the concept of public administration under the legal conditions of martial law, according to which, under martial law, public administration is carried out in the form of military cooperation, which is an interaction aimed at ensuring national security and defense, as well as socio-political and socio-economic processes of territorial development, taking into account the features of the martial law.

2. As evidenced by practice and modern scientific administrative and legal research, bodies of state power and administration that functioned in peacetime, in the event of emergency circumstances, as a rule, cannot act quickly due to the complexity of tasks and the increase in their volume. Under such conditions, there is a need to create a system of emergency authorities that would be able to mobilize society to fight the emerging danger. At the same time, various public administration systems can be introduced in such conditions.

3. Among all possible models of public administration under martial law, Ukraine has chosen the model of creating temporary bodies for public administration of territories - the model of military administrations. Military administrations are institutions of public administration, or rather a type of local state administrations (they are local state administrations with expanded powers), are part of the system of executive authorities, and, within the limits of their powers, exercise executive power on the territory of the corresponding administrative-territorial unit. Since military administrations are an integral element of the state apparatus, it is obvious that they have appropriate tasks, functions and powers, with the help of which state power is exercised in the territories of military

operations. The general characteristics of public administration bodies can be fully applied to military administrations, but with the use of methods specific to military administration.

4. The Constitution of Ukraine does not contain direct norms regarding the functioning of military administrations. At the same time, it contains norms by means of which it empowers higher state authorities in the field of ensuring national security and defense. It is important that the Constitution of Ukraine does not contain a direct or indirect ban on the creation of additional temporary state authorities with expanded powers during the introduction of the legal regime of martial law, which are represented by military administrations, and therefore, we conclude that their formation and functioning are consistent with the provisions of the Constitution of Ukraine.

5. Depending on territorial competence, subordination, grounds and order of formation and termination of activities, as well as the order of recruitment, military administrations are divided into: 1) regional military administrations; 2) district military administrations; 3) military administrations of settlements. At the same time, the powers of regional and district military administrations are completely identical, and therefore the author believes that there is no reason to distinguish them into separate levels for the purposes of this study. Regional and district military administrations are one type of administration, as opposed to military administrations of settlements.

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NAVIGATING CHANGE: THE EVOLUTION OF UKRAINIAN PRIVATE LAW FROM HISTORICAL ROOTS TO CONTEMPORARY CHALLENGES¹

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Annotation. The article examined the evolution of Ukrainian private law, which reflects the development of the country's statehood and its historical heritage, deeply rooted in European traditions. In the context of recent geopolitical events, such as the invasion of Russia and Ukraine's acquisition of the status of a candidate for membership in the European Union, the article emphasized the urgent need to overcome the post-Soviet legacy and the need for qualitative adaptation to European Union standards.

The legal trajectory of Ukraine is considered, taking into account internal reforms, external influences and the role of private law in harmonization with democratic principles. The importance of a comprehensive approach to the development of private law in accordance with modern challenges is emphasized.

Key words: the rule of law, institutional changes, development strategy, traditions, historical experience.

1. Introduction.

Private law is a complex and evolutionary construct that is determined by a number of historical and sociocultural factors, is key in the development of the legal system and an identifier of the development of the legal space. Looking from the past to the present, it becomes clear that the development of this legal sphere is not limited to the transformation of the legal system. This is a reflection of the development of statehood and the deep interweaving of traditions with national identity, where natural law, which is the basis of civilizational coexistence is key.

It is important to note that the acquisition of Ukrainian private law goes back to the deep past and is inextricably linked with the multifaceted processes that took place and are taking place in Europe. Accordingly, the formation of the main principles and structures of Ukrainian private law took place against the background of the influence of various stages of history, including the periods of empires and the Soviet system. It should be noted that the formation of legislation based on the traditions of the Romano-Germanic legal system and the preservation of certain forms of private relations in the provisions of the Civil Code of the Ukrainian SRS during the period of the functioning of the communist regime served the Ukrainian society as a bridge to not losing the acquired pre-communist private law experience in European traditions. During the communist period, although there were attempts to transform and adapt the Ukrainian legal space, many elements of the traditional legal system remained under the influence of European norms.

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The institutional changes that Ukrainian society began to build after the declaration of Ukraine's independence in 1991 were formed on the basis of the Soviet administrative-command model. The Soviet system did not recognize the traditional division of law into public and private, characteristic of Western legal systems, and was aimed at achieving collective goals and ensuring social equality through state control over key aspects of society. Accordingly, the development of private law in Ukraine began with the development of civil law, which today primarily represents the sphere of private law of Ukraine.

At the same time, R.A. Maidanyk (2016, p. 29-30) draws attention to the fact that the current model of Ukrainian law (starting from 1991 and up to today) remains to a large extent on the methodology of Soviet law with a combination of basic branches (Civil, Administrative, Criminal, Constitutional) and complex branches (Economic, Land, Labor) and in acts of complex branches of law, norms of private and public law are mixed.

This indicates that the transitional period from the Soviet model of law to the democratic one is ongoing. The private law of Ukraine crystallizes in the context of the transformation of social relations, and the importance of these changes grows against the background of modern events.

The urgency of decisively overcoming the post-Soviet legacy is only increasing against the background of Russia's invasion of Ukraine on February 24, 2022 and the declaration of martial law in Ukraine, and Ukraine's June 2022 status as a candidate for membership in the European Union. These events are consolidating for Ukrainian society an impetus for developing an effective strategy for development and a future disconnected with its Soviet past.

Moreover, there are pragmatic reasons to promote such changes. Obtaining the status of a candidate in the European Union necessitates the qualitative adaptation of the legal system of Ukraine to the standards of the law of the European Union, and the introduced martial law in Ukraine is a key factor in this process. Martial law is not only a challenge, but also an opportunity for the further development of a democratic legal environment and the search for optimal solutions for the implementation of effective changes. An important guide in this is the preservation of the principles of the rule of law, awareness of the value of the legal norm as an effective tool for the development of a human-oriented society and, undoubtedly, the need for society to perceive the law as a rule of conduct that should be followed.

In the context of the interaction of internal and external factors in the development of private law, the study of the evolution of private law takes on a new contour. The main emphasis is on finding stable values and understanding the

vestiges of the Soviet period in order to develop future changes, in particular with the development of the latest technologies and modern challenges.

Yet, there is no universality in the development of law. Rather there is a need for a step-by-step and strategically balanced search for effective legal constructions. Each country has its own unique features that influence the formation and evolution of its legal system. In confirmation of the expressed opinion, we cite the reasoning of Mariana Mota Prado and Michael J. Trebilcock (2014, p. 39-44), who note that the inter – relationships between public sector and private sector institutions vary greatly across even developed countries and more so across developing countries.

At the same time, it is important to consider that «critical junctures» may provide opportunities for more radical institutional change, but also present risk of denial. To mitigate these risks, the reform process must broaden the pool of policy ideas.

Therefore, the importance of a comprehensive approach to the development of private law is obvious. Although this article primarily considers domestic factors, it must be recognized that only such an approach will contribute to the development of private law. The reform process should be phased and strategically balanced in order to develop effective legal structures that correspond to democratic traditions. Such an approach will help create a legal environment that takes into account both internal and external influences, and will contribute to the development of private law according to the trends of the modern world.

2. Literature Review.

The issue of the development of private law is widely discussed in national and international academic circles.

The conducted studies highlight various issues, including the modernization and harmonization of private law in accordance with modern standards. They also emphasize the importance of studying the evolution and overcoming of past problems, pointing to the role of the rule of law in the development of a high-quality legal system. Special attention is paid to the interaction of private and public law in the process of evolution, as well as consideration of ways to preserve legal identity.

First of all, scientists emphasize the role of legal traditions and note the importance of civil legislation as the basis of private law of Ukraine.

Nataliia S. Kuznietsova, Oleksandr V. Petryshyn, and Denys S. Pylypenko (2021, p. 15) emphasize that the construction of democratic foundations and the restoration of private rights in Ukraine are also closely connected with the adoption in 2004 of the Civil Code of Ukraine, which “can undoubtedly be defined as the Constitution of civil society”.

O.S. Yavorska (2013, p. 131) believes that “the qualitative stage of development of human society, expressed in the aspiration for democratization in all its spheres, requires a qualitatively higher level of legal understanding. The author supports these considerations with the decision of the Constitutional Court of Ukraine dated November 2, 2004, where it is noted that law is not limited solely to legislation as one of its forms, but includes other social regulators, in particular, norms of morality, traditions, customs, etc., legitimized by society and determined by the historically achieved cultural level of the community”.

This perspective underscores the intricate interplay between legal systems and societal values, inviting further exploration into the multifaceted nature of law and its intersection with cultural and moral dimensions.

In continuation of the opinion, Yu.M. Ruzhuk (2017, p. 26) notes that “the idea of natural law runs continuously throughout the entire history of intellectual development in Western Europe”.

L.L. Bogachova, D.R. Kovalchuk, and A.Yu. Kundiyy (2021, p. 25) emphasize that “after a prolonged Soviet period of ignoring and suppressing legal customs, Ukrainian law is on the path of regenerating this democratic source of law, which holds significant historical importance for the Ukrainian people and is capable of organically complementing and thereby qualitatively renewing the modern legal system of Ukraine... legal custom is present to a greater or lesser extent in all major branches of Ukrainian law... the significance of custom is more substantial in the fields of private law, aligning with the traditions and modern trends in the development of legal systems in continental Europe”.

Vitalina Ozel (2016, p. 204) concludes that the norms of customary law always remain formal... they can be perceived as the most vivid expression of the legal culture of a certain level of social development, and unlike legislation, the norms of customary law can be considered a very dynamic reflection of all transformations in socio-legal life”.

These discussions stimulate further research into the heritage of Ukrainian law, which may turn out to be a key component in determining the basis of private law, making a significant contribution to the modernization of the legal landscape of Ukraine.

The scientific discourse on the connection between the development of law and the state also attracts attention. Researchers believe that effective interaction between legal institutions and public administration is key to creating a stable and progressive legal environment.

So, Mykola I. Kozyubra (2015, p. 16–18) highlights that, unlike the Central European countries that swiftly reformed their theoretical jurisprudence after the collapse of the socialist system, Ukraine still grapples with the persistent belief in the artificial separation of legal theory from the theory of the state. Kozyubra emphasizes that “the primary genesis of law originates not in the state but in real life,

in the natural, inalienable rights of the individual, which are the foundation, the primary source of law; law emerges not simultaneously with the state but precedes it”.

Exploring the development of civil society and modern private law in Ukraine,

N. Kuznetsova (2013, p. 52) notes that “rethinking the essence and role of the state and law, the correlation of these crucial institutions in contemporary society, awareness of the necessity for qualitative changes in the society itself, allowing it to be characterized as civil, make the investigation of the phenomenon of civil law relevant in this sense”.

The raised issues of private law reforms and their orientations are extremely relevant in scientific research.

Nataliia S. Kuznietsova (2016, p. 53) notes that “the orientation towards the European development vector requires Ukrainian civil law scholars not only to comprehend new approaches to defining the issues of scientific research but also to shape a new civilistic mindset, understanding the categories and constructions of contemporary European private law”.

Comparing individual provisions of Ukrainian private law with European harmonization initiatives, Th. Hoffmann (2016, p. 196) notes “the reforms of Ukrainian private law of 2004 raised hope that legal security and efficiency of the Ukrainian system of private law would be enhanced. The analysis of ten “standard” private law situations under Ukrainian law shows, that there is on first sight a quite close similarity in the general dogmatic approach, structure and dimensions of the Ukrainian Civil Code. This does not surprise, as even the Soviet Civil Code was structurally derived from continental European law principles, of which-based on nineteenth-century law-the main model was German law. A second sight, nevertheless, reveals that numerous elements of the “common core” of European private law are not fully or not implemented at all”.

M. Prado and M. Trebilcock (2009, p. 344) illustrate that «an improvement in the rule of law by one standard deviation from the current levels in Ukraine to those ‘middling’ levels prevailing in South Africa would lead to a fourfold increase in per capita income in the long run. A larger increase in the quality of the rule of law by two standard deviations in Ukraine (or in other countries in the former Soviet Union), to the much higher level in Slovenia or Spain, would further multiply this income per capita increase».

Frank K. Upham (2018, p.19) emphasizes that the trajectory of a society- whether it grows, stagnates, or declines - is intricately tied to property rights and market exchange.

At the same time, Lisa M. Austin`s (2021, p. XXVI) draws attention to the connection between private law and the rule of law, and focuses on how the problems of private law and public law can be intertwined”.

Thomas W. Merrill (2021, p. 591) notes that private law allows individuals to shape their affairs, exercise initiative, and plan for the future. But to perform this critical role, private law needs to be highly stable and predictable. This means private law must be rooted in history, evolve slowly, and respond to existing social norm. But the content of private law, if it is to perform its critical function, must be highly conventional. It must be developed from the bottom up, reflecting existing practice among social actors, rather than the top down.

In general, the discussed aspects are of interest in further research of the heritage of Ukrainian law, which may turn out to be a key component in the defined foundations of private law and contribute to a significant renewal of the legal landscape of Ukraine in modern conditions. At the same time, the revival of legal customs can serve as an organic renewal of modern private law.

Construction of the legal foundations of the institute of private law in post-Soviet Ukraine.

Ukraine is a post-Soviet state that began its journey as an independent country in 1991 on the basis of the Constitution of the Ukrainian SSR (1973), and since 1996 - the Constitution of Ukraine (1996). In 1996, Ukraine was defined as a sovereign, independent, democratic, social state with the rule of law. The principles of the Ukrainian Soviet Socialist Republic as a socialist state of workers and

peasants have been rejected and a new form of state organization has been established - a state with the rule of law.

The general rules that characterized the transition provided for the restructuring of Ukraine's economy to a market economy and the formation and development of private law as a means of economic power and state management. Despite the Constitutional break with the soviet past, the institutional changes that Ukrainian society began to build for the functioning of private law were formed on the basis of the post-Soviet administrative-command model. There was a need to develop effective legal instruments to move away from the model of technical vertical management to regulation according to the rules of the market economy.

The creation of a new space for legal reform was impossible without finding a reform plan to eliminate the dysfunctional existing old system of management. The first steps taken were related to the approval of a number of programs and legislative acts for their implementation. In 1991, the Resolution of the Verkhovna Rada of Ukraine "On the Main Directions of Ukraine's Economic Policy in the Conditions of Independence" (1991) and the Program of Emergency Measures to Stabilize the Economy of Ukraine and get out of the crisis state (1991). The formation of mechanisms for the free purchase and sale of enterprises and objects of market infrastructure with the right to attract foreign legal entities and individuals to participate was foreseen.

In order to implement the approved decisions, the laws of Ukraine "On Property" (1991), "On Enterprises in Ukraine" (1991) and "On Entrepreneurship" (1991) were adopted in the same year, which later became invalid with the adoption of the Economic Code of Ukraine (2003), and on 01.01.2004 of the Civil Code of Ukraine (2003), which replaced the Civil Code of the Ukraine SSR (1963).

There is no doubt that the difficulties in the formation of a law-oriented system are primarily due to the long-term functioning of the Soviet system of governance. Despite the collapse of the Soviet Union, a return to democratic values did not occurred automatically. As A. Berezovenko (2021, p. 99) rightly observes, "in the period from 1991 to February 2014, the political discourse of Ukraine was defined as the further development of the traditions of Soviet Ukraine" and only "2014 became the starting point for the formation of a new mode of perception".

Note that the end of 2013 - the beginning of 2014 is associated with protest movements in Ukraine (Revolution of Dignity) against the government's withdrawal from the European integration course.

However, the process of "decommunization of public space" (Kozyrska, 2016,

p. 130) continues, which is confirmed by a number of adopted legal acts.

Thus, on April 9, 2015, the laws of Ukraine "On the condemnation of communist and national socialist (nazi) totalitarian regimes in Ukraine and the prohibition of propaganda of their symbols" (2015) and "On the purification of power" (2014) were adopted, on April 21, 2022, the Law of Ukraine was adopted "On Denationalization of Ukrainian Legislation" (2022), August 24, 2023 Law of Ukraine "On Withdrawal from the Agreement on Cooperation of CIS Member States in the Creation, Use and Development of an Interstate Network of Information and Marketing Centers for the Promotion of Goods and Services on National Markets" (2023), on August 23, 2023, the Law of Ukraine "On withdrawal from certain international treaties concluded within the framework of the Commonwealth of Independent States" (2023), etc.

Thus, building the legal foundations of the institution of private law in post-Soviet Ukraine is a complex and multifaceted process, prompted by the need to comprehend and address historical issues linked to the totalitarian past. The enacted laws are a significant step towards creating conditions for the establishment of a democratic model in Ukraine and constitute a pivotal component of the strategy for developing a law-oriented system.

The approved legislative changes in Ukraine reflect an important step forward, as they not only establish new legal norms, but also create an essential context for the effective functioning of private law. These changes are a continuation of previous legal reforms aimed at implementing the values and principles of democracy, such as transparency, fairness, protection of rights and definition of responsibility.

At the same time, it should be noted that the process of forming legal frameworks is dynamic and requires constant improvement and adaptation. This emphasizes the need to develop a flexible model of the legal system that can effectively respond to changes in social conditions and respond to modern challenges. Further discussion emphasizes the importance of taking into account the historical context of the formation of private law of Ukraine. Observing the evolution of the legal foundations of private law reveals subtleties and relationships between legal norms and social changes, which is the key to understanding the essence of Ukrainian private law and formulating strategies for its future development.

Establishment of Ukrainian Private Law (until 1939).

According to historical records, at different stages of existence, different regions of Ukraine-Russia were part of different empires (Poland, Lithuania, Austria, Russia), but this did not prevent the Ukrainian people from preserving their authenticity. Ukrainian legal statehood, before the establishment of Soviet power in 1919 (the East and Central part of modern Ukraine) and the accession of Western Ukraine to the Ukrainian SSR in 1939, was built on deep Christian traditions, customary and natural law, which regulated horizontal (private) relations and preserved living traces of the people. Customary law developed in synergy with natural law in the dichotomy of tradition - man - social relations and arose through the prism of time and events, as evidenced by historical sources, as a self-expressed system of functioning of the Ukrainian environment, an important factor of which was the expression of civilization in the conditions of national worldview.

For example, V.M.Syrotkin (2018) notes that in 1797, despite the prohibition of customary law during the Austrian Empire, the Galician Law Book was adopted (Galicia - the western part of the territory of modern Ukraine), which included the norms of customary and imperial law. In the Left Bank and Slobid Ukraine norms of customary law were based on the Statutes of Lithuania and were in effect from "1588 until the end of the 1830s, and through a number of relevant notes on local legal peculiarities – until 1917". Continuing the thought, the scientist notes that even in the conditions of "unification of the legislative systems of Austria-Hungary and Russia and liquidation in 1830 - in the 1960s, the remnants of the legal autonomy of certain regions of Ukraine, imperial legislation recognized the effectiveness of customary law in a number of legal relationships". Thus, Ukrainian customary and natural law developed, absorbing more and more new features of the socio-economic development of the environment and its penetration into social relations was really deep.

R.A. Majdanyk (2016, p.12) notes that "during the period of the XVII-XVIII centuries the Ukrainian legal system reflected a high level of legal culture. The structure, changes and institutions of private law testify to the formation of the contemporary system of Ukrainian law in accordance with the Romano-Germanic type of legal systems".

An interesting fact is that, according to historical data, in the 20s and 30s of the XX century a legal commission on customary law operated in Lviv, which collected "more than 7,300 cards of legal terminology and left a significant legacy of scientific research on various issues of the content, forms and place of customary law in the national legal system" (Syrotkin, 2018). This is how the terms and elements that came to us from the historical foundations became known - community, elections, property, courts, contracts of purchase - sale of property, land, livestock, relations for the fulfillment of obligations, relations of punishment, relations between the community and landowners, households, family relations, understanding of women's rights in that era, in particular, a woman's right to own personal property and manage a yard (household), yard ownership of land, custom of inheritance, trade custom, control over the ownership of individual and shared property, arbitrary seizure of land, borders disagreements and others.

Consequently, Ukrainian society over the centuries, even during the unfavorable historical milestones of imperial dependence, managed to build and develop a time-tested regulation of private social relations built on freedom and

respect for private life, formed on the principles of natural and customary law in the traditions of the Romano-Germanic legal system.

The basic principles of European legal culture - respect, public reputation, justice and freedom – also served as the foundation for the formation and development of Ukrainian society at that time and contributed to the formation of Ukrainian legal culture. The acquired historical experience became a key reference point for the further formation and development of Ukrainian society.

However, during the period of revolutionary changes in the beginning of the XX century and the spread of communist ideology, significant transformations took place in the socio-cultural and legal aspects of the country's life. These processes led to reforms of some traditional values and standards that previously formed the legal landscape of Ukrainian society.

Although the communist regime tried to transform the historical path and legal culture, the acquired experience and roots remained intact at a deep level.

Period of the functioning of the Soviet era (1939-1991).

The laid foundations of private law institutions during the Soviet Union underwent critical changes. First of all, it should be remembered that the concept of private law was not applied in the Soviet period. The legislation was based on the regulation of management and property planned socialist relations (planned management of the economy - economic activity) and separate provisions of civil legislation. The main factor in the economy was planning, where the state determined and controlled the distribution of resources and production processes. In such a context, the concepts of private property and individual rights and responsibilities for property were limited, and the focus was directed to ensuring collective interests and fulfilling planned tasks. Legal relations were oriented towards socialist ideology and collectivity, and the concept of private law was not defined within this system.

As it is known from historical sources, the Constitution of the Ukrainian SSR dated January 30, 1937 announced the formation of the Ukrainian Soviet Socialist Republic - a socialist state of workers and peasants. Later, on November 1, 1939, the

Supreme Soviet of the USSR adopted the Law "On the inclusion of Western Ukraine in the Union of Soviet Socialist Republics with its union with the Ukrainian Soviet Socialist Republic" (News of the Council of Workers' Deputies of the Ukrainian SSR No. 254 of November 4, 1939). On its basis, in November 1939, the Verkhovna Rada of the Ukrainian SSR adopted the Law "On the Admission of Western Ukraine to the Ukrainian Soviet Socialist Republic" (News of the Council of Workers' Deputies of the Ukrainian SSR No. 262 of November 16, 1939).

According to the Constitution of the Ukrainian SSR (1973), the main form of property is declared to be socialist. Socialist property was defined as state property (public good), or cooperative-collective farm property (property of individual collective farms, property of cooperative associations) (Article 5). It was assumed that the land, its subsoil, waters, forests, plants, factories, mines, mines, railway, water and air transport, banks, means of communication, large agricultural enterprises organized by the state (state farms, machine-tractor stations, etc.), as well as communal enterprises and the main housing stock in cities and industrial centers are state property. Despite state property, small private farms of peasants and artisans were allowed, which excluded the exploitation of other people's labor (Article 9) and the right of personal ownership of citizens to their labor income and savings, to a residential building and auxiliary household, to household and household items, on items of personal consumption and comfort, as well as the right to inherit personal property of citizens (Article 10). As we can see, the terms property and private were applied exclusively to the property that was in the direct use of a person and was associated with his life activity (small economy).

Socio-political and socio-economic processes that took place after the proclamation of the Ukrainian SSR significantly affected the vocabulary, which could not but affect legal institutions. Under the influence of the communist regime, ideological and evaluative components, stereotypes imposed by the totalitarian regime began to be introduced into social life. The vocabulary that was introduced had an ideological, negative color, in all spheres, in particular the spheres of personal life and economy, with which the institutions of private law are inextricably linked.

For example, the word owner, as noted by linguists, had a negative interpretation and characterized a greedy person, "exploitation of workers" was associated only with capitalism (Renchka, 2018, p. 119).

Legal and economic constructions focused on condemning the capitalist way of development and private property. In general, the terms and their explanation artificially divided concepts into capitalist and Soviet ways of life and formed views that created boundaries between societies and

legal relations, formed the invariable development of law through the imposition of an exclusively communist way of thinking.

According to scholars, there were clear trends and processes of the 1930s that took place in the Ukrainian SSR and contributed to the strengthening of the totalitarian regime in the Ukrainian SSR. They include "the establishment of the communist form of totalitarian ideology; monopolization of power by the Bolshevik party, elimination of other political parties from the political arena; the growth of the ruling party with the state apparatus; state blocking of the development of civil society; establishment of monopoly control over the economic sphere by the party- state apparatus, strengthening of centralized management of the economy" (Kondratiuk, 2013, p. 256)

Due to this past, the work of freeing the Ukrainian vocabulary from ideological components continues today, and it involves the reinterpretation of concepts in the economic, legal, and social spheres in accordance with democratic transformations.

The Civil Code of the Ukrainian USSR - a regulator of separate forms of private relations in the Soviet era.

Private relations in the Soviet period were defined exclusively as civil relations and were based on the provisions of the Civil Codes of the Ukrainian SSR of 1922 (Bazhana, 2004) and 1963, the Code of Laws on Family, Guardianship, Marriage and Civil Status Acts of the Ukrainian SSR of 1926 (Shemshuchenko, 2001), the Marriage Code and family of the Ukrainian SSR (1969) Codes of 1963 and 1969. These codes allowed the existence of some forms of private law relations,

and were applied, taking into account numerous legislative changes, in independent Ukraine until January 1, 2004, before the implementation of the Civil and Family Codes of Ukraine (2002).

As an example of the peculiarities of civil relations of the Soviet period, we will give excerpts from several court decisions.

On June 23, 1971, the Judicial Panel in civil cases of the Supreme Court of the Ukrainian SSR (1971) decided the dispute about the notary's refusal to certify the donation contract, noted that "according to Art. 86 of the Civil Code, the owner has the right to own, use and dispose of property within the limits established by law. According to the same law, the owner has the right to donate his property, including a car. The current legislation does not provide that when certifying a gift contract, the parties must present to the notary evidence that such a contract is free of charge. In accordance with art. 243 of the Civil Code, under a contract of donation, one party transfers ownership of property to another party free of charge. Therefore, the very conclusion of the donation agreement is proof of the gratuitous alienation of property. B. insisted that, giving the car to his daughter, he did not intend to receive any money, since he is financially secure (...) himself is an elderly person, cannot drive a car and does not use it. There is also no evidence in the case that B. intended to sell the car to his daughter under the guise of a gift contract".

On July 26, 1972, the same Judicial Panel in Civil Cases (1972), while considering a dispute about the division of property in marriage, noted that "when filing a claim for the division of property, D. indicated that she was in a de facto marital relationship with K. from 1953 to November 1959 and during this period they jointly built a house on a plot of land allocated in the latter's name. The case was decided by the courts more than once. By the last decision of the Irpin City People's Court of February 10, 1972, the claim was satisfied. By the decision of the judicial panel of the Kyiv Regional Court dated March 31, 1972, this decision was left unchanged. In the protest of the Deputy Chairman of the Supreme Court of the Ukrainian SSR, the question of annulment of the mentioned court decisions and referral of the case for a new consideration is raised. The protest is subject to

satisfaction on the following grounds. Recognizing D's ownership right to half of the house, the people's court referred to the fact that the parties lived as one family during the construction period, had the goal of creating joint ownership of the house, and ran a joint economy with a single budget, at the expense of which the construction was carried out. Therefore, the plaintiff should be recognized as the owner of the house on an equal footing with the defendant. The judicial panel of the regional court proceeded from these considerations when leaving the decision unchanged. However, this

conclusion cannot be considered justified. In accordance with the current legislation, spouses who acquired the house during the marriage, or members of the collective farm yard can be participants in joint ownership of the house”.

The presence of certain elements of private legal relations during the Ukrainian SSR period is obvious. We find an explanation for this in the works of Ukrainian and foreign researchers, who note that “as even the Soviet civil code was structurally derived from continental European law principles, the main model was German law” (Hoffmann, 2016, p.196), and the property right section in The Civil Code of the Ukrainian SSR of 1963 “as a whole was characteristic of the legislation of the country that built socialism and moved to the gradual construction of a communist society” (Kharitonov, 2011, p. 314).

Scientists note that the Civil Code of the Ukrainian SSR of 1963 was based on the Fundamentals of Civil Legislation of the USSR in 1961 and replaced the Civil Code of 1922, which expired together with the rejection of the NEP by the Soviet government (Kharitonov, 2013, p. 549).

Note that with the collapse of the New Economic Policy (in the 30s of the 20th century), there was a departure from the development of private law for the entire period of operation of the Soviet era, private relations and institutions were subjected to strict state control and ideological restrictions.

The Civil Code of the Ukrainian SSR (1963) regulated the relations of state, cooperative and other public organizations among themselves and with citizens, and citizens among themselves, and allowed for the possibility of actions arising on

grounds not provided for by law, but due to the “general principles and content of civil legislation” (art. 4 of the Code)

The structure of the code included eight chapters, which were formed in accordance with the civil legal order of that period. Normative expressions found the terms as persons under which citizens and legal entities were interpreted (modern provisions of civil legislation use the term “individual” instead of the term “citizens”), agreements (the conclusion of agreements in writing and verbally was allowed), representation and power of attorney, statute of limitations, property (Chapter II), liability (Chapter III), copyright (Chapter V), discovery (Chapter V), inheritance (Chapter VI).

The institutions built in accordance with the formed sections of the code were directed to the preservation of communist narratives with a small interspersion of the right to property and non-property relations. For example, property was considered as socialist ownership of the means of production, and was defined as the basis of property relations in Soviet society. As a category, property was further divided into state and personal. State property was interpreted as the common property of the entire Soviet people, the main form of socialist property (Article 89 of the Central Committee of the Ukrainian SSR). Personal property included objects of use, personal consumption, comfort and auxiliary household, a residential building and labor savings (Articles 88, 100 of the Civil Code of the Ukrainian SSR). At the same time, the land, its subsoil, water and forests were the exclusive property of the state and were provided only for use (Article 90 of the Civil Code of the Ukrainian SSR). The existence of collective farm-cooperative property, property of trade unions and other public organizations was also allowed, which were allowed to manage and use their own property according to the statutes (constitutional documents). Such property included buildings, constructions, tractors, harvesters, other machines, vehicles, which constituted fixed assets and in relation to which it was forbidden to carry out collection on the claims of creditors (Article 93 of the Civil Code of the Ukrainian SSR).

The personal property of a member of a collective farm yard was segregated, which included personal labor income and savings of a member of a collective farm yard, as well as property purchased by him with personal funds or received by way of inheritance or donation (Article 109 of the Civil Code of the Ukrainian SSR).

Joint ownership was allowed - property could belong to two or more collective farms or other cooperative and other public organizations, or to the state and one or more collective farms or other cooperative and other public organizations, or to two or more citizens (Article 112 of the Civil Code of the Ukrainian SSR).

A significant moment was the introduction of the collective form of ownership in 1990. It was a certain transformation of joint ownership of two or more collective farms to state and private forms of ownership.

The development of Private Law after the declaration of Independence of Ukraine (since 1991 to the present day).

After the declaration of Ukraine's independence, private law underwent significant changes in development, which was reflected in new legal acts that took into account the specifics of Ukrainian statehood and the desire for democracy and market relations.

The process of privatization, which began in the 1990s and aimed at the transfer of ownership from the state to private individuals and enterprises, also had a significant impact on the development of private law. This process required the development of new regulatory acts that would regulate property relations and allow the private sector of the economy to function effectively.

The transformation of collective ownership and agrarian (land) reform.

In 1990, significant changes took place in the field of ownership, in particular, the collective form of ownership was introduced (Article 86 of the Central Committee of the Ukrainian SSR). This initiative envisaged the possibility of reformatting the collective farm property, which previously belonged to two or more collective farms, to the property of the collective farm. This key stage in history determined a new direction of development and organization of economic activity, prompted the possibility of resource distribution in collective structures, which

subsequently became the object of privatization after the declaration of Ukraine's independence.

Collective ownership was declared in the Constitution of the Ukrainian SSR (Article 10), and later included in the provisions of the Land Code of Ukraine (1990), defined as a separate form of ownership of "collective agricultural enterprises, agricultural cooperatives, agricultural joint-stock companies, including those created on the basis of state farms and other state agricultural enterprises... horticultural societies". The legislator provided that "the area of land transferred to collective ownership is the difference between the total area of land owned by the respective Council and the area of land that remains in state ownership (reserve land, forest fund, water fund, reserve fund, etc.) and owned by citizens... lands are transferred into collective ownership free of charge" (Article 5 of the Land Code of Ukraine, 1990). The peculiarity of this form of land ownership is the possibility of a member of the enterprise to obtain the right of private (individual) ownership of a land share (share) with further formation into a land plot by unsoldering collectively owned lands and leaving the farm. At the same time, the share of land was subject to mandatory transfer to state ownership (forests, water, etc.), and the legal entity was to be terminated.

If we break down the agrarian (land) reform in stages, then first state farms and collective farms (forms of management in the Ukrainian SSR, the land was in their use) were transformed into collective agricultural enterprises - KAE (the form of ownership is collective), at the second stage each member of the KAE who had the right for a land share (share) and a property certificate, received appropriate certificates confirming his ownership of the number of cadastral hectares or property of a certain value, the third stage was the replacement of the certificate with a state deed on the ownership of the land plot and the issuance of the property certificate. On the basis of the introduced project, the right of private ownership of land and buildings was formed by the members of the former KAE, the rest of the property (forests, water bodies, nature reserve fund became state property by decision of the members of the enterprise).

Land reform began in accordance with the Decree of the President of Ukraine dated November 10, 1994 "On urgent measures to accelerate land reform in the field of agricultural production" (1994) by transferring land to collective ownership with subsequent privatization (soldering) of land that was used by agricultural enterprises and organizations, and determined urgent priority measures in the implementation of land reform in Ukraine.

The soldering of collective farms began in the 90s on the basis of an intergovernmental agreement between Ukraine and the United States and was financed by the United States Agency for

International Development, implemented with the assistance of state authorities and local governments throughout Ukraine. The main idea of the Soldering Project is the transformation of collective agricultural enterprises into market-type legal entities. In that period, the greatest suitability for functioning in market conditions was noted for farms, private enterprises and limited liability companies with a small number of founders (allotment of agricultural land and restructuring in the agriculture of Ukraine (The project of allotment of agricultural land in Ukraine, 2000).

However, with the adoption of the new Land Code of Ukraine (2001), the collective form of ownership was forgotten by the legislator for a long time (until 2019), as were the issues related to the unfinished procedures for unsoldering the lands of collective farms and the termination of their functioning as legal entities. And only after the approval of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Solving the Issue of Collective Land Ownership, Improving the Rules of Land Use in Massifs of Agricultural Land, Preventing Raiding and Stimulating Irrigation in Ukraine" (2018) did the process of de- soldering collectively owned lands acquire legislative expression.

Currently, these are land plots (shares), which, after the adoption in 2020 of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Terms of Sale of Agricultural Lands" (2020), were introduced into civil circulation with certain reservations regarding the ban until January 1, 2024 of the year of purchase and sale or alienation in another way in favor of legal entities

of land plots that are in private ownership and are classified as lands for commercial agricultural production, land plots allocated (in the area) to owners of land shares for conducting personal of the peasant economy, as well as land shares, except for the transfer to banks of the ownership of land plots as a pledge, transfer of land plots as inheritance, exchange (change) (clause 15 of the Transitional Provisions of the Land Code of Ukraine) (2001).

As we can see, the agrarian (land) reform in Ukraine, which began in the 90s as a plan to transform the agricultural sector to market conditions, stagnated in its implementation and created a significant number of institutional and legal disputes. At the same time, during the transformation of the collective form of ownership in Ukraine, processes of transition to individual and state-communal ownership took place, which became an important stage in the formation of private law due to several key aspects.

First, the individualization of property contributed to the emergence and development of private entrepreneurship. Personal property provided citizens with incentives for effective use of resources and development of their own entrepreneurial initiatives.

Secondly, the transition to state-communal ownership took into account the needs of society in the preservation of strategically important resources and guaranteed the government's control over them. This was intended to ensure public interests and avoid privatization of key elements of the economy.

Such property transformations led to the creation of new legal norms, the implementation of which determined the context for the development of private law in Ukraine, taking into account both the interests of individual citizens and the strategic tasks of the state. Thus, this period significantly influenced the formation and development of private law in the country.

Other aspects of the development of Private Law in Ukraine.

Since 1990, with the adoption of the Land Code of the Ukrainian SSR (1990), and later in 2001, the Land Code of Ukraine (2001), the possibility of acquiring ownership of a land plot through free privatization was introduced. The peculiarity of such acquisition of the right is the free acquisition of land allotments within the norms of free privatization at the expense of state and communally owned lands. For example, citizens of Ukraine have the right to receive a land allotment with a total area of 0.25 hectares free of charge by decision of the local self-government body for the maintenance of a residential building, farm buildings and constructions.

The free privatization of land plots has been partially suspended (clause 27 of the Land Code of Ukraine, 2001), with the military aggression of Russia and, accordingly, the introduction of martial law in Ukraine from February 2022.

It is also appropriate to note that with the adoption of the Land Code of Ukraine on January 1, 2002, it was established that the land plots are not returned to persons (their heirs) who owned land plots before May 15, 1992 (Part 4, Article 78). Despite the right of ownership, in the provisions of the Land Code of the Ukrainian SSR of 1970 (Articles 20–22) (1970), and subsequently in the Land Codes of Ukraine of 1990 and 2002, the right of perpetual use in the traditions of customary law (consolidation of land plots under user) is preserved, but with the preservation of the legal construction of the Soviet period - permanent use, and not the counterpart of the European legal tradition - the right of usufruct. The disadvantage of the form of land use with the right of permanent use in Ukraine is the impossibility of registering the transfer of rights to a successor or heir, the use of land by other land users, etc., which has resulted in a significant number of legal disputes.

At the same time, with regard to property in Ukraine, it is represented in the forms of state, communal and private property, which are widespread and usually determine the main nature of relations.

Objects of ownership can be movable and immovable things, property rights, results of intellectual, creative activity, etc., that is, everything that is included in the list of objects of civil rights according to Art. 178 of the Civil Code of Ukraine, while the criterion of certainty is the turnover capacity of the object according to the provisions of the legislation.

In addition, the legislation provides for the possibility of the existence of less common forms of ownership. In particular, trust ownership as a way of securing

obligations (§ 8 of the Civil Code of Ukraine) and collective ownership as a form of enterprise organization (Law of Ukraine "On Collective Agricultural Enterprise", 1992/ (42). These forms of ownership, although they are less common, have a certain meaning in certain areas of legal relations.

Note that at the beginning of the 90s, creating space for changes in the economy and the development of institutions of private law, the state began this process through the formation of private property through the denationalization and privatization of enterprises, land and housing stock and the formation of the institution of private property. The concept of denationalization and privatization was approved by the Resolution of the Verkhovna Rada of Ukraine (1991) and provided for the possibility for every citizen of Ukraine to own the means of production, housing and land with the help of appropriate registered privatization securities (certificates, coupon checks and vouchers) certifying the right to free acquisition of most of the state property to be privatized. According to the legislator's initial idea, "the process of intensive denationalization and privatization will last 4-5 years. It was planned that 60-65 percent of the property value of currently operating state enterprises and other objects will be transferred to non-state ownership.

The transformation experiment regarding the change of ownership from the state to private individuals took place rapidly and quite actively, which was facilitated by a number of approved regulatory legal acts that regulated the issue of such a transition according to sufficiently simplified procedures.

We can see the consequences of such a pace of decisions taken at the beginning of Ukraine's independence today. Researchers note that "the strategy of reforms, the essence of which is to reduce the improvement of the entire complex of property relations to privatization, is deeply flawed, which today is already clearly indicated not only by the theory, but also by the practice of management. In particular in some important industries and sectors" (Topishko, 2010, p. 541). They also came to conclusion that "the mechanism of legislative support for the activities of formal state institutions has gained scale in the context of the number of laws ... aimed at regulating the relations between power, business and civil society" (Hrytsenko, 2015, p. 74)

Let's note that certain inability, which contemporaries point out, is primarily related to the inability to move away from the command-administrative method of management, the regulation of processes, the presence of legal and legislative gaps, ineffective legal protection caused by the vagueness and veiling of legal norms, which create legal uncertainty and diverse law enforcement practice. We find confirmation of this in modern judicial practice.

Present day.

As we can see, reform is not only the intention of transformation - it is a strategic step-by-step adaptation of changes in combination with an analysis of the effectiveness of their implementation to the state of social development. M. Prado and M. Trebilcock (2014, p. 178) emphasizes that "privatization can offer significant improvements in social welfare in middle and upper-middle income developing countries, but it is much less significant in low-income countries... while there is a connection between the benefits of privatization and the broader institutional environment that drives the reforms...if privatization is not coordinated with significant private sector reform...society gains little or nothing".

Awareness of the problem of finding new concepts and tools in the construction of Ukrainian law is important for understanding the strategy of developing a model of Private law already in a systematic combination with European law.

And here it will be appropriate to cite the reasoning of Mary Garvey Algero (2005, p. 776) that "The conditions of society, and men's attitude towards them, are slowly but constantly changing, and the law must do its best to keep in harmony with contemporary life and thought".

The first step in this is the adoption of the Concept on the main areas of systematic updating of the Civil Code of Ukraine, which was prepared by the members of the Working Group, formed by the Resolution of the Cabinet of Ministers of Ukraine "On the Formation of the Working Group on the Recodification (Update) of the Civil Code of Ukraine" (2019). As noted by members of the working group, the implementation of recodification follows from the logic of further transformation of society, in particular the formation of a real and effective market economy as an integral component of civil society and the European integration orientation of all components of society and the unconditional liquidation of the Civil Code of Ukraine (from the text of the Concept).

The tendency towards the development of Private Law continues in Ukraine to this day, in 2022 and 2023 the laws of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the First Steps of Business Deregulation through Civil Liability Insurance" (2022) and "On Digital Content and Digital Services" (2023) have been approved, which confirm the constancy of developing the legislative field to social challenges.

Analyzing a number of normative legal acts, we cannot help but pay tribute to the presence of legal sense in the Ukrainian society in the formation of democratically oriented modern legislation and legal positions. The search for the construction of private law as a building site with a multi-level superstructure in the understanding of basic European values and the foundation of social and economic principles around which the public can build institutional democratic structures is noted.

It is important to remember that the formation of modern Ukrainian law takes place in synergy with the law of the European Union in accordance with the concluded Association Agreement between Ukraine and the EU (2016) and the decision approved in 2022 on granting Ukraine the status of a candidate for membership of the European Union (2022).

The long-term European integration process started in the 90s with the approval of the Partnership and Cooperation Agreement between Ukraine and the European Communities and their member states (1994) and the Program for the Integration of Ukraine into the European Union (2000). These are an indicator of the consistency and immutability of Ukraine's desire to establish close cooperation with European institutions and become a full member of the European Union.

3. Conclusion.

To sum up, the study of the evolution of Ukrainian private law in retrospect of its development gives reasons to assert the presence of deep, stable values of Ukrainian legal culture - respect, public reputation, justice and freedom, which is extremely important for building a human-oriented model of law based on the principles of the rule of law.

At the same time, the latest trends in the formation of legal concepts testify to the gradual awareness of the importance of harmony between the law and deep values of society. This approach is focused on the application of the basic principles of natural law and will be marked by a departure from the Soviet legal model.

Private law, in which the key role is assigned to civil legislation, is currently represented by other legislative acts, such as economic (corporate), natural resource (land, water, forest), etc. This testifies to the gradual formation of a new private law in Ukraine. Such a transition is an important stage in the development of the sphere of private legal relations. Taking into account the accumulated experience of past periods, this process goes beyond a simple transformation, requires strategic and phased adaptation, coordinated with the analysis of the effectiveness of implemented changes in the context of current and future social development. It is important to consider that the development of private law in accordance with the model of democratic countries is possible under the condition of an integrated approach.

Taking into account external and internal factors will contribute to overcoming the vestiges of the Soviet era and building private law that will correspond to the trends of the modern world. For example, the introduction of innovative products (blockchain, AI, etc.), the development of Internet platforms, is a reference point in the development of a new model of the institute of human rights and human rights practice, economic, contractual and other spheres of private relations.

Therefore, the construction of a new private law is a combination of one's own legal assets and the development of legal innovations with an orientation to the trends of the modern world and the practice of democratic countries.

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BODIES OF INTERNAL AFFAIRS: SEPARATE ISSUES OF FUNCTIONAL APPOINTMENT

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Annotation. The author points out that among the main priorities of Ukraine's domestic policy since independence has been the creation of reliable mechanisms for security, political stability, and democracy that would correspond to the relevant mechanisms employed in the European Union. The prospect of EU membership is defined at the constitutional level and is a strategic guideline for Ukrainian aspirations for transformation and a key goal for which reforms are being carried out within the Ukrainian state. The creation and implementation of such mechanisms is the standard that will allow Ukraine to join the EU's common security system, increase the effectiveness of control over the movement and non-proliferation of weapons of mass destruction, and bring international cooperation in the fight against organized crime, illegal migration, smuggling, terrorism, and drug trafficking to a new level.

It is noted that Ukraine's intentions to integrate into the European space have necessitated significant changes in national legislation aimed at adapting to a wide range of norms and standards generally accepted in international and European practice. The sphere of public security protection deserves special attention from lawmakers, as human rights protection is an invariable "gold standard" that distinguishes a democratic state. Given the state-forming importance of the national police, its improvement is in the zone of increased attention from both the government and society. It is extremely important today to create an effective organizational model of police bodies capable of reliably protecting the interests of the economy and citizens, implementing such principles of reforming the Ukrainian police that would result not only in excellent work in detecting and stopping offenses but also in creating significant resources for preventing offenses.

The author demonstrates the dependence of the functional orientation of police structures on the functional orientation of the state, in particular on the form of state-legal regime it implements, which directly lays the basic principles of the activities of law enforcement structures in the country and the principles of their reform. Therefore, the logical idea arises that the functional orientation of police structures may depend on the functional orientation of the state, in particular on the form of state-legal regime it implements, which directly lays the basic principles of the activities of law enforcement structures in the country and the principles of their reform.

Key words: law enforcement system, democratic governance, state functions, legal doctrine, internal affairs bodies.

1. Formulation of the problem.

Among the main priorities of Ukraine's domestic policy since independence is the creation of reliable mechanisms of security, political stability and democracy, which would correspond to the relevant mechanisms involved in the European Union, the perspective of membership in which is defined at the constitutional level and is a strategic reference point for Ukrainian aspirations for transformation and a key goal, for the sake of which reforms are being carried out in the middle of the Ukrainian state. The creation and implementation of such mechanisms is the standard that will allow Ukraine

to join the EU common security system, increase the effectiveness of control over the transfer and non-proliferation of weapons of mass destruction, and bring international cooperation to a new level in the fight against organized crime, illegal migration, smuggling, terrorism and drug trafficking. The main impetus for the construction of mechanisms that would meet European standards in this area was the execution of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand [1].

It was the intentions of Ukraine's integration into the European space that determined the need for significant changes in national legislation, aimed at adaptation to a wide range of norms and standards generally accepted in international and European practice. The sphere of protection of public safety deserves special attention of law makers, because the protection of human rights is an unchanging "gold standard" that distinguishes a democratic state. Considering the state-forming importance of the national police, its improvement is in the zone of increased attention of both the government and society. It is extremely important today to create an effective organizational model of police bodies capable of reliably protecting the interests of the economy and citizens, the implementation of such principles of Ukrainian police reform, the result of which would be not only the brilliant work of the latter in detecting and stopping crime, but also the creation of significant resources for the prevention of crimes.

2. Analysis of the source base.

The question of the functions of police bodies in Ukraine is sufficiently researched, yes, such scientists and experts as V. Averyanov, O. Alokhin, O. Bandurka, D. Bityak, V. Harashchuk, D. made a significant contribution to defining the main functions of police bodies. D. Denisyuk, V. Kolpakov, A. Kulish, D. Lastovych, O. Moskalenko, O. Pronevich, O. Ryabchenko, A. Selivanov, M. Tyshchenko and others.

3. The aim of research.

At the same time, we believe that the study of the influence of the form of the state-legal regime on the functional direction of the internal affairs bodies requires special attention, the research of which is not widespread in national science.

4. Presentation of the research material.

The fundamental feature that distinguishes democratic and anti-democratic regimes in the sphere of power structures is the functional orientation of the latter, if the democratic regime is characterized by crime prevention, then the anti-democratic regime is characterized by only punishment for the commission of the offense or even their cover-up (for example, corruption crimes, the commission of which not reported) [1].

As D. Denysiuk and V. Koroleva rightly point out, "the functions of the police in scientific terms is a complex and multifaceted issue that can be revealed as an independent category of the police, which comes from its essence and reflects its purpose in society. Under the functions of law, the scientist proposes to understand the main directions of the influence of law on social relations, which reflect its essence and social purpose in society, as well as ways of organizing social relations. Functions are directly aimed at fulfilling the tasks facing society. The functions reflect the content of the activities of the executive power, to a large extent characterize the essence of the state and its social purpose. The formation of the rule of law, the strengthening of law and order, require the improvement and improvement of the work of the National Police, whose main task is to serve society by ensuring the protection of human rights and freedoms, combating crime, and maintaining public safety and order. Therefore, the functions of the police should first of all be aimed at carrying out preventive and prophylactic activities of criminal and other offenses.

We agree with the position of V. Koroleva that the functional assignment of the police has an initial, fundamental character, as it determines its role and significance for the development and construction of civil society and the state itself, on the basis that the functions of the police are derived from tasks and reveal the content of the activities of the National Police of Ukraine. In this regard, police activity is carried out in two directions: internal and external. The scientist proposed to define the functions of the National Police of Ukraine as defined and fixed at the legal level the areas of activity of the subjects of police activity, which are interconnected and mutually coordinated and aimed at solving the tasks set before it. Based on the analysis of the Law of Ukraine "On the National Police", V. Koroleva singles out two blocks of the main functions of the police: intra-organizational and external" [3, p. 69, 70].

D. Denysiuk makes a fair conclusion that in democratic societies based on the rule of law, the police perform traditional functions, such as preventing, fighting, detecting crime, ensuring public peace, ensuring public order and protecting fundamental human rights. Also, it is in a democratic society that the police provides various services of a social nature that accompany its other activities, the police has its own discretion in performing these functions, helps to maintain the values of democracy and itself professes such goals [4, p. 115; 5, p. 24]. The scientist singles out 12 functions of the modern police, including 1) social (service), 2) preventive and preventive, 3) criminal-procedural, 4) operative-search, 5) permission, 6) security, 7) material and technical support, 8) international cooperation, 9) information support, 10) scientific and methodological, 11) personnel, social and legal protection [4, p. 117].

O. Pronevich notes that in Soviet jurisprudence, the functions of the police were considered in the context of the repressive (class) orientation of its activity and considers the functions of the modern police as reflecting the directions of its activity, which are manifested as: 1) administrative function (administrative-executive; executive - forced); 2) operative and investigative; 3) criminal procedural (investigative); 4) preventive-social (preventive (preventive-preventive), social-service; 5) protective [6, p. 142–145].

As for foreign works, the leading study of such a context of the outlined problems is the work of the famous American scientist - policeman D. Bailey. It was D. Bailey in 2001, analyzing the content of police activity in a modern democratic society, based on the analysis of a wide range of normative prescriptions, who singled out the main requirements of society that apply to police officers in general, regardless of the political system of the country, among which are such as:

1) Serving both the needs of individual citizens and social groups. That is, the readiness of the police to effectively respond to the statements of individual citizens, maintain constant contact with them and inform them about the progress of their cases is assumed. At the same time, a high level of tolerance is expected from the police towards vulnerable population groups, which usually include representatives of ethnic minorities, migrants and asylum seekers, people with physical or mental disabilities, people of non-traditional sexual orientation, the elderly and children. The police must constantly monitor the situation regarding the needs of these categories of the population, develop appropriate programs or action plans to provide them with additional assistance, monitor their effectiveness, etc.

2) The police are accountable to the law, not to the government. All police decisions must be motivated by law and supported by the courts, not dictated by the government and the wishes of political parties. Recommendations, notes of support or protest, declarations and political statements can be taken into account by police leaders when making management decisions, but only as additional arguments (counter-arguments) to the requirements of the law, on the basis of which the police act.

3) Protection of human rights, in particular those rights that are necessary for free political activity in a democratic society. That is, the police must implement procedures and regulations that make it impossible to carry out arbitrary arrests and detentions, ensure the protection of detained persons from torture and ill-treatment. A separate area of activity is the development of an algorithm of actions during the protection of peaceful assemblies in order to ensure the right of citizens to freedom of speech, expression of views and beliefs. In police units, special personnel training should be introduced in order to ensure human rights in police activities.

4) Transparency of actions of police structures. Police units should be sufficiently open to forms of external control, including public control. Basic police statistics (number of personnel, gender balance, budget size, etc.) should be available to the public, and requests from citizens and organizations for access to limited information should be considered within a reasonable time, with a detailed reasoned response in case of refusal. The public should also have access to information related to the planning of the police work as a whole, the implementation of the planned activities and the results of the work. The European Union, which expanded at the expense of the countries of Central and Eastern Europe, additionally set before the national governments the task of reforming the police into a professional, depoliticized and effective institution based on the principles of the rule of law, market economy and tolerance towards cultural, religious and ethnic groups. As a result, the list of tasks for the police of these countries in accordance with the principles of modern policing was expanded by the following provisions:

- establishment of effective public control;
- a democratic and effective system of accountability to society;
- partnership relations with the population within the framework of the “community policing” model;
- professionalism of personnel, reduction of their number, development of professional ethics;
- increasing the level of staff diversity to better reflect the ethnic and gender structure of the population;
- constant communication with police units of other states.

For most European police systems, the achievement of the specified requirements became possible under the condition of reform, which took place according to several leading principles. Their list usually differed in each country depending on the political situation and the degree of readiness of state structures to reorganize their own activities. However, in a generalized form, the principles of police reform as related and universal categories are formed as follows: 1) rule of law; 2) depoliticization; 3) demilitarization; 4) decentralization; 5) accountability and transparency in work; 6) close cooperation with the population and local communities; 7) professional training of personnel [7].

What are the opinions of domestic scientists about the basics of policing, scientist S. Popova, researching the role and place of the police at the current stage of the development of European society and Ukrainian statehood, summarizes that the Law of Ukraine “On the National Police” practically lacks directions such as demilitarization and decentralization, and the service model of the police, which optimally combines the principles of accountability and close cooperation with local communities, is almost unwritten. But in general, today the role of the police has gained great importance, and the activities of the police have changed significantly due to numerous reforms of a socio-political nature. Bringing the main principles of the Ukrainian police into compliance with the requirements of European practice allows to guarantee the existence of a modern service-type law enforcement structure with the priority of the rule of law and observance of human rights and freedoms. The idea of combating crime as the main purpose of the existence of the police is replaced by the understanding that the main content of its activity is the protection of the rights and freedoms of citizens, and the level of this activity must always meet the modern requirements of the development of society [8, p. 204].

5. Conclusions.

Thus, the study allows to demonstrate the dependence of the functional orientation of police structures on the functional orientation of the state, in particular, on the form of state-legal regime implemented by it, which directly lays down the basic principles of the operation of law enforcement structures in the country and the principles of their reform.

Therefore, it is logical to think that the functional direction of police structures may depend on the functional direction of the state, in particular, on the form of state-legal regime implemented by it,

which directly lays down the basic principles of the operation of law enforcement structures in the country and the principles of their reform.

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INVOCATION OF THE EDUCATIONAL OMBUDSMAN AS A LEGAL INSTRUMENT FOR THE PROTECTION OF NON-PROPRIETARY PERSONAL RIGHTS

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Annotation. This scholarly paper investigates the application of self-defense as a legal mechanism designed specifically to safeguard the civil rights of participants within educational settings, with a special focus on minors. The study meticulously outlines the operationalization of self-defense, delving into its procedural subtleties and the varied contexts in which it can be applied within educational environments. This exploration helps elucidate the nuanced ways through which individuals can assert their rights in educational contexts, highlighting both the potential and the limitations of self-defense as a protective legal measure.

Expanding the scope of the analysis, the paper also examines the role of educational ombudsmen in navigating judicial disputes. It offers a comprehensive review of the functional impacts and procedural roles these ombudsmen play within the legal frameworks governing educational institutions. This segment of the study assesses how educational ombudsmen contribute to the resolution of conflicts and the enforcement of legal standards, thereby enhancing the protection of students' rights.

Incorporating a robust comparative analysis, the research extends into the international arena, exploring the praxis of educational ombudsmen across different jurisdictions.

It assesses the legislative outcomes of their involvement in judicial proceedings and scrutinizes how these vary across diverse legal systems. This comparative approach not only underscores effective strategies but also identifies best practices that could be emulated to bolster the legal protection of educational rights through judicial processes.

By synthesizing theoretical frameworks with empirical research, this paper contributes significantly to the scholarly discourse on educational law and civil rights protection. It critically examines the intersection of education, law, and civil rights, proposing necessary refinements to existing legal mechanisms and suggesting new areas for in-depth research. These recommendations aim to enhance the effectiveness of educational ombudsmen and to ensure more robust legal protections for all participants within the educational sector.

Key words: Educational ombudsman, students' rights, non-jurisdictional protection of rights, legal mechanisms in education, judicial disputes in education.

1. Introduction.

In Ukraine, appealing to the Educational Ombudsman is a crucial mechanism for safeguarding the rights of education seekers. This role is integral to addressing violations of non-pecuniary personal rights within the educational sphere, such as the right to education, the right to dignity, and other related rights that emerge during the educational process.

The Educational Ombudsman operates as an independent official, appointed specifically to oversee the protection of the rights and freedoms of those within the educational sector. The ombudsman's

responsibilities include monitoring these rights and reviewing any complaints pertaining to their infringement.

Globally, the institution of the ombudsman is well-established, existing in over 140 countries and tracing its origins back to Sweden in 1809. The designation and scope of the ombudsman's role vary significantly across different countries, reflecting diverse legal and cultural contexts. For instance, in the United Kingdom and Cyprus, this role is termed as the Commissioner for Administration; in Spain, Georgia, and Colombia, it is known as the People's Defender. France uses the term "Mediator" for this role, while in the Czech Republic and Slovenia, it is known as the Public Defender of Rights. In Moldova, the equivalent role is the Parliamentary Advocate, and in Albania and Romania, it is called the People's Advocate. Meanwhile, in Lithuania, the ombudsman is referred to as the "Controller," in Estonia as the Chancellor of Justice, in Poland as the Human Rights Commissioner, and in Kazakhstan, Iceland, and Thailand, as the Human Rights Ombudsman. Despite these varied titles, the core mission of the ombudsman across the globe remains consistent: to protect the rights of citizens, with a particular focus on the educational context in the case of the Educational Ombudsman. This institution plays a pivotal role in ensuring that educational processes are conducted in a manner that respects and upholds the rights and dignities of all participants [1, c. 166].

2. Analysis of scientific publications.

The research on the institution of the educational ombudsman has been extensively documented in the scholarly works of academics such as T. Koval, O. Kulynych, O. Martseliak, O.F. Melnychuk, T. Obolenska, Yu. Ryzhuk, Ya. Tytska and O. Chabaniuk.

3. The purpose of the work.

The primary objective of this article is to critically examine the application and implications of self-defense as a legal mechanism for protecting civil rights within educational settings, with an acute focus on the rights of minors. The study aims to provide a comprehensive analysis of how self-defense is operationalized in educational environments, delineating its procedural intricacies and the contexts in which it is deployed to safeguard the educational rights of individuals.

Further, this paper seeks to explore the significant role of educational ombudsmen in navigating and resolving judicial disputes that affect students and other educational stakeholders. Through a detailed examination of the procedural roles and impacts of these ombudsmen within various legal frameworks, the study intends to assess their effectiveness in conflict resolution and legal standard enforcement within educational institutions.

Additionally, by incorporating a comparative approach, the research aims to examine the practices of educational ombudsmen in different legal systems internationally. This segment of the study will assess the legislative outcomes and variations in the judicial engagement of ombudsmen across diverse legal jurisdictions, identifying effective strategies and best practices that could potentially enhance the legal protection of educational rights. Ultimately, this article strives to contribute to the broader scholarly discourse on educational law and civil rights protection. By integrating theoretical perspectives with empirical findings, the paper proposes necessary refinements to existing legal mechanisms and suggests new areas for in-depth research. These recommendations are intended to bolster the effectiveness of educational ombudsmen and ensure more robust legal protections for all participants within the educational sector.

4. Review and discussion.

The ideological and legal foundations of the domestic institution of the educational ombudsman in Ukraine are rooted in international acts, including: the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the Declaration of the Rights of the Child (1959), the Convention against Discrimination in Education (1960), the Recommendation on the Development

of Adult Education adopted by the General Conference of UNESCO on Education, Science, and Culture at its 19th session (1976), the ILO/UNESCO Recommendations concerning the Status of Higher-Education Teaching Personnel (1977), the Convention on Technical and Vocational Education (1989), Recommendation No. R1281 on Gender Equality in Education (Council of Europe, 1995), and the Declaration of Principles on Tolerance (UNESCO, 1995) [2].

In Ukraine, the role of the Educational Ombudsman is a critical legal mechanism designed to ensure the protection and enforcement of the rights of education seekers. This procedural tool is integral for addressing the breaches of non-pecuniary personal rights within the educational sector, encompassing fundamental rights such as the right to education, the right to dignity, and other rights that inherently arise during the educational journey of individuals.

The Educational Ombudsman is appointed as an independent statutory official with the specific mandate to oversee and protect the rights and freedoms of education seekers. This role involves the assessment and adjudication of complaints related to the infringement of educational rights. The powers and responsibilities of the ombudsman are explicitly defined in Ukraine's "Law on Education," which guarantees the ombudsman's operational independence and objectivity [3]. The societal mandate of the Educational Ombudsman is articulated through his function of legal protection. This primary role encompasses activities aimed at the protection and restoration of violated rights, for which the state endows this official and his Service with the necessary authority. Within the scope of his protective function, the Educational Ombudsman possesses certain powers—direct means of influence over entities under his jurisdiction and indirect capabilities to facilitate the improvement of rights implementation in the educational sphere.

Direct means include responding to complaints, examining them, and verifying the facts presented, which constitute the principal mode of operation for the Educational Ombudsman (Sec. 4, Art. 73 of the "Education Law"; para. 9 of the Regulations). Individuals who have the right to submit complaints about rights violations in education include students, their parents, legal guardians, as well as educational, pedagogical, and research staff (para. 3 of the Procedure).

The role of the Educational Ombudsman is thus to act as a mediator and an advocate for educational rights, serving as a vital link between the educational community and the legal protections afforded to them under the law. This position ensures that any breaches of rights within the educational sector are not only addressed but also rectified in accordance with legal standards.

Furthermore, the ombudsman's ability to exert indirect influence through advocacy and policy recommendation plays a crucial role in shaping educational standards and practices. By promoting compliance with legal norms and enhancing the awareness of rights among educators and students, the Educational Ombudsman contributes significantly to the overall governance and quality of education.

In summary, the Educational Ombudsman's blend of direct and indirect powers forms a comprehensive framework for safeguarding educational rights. This dual approach not only resolves individual grievances but also fosters a broader cultural and systemic improvement in the educational sector's adherence to legal and ethical standards, thereby reinforcing the rule of law and promoting a more just educational environment.

Engaging with the Educational Ombudsman provides a critical avenue for education seekers to assert and protect their rights without resorting to the formal judicial system. This is particularly significant for the prompt and effective resolution of disputes. The ombudsman evaluates complaints regarding the actions or inactions of educational institutions and their personnel, which may potentially violate the legal rights of students and other educational participants [4, p. 57].

The process of appealing to the ombudsman is initiated through the submission of a detailed written complaint that must clearly articulate the facts of the alleged violation and include supporting evidence. The ombudsman conducts a thorough investigation into the complaint, following which they issue findings and recommendations aimed at rectifying the identified breaches. The efficacy of the Educational Ombudsman in Ukraine has proven significant in fostering a greater understanding of legal rights among education seekers, enhancing the mechanisms for their protection, and ensuring adherence to legal standards. The intervention of the ombudsman has led to a notable

decrease in rights violations within educational settings, thereby contributing to the enhancement of the overall legal and educational climate.

Globally, the institution of the ombudsman is recognized in over 140 countries, tracing its roots back to 1809 in Sweden. While the title and specific duties of the ombudsman may vary across different jurisdictions, the foundational goal remains consistent—to safeguard the rights of citizens, with a particular focus on the educational sector in the context of the Educational Ombudsman.

For instance, in the United Kingdom and Cyprus, the position is termed as the Commissioner for Administration, focusing on administrative justice and fairness in public services. In Spain, Georgia, and Colombia, known as the People's Defender, the ombudsman plays a crucial role in defending the rights and freedoms of the general populace, including those within educational institutions. Similarly, in France, the Mediator facilitates dispute resolution between public agencies and citizens, ensuring that educational grievances are addressed efficiently. In Eastern Europe, such as the Czech Republic and Slovenia, the ombudsman is known as the Public Defender of Rights, emphasizing a broad spectrum of human rights protection, including those related to education. Meanwhile, in nations like Moldova and Albania, termed as the Parliamentary Advocate or the People's Advocate respectively, the ombudsman not only addresses educational disputes but also broader civil rights issues.

This diversity in roles and responsibilities highlights the adaptable nature of the ombudsman institution, tailored to meet the specific legal and cultural needs of different countries while maintaining a uniform commitment to the protection of rights. This comparative insight underscores the universal relevance of the Educational Ombudsman in promoting legal conformity and protecting the rights within the educational sector across different legal frameworks and cultural contexts.

5. Conclusions.

Appealing to the Educational Ombudsman constitutes a fundamental legal mechanism for safeguarding the non-pecuniary personal rights of education seekers. This regulatory framework not only facilitates the restoration of infringed rights but also serves a crucial preventative function in mitigating future violations. Thus, it ensures adherence to the elevated standards of the educational process and the legal protection of students.

The intervention of the Educational Ombudsman plays a pivotal role in the educational jurisprudence system, ensuring that educational institutions adhere to statutory and regulatory frameworks. By providing a non-judicial recourse for grievances, the ombudsman enhances the transparency and accountability of educational entities. This mechanism contributes significantly to maintaining a balance between administrative authority and the rights of the individual, thereby fostering an environment conducive to educational fairness and legal compliance.

Furthermore, the proactive engagement of the Educational Ombudsman in monitoring and evaluating educational practices aids in the early detection and resolution of potential legal issues. This preemptive approach not only reduces the burden on the judiciary by decreasing the volume of cases that escalate to formal legal disputes but also promotes a culture of respect for rights within educational settings.

In summary, the Educational Ombudsman is instrumental in enforcing legal norms within the educational sector, protecting the rights of participants, and ensuring that educational governance is conducted within the ambit of the law. This role is crucial in upholding the integrity of educational processes and safeguarding the rights of all educational stakeholders, thereby enhancing the overall quality and legality of educational administration.

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FUNCTIONAL PURPOSE OF LOCAL SELF-GOVERNMENT BODIES AS A SUBJECT OF ENSURING THE LAW ENFORCEMENT FUNCTION OF THE STATE

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Annotation. The article is dedicated to the scientific substantiation of the need for the participation of local self-government bodies in the implementation of law enforcement function, the study of legal forms of implementation of law enforcement function by local self-government bodies in Ukraine, and the development of proposals for their improvement.

It has been established that the law enforcement function of local self-government is mostly forgotten in the legal literature, following the Soviet habit of attributing this function to the prerogatives of the state. In this regard, the study of the law enforcement function of local self-government is an important theoretical and practical task of modern administrative and legal science.

It has been argued that in administrative and legal science, insufficient attention has been paid to the problems of: administrative and legal mechanism of activity to ensure public order and public safety; participation of local self-government bodies in the implementation of the law enforcement function; legal forms of implementation of the law enforcement function by local self-government bodies; interaction of local self-government institutions with law enforcement bodies regarding the implementation of the law enforcement function.

It has been established that the modern system of public administration does not fully use the capabilities of local self-governments in the field of protecting public law and order and ensuring public safety. This is due to the fact that the process of establishing their legal status at the current stage of development of Ukraine remains incomplete, and the constitutional and legislative norms establishing their competence are not mutually coherent, clear and certain. As a result, the implementation of the powers of local self-government bodies enshrined in the Constitution of Ukraine in the field of law and order and ensuring public safety is quite limited.

It has been proven that at this stage of municipal development, the implementation of law enforcement function by local self-government bodies in Ukraine is carried out in four legal forms of activity: establishing, rule-making, law enforcement and control. In turn, the relevant local self-government bodies with law enforcement powers can be considered as institutional forms of implementing the law enforcement function of local self-government.

Key words: law enforcement function, local self-government bodies, establishing form, rule-making form, law enforcement form, control form, public law and order, public safety.

1. Introduction.

The law and order in Ukraine, along with clear achievements in the democratization of public life and the liberalization of the economy, is characterized by the presence of destructive phenomena that significantly inhibit the implementation of social and economic reforms and endanger the legitimate

rights and interests of citizens, society, and the state. Therefore, it is no coincidence that modern science has increased its attention to the problem of ensuring legal order and public safety [7, p. 194–201].

Reforming the system of local self-government in Ukraine stipulates the need for study of problems related to the implementation of purposeful activities of local self-government institutions to ensure law and order, protection of the rights and freedoms of citizens, guaranteeing the safety and protection of the population, material and cultural values, the environment from the negative consequences of emergency situations in peaceful and special periods, which is one of the main functions assigned to local self-government bodies [10, p. 202–205].

During the years of independence in Ukraine, there have been significant changes in the organization and activities of local self-government. Today, it is considered not only as one of the foundations of the constitutional system or a form of implementation of people's power, but also as one of the important directions of democratization and humanization of public power, bringing it closer to the population. Under these conditions, the steady expansion of the functions of local self-government and their filling with ever deeper content seems quite natural. The autonomy of local self-government bodies presupposes their real ability to independently determine with the help of what forms, methods, and means they should solve the issues they face [6, p. 70–75].

At the same time, the development of local self-government in Ukraine is restrained by the lack of an appropriate regulatory and legal framework, which complicates the functioning of local self-government bodies and gives rise to negative consequences in local self-government itself. The existing gaps in the legal regulation of the activities of local self-government bodies create many serious problems in practice, one of which is the determination of the forms and powers of local self-government bodies to implement the law enforcement function [7, p. 194–201].

Unfortunately, the law enforcement function of local self-government is mostly forgotten in the legal literature, following the Soviet habit of attributing this function to the prerogatives of the state [6, p. 70–75]. In this regard, the study of the law enforcement function of local self-government is an important theoretical and practical task of modern administrative and legal science.

2. Analysis of scientific publications.

Domestic administrative and legal science has accumulated a significant amount of knowledge on the nature, content, forms and subjects of the implementation of the law enforcement function. Various aspects and forms of participation of local self-government bodies in ensuring the law enforcement function have been, to one degree or another, highlighted in the works of many leading scientists, in particular: L. Arkusha, H. Atamanchuk, L. Baieva, Yu. Bytiak, V. Hryshchenko, S. Yesimov, R. Kaliuzhnyi, M. Kovaliov, V. Kolpakov, T. Kolomoiets, T. Kravtsov, O. Kuzmenko, K. Luhovyi, Yu. Nazar, A. Onuprienko, O. Ostapenko, V. Pavlichenko, M. Pukhtynskyi, V. Sereda, S. Serohin, O. Slipushko, A. Sobakar, A. Shelekhov and others.

However, despite significant knowledge in this field, when studying the processes of formation of local self-government in Ukraine and the tasks set before it in the field of law enforcement, there is a whole series of problems waiting to be solved. In particular, we believe that in administrative and legal science, insufficient attention is paid to the problems of: the administrative and legal mechanism of activity to ensure public order and public safety; participation of local self-government bodies in the implementation of the law enforcement function; legal forms of implementation of the law enforcement function by local self-government bodies; interaction of local self-government institutions with law enforcement bodies regarding the implementation of the law enforcement function.

The specified factors determine the relevance of the research topic, its significance for domestic administrative and legal theory and practice.

3. The aim of the work.

The aim of the study is to substantiate, based on the generalization of the practice of implementation of the current legislation of Ukraine and the peculiarities of the implementation of the economic and legal foundations of the functioning of the law enforcement system, the need for the participation of local self-government bodies in the implementation of the law enforcement function, to study the legal forms of implementation of the law enforcement function by local self-government bodies in Ukraine and to develop proposals for their improvement.

4. Review and discussion.

Protecting public order and ensuring public safety (implementation of the law enforcement function) is a constitutional condition for the stable existence and progressive development of society, the creation of decent conditions and quality of life for individuals [7, p. 194–201]. This is an extremely important object of public administration, which is an indispensable condition for the normal existence of civil society and the functioning of all its structural elements. The weakening of this function is quickly reflected by an increase in crimes, a sharp decline in the culture of human communication, damage to state and municipal property, and violation of sanitary and environmental rules [7, p. 194–201].

The law enforcement function is one of the main internal functions of the state. For its implementation, a system of special (law enforcement) bodies is created in the structure of public administration institutes. At the same time, due to the multidimensional and multifaceted nature of the problem of implementing the law enforcement function, we consider it appropriate to highlight a set of less studied issues relating to the competence and forms of participation of local self-government institutions in the implementation of this function [7, p. 194–201], in particular:

- the objective conditionality of the participation of local self-government institutions in the implementation of the law enforcement function;
- forms of participation of local self-government institutions in the implementation of the law enforcement function;
- interaction and cooperation of local self-government institutions and the law enforcement system as a whole.

One of the indispensable conditions for Ukraine's integration into the European community and European civilization is ensuring the ability of territorial communities to fulfill their powers. Decentralization of public power, formation of institutions of local self-government and expansion of powers of local self-government bodies provide for improvement of the organization of ensuring public law and order and public safety at the local level. The issue of ensuring public law and order and public safety in the form of a special direction (normative and law enforcement activities of local self-government institutions), aimed at solving social and economic tasks and ensuring the protection of all spheres of citizens' life activities on the territory of specific local entities, should become a priority here.

We believe that the institutions of local self-government have significant resources and powers to implement the law enforcement function. The Constitution of Ukraine and the Law of Ukraine "On Local Self-Government in Ukraine" laid the legal prerequisites for the implementation of the law enforcement function by local self-government bodies. The Basic Law of Ukraine (Articles 140, 143) enshrines the right of local self-government bodies to independently resolve issues of local significance, assigned by law to their competence, within the Constitution and laws of Ukraine [1]. The Law of Ukraine "On Local Self-Government in Ukraine" (Article 38) interprets "ensuring legality, law and order, protection of the rights, freedoms and legitimate interests of citizens" as a matter of local significance and refers it to the subjects of local self-government competence [3].

One of the urgent problems of reforming local self-government is the development of adequate and effective forms of participation of its institutions in the implementation of the law enforcement function [9, p. 135–138].

The category of “form” is actively used by domestic jurisprudence. In relation to institutions of public administration, this term is mainly used as part of the phrase “form of activity” and is understood as the external side of the functioning of institutions of public administration, that is, a set of homogeneous actions performed within a certain organizational framework defined by law [8, p. 97–101].

In the opinion of T. I. Hudz, which we fully support, among the legal forms of implementation of the law enforcement function by local self-government institutions, it is necessary to distinguish establishing, rule-making, law enforcement and control forms [6, p. 70–75].

The establishing form of activity is aimed at structural / institutional changes and transformations in the system of municipal administration. This form of activity is characteristic of local councils and their executive committees. In terms of the research topic, the creation of those municipal institutions and structures that directly ensure law and order, perform jurisdictional activities, etc., is of particular interest.

The Law of Ukraine “On Local Self-Government in Ukraine” (Article 51) provides for the formation of executive bodies of local councils [3], which according to Art. 219 of the Code of Ukraine on Administrative Offenses (hereinafter referred to as the Code of Ukraine on Administrative Offenses) is empowered to consider cases of some administrative offenses [2]. In addition, specialized bodies (departments, administrations, divisions) are formed as a rule, to deal with law enforcement or ensuring public safety, within the structure of the executive bodies of local councils.

Part 1 of Art. 38 of the Law “On Local Self-Government in Ukraine” includes the creation of administrative boards and crime-fighting boards, and the direction of their activities, to the delegated powers of executive bodies of local councils. According to Art. 215 of the Code on Administrative Offenses, administrative boards are formed by relevant local self-government bodies, consisting of a chairman, deputy chairman, executive secretary, as well as board members. The procedure of activity of these boards is established by the Code on Administrative Offenses and other legislative acts of Ukraine.

It is also worth noting that the law enforcement function of local self-government as a special subsystem of public power can be implemented not only through local self-government bodies and their officials, but also in another way – through the public formations or directly by the members of territorial communities. Therefore, local self-government bodies and their structural subdivisions can be considered as special, institutional forms of implementation of relevant functions. In this aspect, the following should be considered institutional forms of implementation of the law enforcement function of local self-government: a) local councils and their permanent boards; b) executive committees of local councils; c) departments, administrations and divisions of local councils; d) administrative board [6, p. 70–75].

The rule-making form of implementation of the law enforcement function by local self-government bodies consists of a set of actions and procedures regarding the adoption, change or cancellation of relevant decisions of a normative nature. The rule-making activity of local self-government bodies in this area is implemented by the adoption of acts aimed at ensuring legality, law and order, protection of the rights, freedoms, and legitimate interests of citizens.

The rule-making activity of local councils in the area of ensuring legality, law and order and public safety is quite clearly defined by the current legislation. In particular, clause 44, part 1 of Art. 26 of the Law “On Local Self-Government in Ukraine” includes to the exclusive competence of local councils to establish, in accordance with the legislation, rules on the improvement of the territory of the settlement, ensuring cleanliness and order in it, trade in the markets, maintaining silence in public places, for the violation whereof administrative responsibility is stipulated [2].

The development and adoption of various types of local programs and plans is closely related to the rule-making form of activity. These documents are declarative normative acts, since they define the goals and objectives of local self-government bodies for a certain period, the achievement of which becomes the legal responsibility of these bodies.

The law enforcement form of implementation of the law enforcement function by local self-government bodies is most vividly traced when executive committees and administrative boards consider cases on administrative offenses. Having considered a case on an administrative offense, the relevant collegial body of local self-government (executive committee or administrative board) makes a decision on the case.

The control form of the implementation of the law enforcement function by local self-government bodies is a set of actions and procedures regarding the verification and supervision of compliance, implementation and application of legal prescriptions by subjects of public relations. Thus, according to Art. 38 of the Law "On Local Self-Government in Ukraine" the powers of the executive bodies of local councils include control over ensuring public order during meetings, rallies, manifestations and demonstrations, sports, entertainment and other public events. In addition, the control form of activity may consist in hearing reports from the heads of internal affairs bodies about their activities to protect public order in the relevant territory and raising before the relevant higher-level bodies the issue of dismissing the heads of these bodies if their activities have been recognized as unsatisfactory.

Based on the results of control activities, local councils can cancel acts of executive bodies of the council that contradict the legislation or decisions of the council, may apply to the court to recognize the illegality of acts of executive authorities, other local self-government bodies, enterprises, institutions and organizations that limit the rights of the territorial community, as well as the powers of local self-government bodies and officials.

The control form in the activity of executive committees is manifested in the control over the effectiveness of the activities of enterprises, institutions, organizations that are in communal ownership, as well as in the control by the executive committee itself over the legality of acts of departments, divisions and their heads with the right to change or cancel them. The state of public order and legality is under the special control of local self-government bodies. Information from prosecutors and heads of national police bodies about the state of law, fighting crime, protection of public safety and order, and the results of activities in the relevant territory is regularly heard at meetings of local councils [6, p. 70–75].

Effective performance by the state of its functions to protect the rights and legitimate interests of citizens is impossible without high-quality and comprehensive interaction of local self-government bodies with the law enforcement system [5, p. 81–86]. Therefore, for more effective protection and safeguarding of social relations, we consider it necessary to study the issue of interaction and cooperation of local self-government bodies with law enforcement bodies in the implementation of the law enforcement function (as a manifestation of the independent "illegal form of activity" [4] of local self-government institutions in the implementation of the law enforcement function).

Certain issues of cooperation between local self-government bodies and institutions of the law enforcement system have been highlighted in the works of scientists, but only fragmentarily, although it has important scientific and practical significance [11, p. 71–74].

We believe that the interaction of local self-government bodies with law enforcement institutions should be understood as the cooperation of these bodies based on the current legislation of Ukraine, which is aimed at ensuring public order and public safety, as well as solving other issues of a local nature.

Let us note that, like any activity, the interaction between local self-government bodies and law enforcement institutions pursues corresponding goals and objectives. We believe that the goal of the interaction of local self-government bodies and law enforcement bodies is to solve the tasks of a social, economic and political nature faced by these bodies [5, p. 81–86]. The analysis of the current legislation makes it possible to formulate the objectives of interaction between local self-government bodies and institutions of the law enforcement system:

- strengthening the foundations of the constitutional system of Ukraine;
- ensuring public order and public safety;
- solving certain issues related to the fight against crime;

- taking the necessary measures in case of emergency situations to ensure public safety and order, vital activities of enterprises, institutions and organizations, saving people's lives, protecting their health, preserving material values;
- preparation and implementation of joint projects, programs and measures to meet the needs of the population and improve the effectiveness of the tasks assigned to the specified bodies;
- exercising control over ensuring public safety and order during meetings, rallies, manifestations and demonstrations, sports, entertainment and other public events;
- implementation of measures regarding organizational, personnel and financial support of institutions of the law enforcement system.

5. Conclusions.

Based on the above, the author comes to the following conclusions:

1. Protection of the natural rights and freedoms of the individual is a constitutional duty of the state and a priority area of activity of all its institutions. It is impossible to ensure such protection without effective implementation of the law enforcement function, with the help whereof institutions of public administration protect law and order, applying legal measures of influence in accordance with the laws of Ukraine. In the last few years, a whole series of socio-political changes have been taking place in our country, as a result of which the issue of ensuring public order and public safety in local areas has become particularly acute.
2. The modern legislative framework does not allow to solve the problem of clearly distinguishing the powers of different levels of government, which prevents the effective solution of a number of the most important issues of the activities of local self-government, in particular, the issue of implementation of the constitutional norm on the possibility of vesting local self-government bodies with certain state powers. The specified disadvantage most significantly affects the ability of local self-government institutions to implement the law enforcement function.
3. Local self-government bodies occupy a special place in the system of ensuring legal order and public safety. They form a non-state system of public order and public security, and are called upon to ensure local security and create proper living conditions for their community. At the same time, the implementation of the powers of local self-government bodies enshrined in the Constitution of Ukraine in the sphere of law enforcement and public safety is quite limited, because by virtue of their constitutional and legal position, they are not endowed with state-authority powers, which enables the independent implementation of this function.
4. At this stage of municipal development, the implementation of the law enforcement function by local self-government bodies in Ukraine is carried out in four legal forms of activity: establishing, rule-making, law enforcement and control. In turn, the relevant local self-government bodies with law enforcement powers can be considered as institutional forms of implementing the law enforcement function of local self-government.
6. The modern system of public administration does not fully use the capabilities of local self-governments in the field of protecting public law and order and ensuring public safety. This is due to the fact that the process of establishing their legal status at the current stage of development of Ukraine remains incomplete, and the constitutional and legislative norms establishing their competence are not mutually coherent, clear and certain. As a result, the implementation of the powers of local self-government bodies enshrined in the Constitution of Ukraine in the field of law and order and ensuring public safety is quite limited.

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