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CONTENTS

Foreword 9

Bandurka O. M.
Legal Science in Ukraine Under Martial Law 10
Onishchenko N. M.
Law-Making: Today's Problems 20
Parkhomenko N. M.
Transformation of the Values of Law and Law-Making Activity under Martial Law 29
Bulkat M. S.
Content of the Concept "Vector of Development of Administrative Law of Ukraine" 38
Harashchuk V. M., Fedchyshyn S. A.
Anti-Corruption Restrictions on Receiving Gifts by Officials of State Bodies in Conditions of Conflict of Interest: EU Experience 46
Kolomoiets T. O., Makarenkov O. L.
Epistemological Context of Transformation of Anti-Corruption Legal Requirements in the Context of Ukraine's European Economic Integration 56
Hetman Ye. A., Politanskyi V. S., Hetman K. O.
To the Question of the Practice of Establishing and Developing International Information Security as a Legal Mechanism for Implementing Electronic Governance 76
Serohin V. O., Serohina S. H., Bodrova I. I., Hrytsenko H. H., Omelianenko O. M.
The Potential of Territorial Communities as a Factor of Socio-Environmental Development of Territories 91
Hryniak A. B., Milovska N. V.
Adaptation of the legislation of Ukraine in the field of guaranteeing individuals' investments to the law of the European Union 107
Kot O. O., Pohribnyi S. O.
The Updated Civil Code of Ukraine as a Basis of Effective Interaction Between the Modern State and Civilian Society 122
Yaroshenko O. M., Vapniarchuk N. M.
The Principle of Justice is the Key Principle in the Payment of Scientists 134
Sheverdina V. I.
Legal Regulation of the Work of Scientists in Ukraine and the European Union in the Aspect of the Development of Research Infrastructures 144
Getman A. P., Anisimova H. V.
Climate Legislation and Legal Relations: Current State and Development Prospects Within the National Security Framework 153
Kulynych P. F.
Formation of legal support of climate-protective farming in agriculture of Ukraine: problems under martial period 177
Shulga M. V., Korniyenko G. S.
Features of Agrarian and Legal Components of Modern Food Security 192

Zhuravel V. A.
Regularities of criminalists 212
Shepitko V. Yu., Shepitko M. V., Kapustina M. V.
Criminalistics Between Theory, Practice and Training in Ukraine 231
Shevchuk V. M.
Tasks of criminalistics in the conditions of military threats and digital technologies 250
Tuliakov V. O.
War, Crime, Victimology, Human Rights and Criminal Justice Holistic Approach 265
Batyrgareieva V. S., Kolodyazhny M. H., Netesa N. V.
War as a Challenge to Road Safety: Damage to Society and the Economy of Ukraine........ 281

ЗМІСТ

Вступ 9

Бандурка О. М.
Правнича наука України в умовах воєнного стану 10

Оніщенко Н. М.
Правотворчість: проблеми сьогодення 20

Пархоменко Н. М.
Трансформація ціннісних засад права та правотворчої діяльності в умовах воєнного стану 29

Булкат М. С.
Зміст поняття «вектор розвитку адміністративного права України» 38

Гаращук В. М., Федчишин С. А.
Антикорупційні обмеження щодо отримання подарунків у посадових осіб державних органів в умовах конфлікту інтересів: досвід ЄС 46

Коломоєць Т. О., Макаренков О. Л.
Епістемологічний контекст трансформації вимог антикорупційного законодавства в контексті європейської економічної інтеграції України 56

Гетьман Є. А., Політанський В. С., Гетьман К. О.
До питання практики становлення та розвитку міжнародної інформаційної безпеки, як правового механізму здійснення електронного урядування 76

Серьогін В. О., Серьогіна С. Г., Бодрова І. І., Гриценко Г. Г., Омельяненко О. М.
Потенціал територіальних громад як чинник соціально-екологічного розвитку територій 91

Гриняк А. Б., Міловська Н. В.
Адаптація законодавства України у сфері гарантування вкладів фізичних осіб до права Європейського Союзу 107

Кот О. О., Погрібний С. О.
Оновлений Цивільний кодекс України як основа ефективної взаємодії правової держави та громадянського суспільства 122

Ярошенко О. М., Вапнярчук Н. М.
Принцип справедливості – ключовий принцип в оплаті праці наукових працівників 134

Шевердіна В. І.
Правове регулювання праці науковців в Україні та Європейському Союзі в аспекті розвитку дослідницьких інфраструктур 144

Гетьман А. П., Анісімова Г. В.
Кліматичні законодавство і правовідносини: сучасний стан та перспективи розвитку в контексті забезпечення національної безпеки 153

Кулинич П. Ф.
Формування правового забезпечення кліматоохоронного землеробства в Україні: проблеми періоду воєнного стану 177

Шульга М. В., Корнієнко Г. С.
Особливості аграрно-правових складових сучасної продовольчої безпеки 192
Журавель В. А.
Закономірності, які вивчає криміналістика 212
Шепітько В. Ю., Шепітько М. В., Капустіна М. В.
Криміналістика в Україні – між теорією, практикою та навчанням.............................. 231
Шевчук В. М.
Завдання криміналістики в умовах воєнних загроз та цифрових технологій 250
Туляков В. О.
Війна, злочинність, віктимологія, права людини та кримінальне правосуддя:
холістичний підхід 265
Батиргареєва В. С., Колодяжний М. Г., Нетеса Н. В.
Війна як виклик безпеці на автошляхах: шкода для суспільства
та економіки України 281

FOREWORD

Today more than a hundred specialized legal journals and collections are annually issued in Ukraine, publishing thousands of scientific articles from various branches of legal science.

In 2008 by the decision of the Presidium of the Academy the nationwide scientific periodical – the Yearbook of Ukrainian law was founded, in which the most important legal articles of academicians and corresponding members of the National Academy of Legal Sciences of Ukraine, as well as research associates, who work in the Academy's research institutions and other leading research and higher education institutions of Kyiv, Kharkiv, Donetsk, Lviv, Odesa, are published.

Yearbook aims to become a guide in the field of various scientific information that has already been printed in domestic and foreign journals during the previous year. "Yearbook of Ukrainian law" is a unique legal periodical dedicated to the widest range of legal science's problems striving to become a concentrated source of modern scientific and legal thought on current issues in the theory and history of state and law, constitutional, criminal, civil, economic, international and other branches of law, that has no analogues in Ukraine. The journal's pages contain modern legal concepts and theories of the further development of Ukraine as a democratic, social, law-governed state, full of the most provoking contemporary ideas, fundamental and substantial issues of jurisprudence.

The selection process of articles is carried out by the branches of the Academy (theory and history of state and law, state-legal sciences and international law, civil-legal sciences, environmental, economic and agricultural law, criminal-legal sciences), which combine leading scientists and legal scholars from all over Ukraine.

From 2014, the Yearbook of Ukrainian Law is published in English. Each issue of the English version is sent to more than 70 law libraries of the world, including USA, Canada, Australia, Great Britain, Germany, Portugal, Switzerland, Norway, Denmark, Latvia, and Lithuania. This enables scientists from other countries to get acquainted with the problems relevant to Ukrainian legal science, both the general theoretical, as well as different branches of law, modern Ukrainian legislation and practice, to provide opportunities for international scientific cooperation.

Editor in Chief Yearbook of
Ukrainian law
Oleksandr Bandurka

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LEGAL SCIENCE IN UKRAINE UNDER MARTIAL LAW

Ukraine is going through a difficult historical period, the period of military aggression launched by the russian federation against Ukraine in 2014. Russia's war against Ukraine has shown that the collective security system has failed to prevent aggression, and the principles of international law do not apply to the aggressor country. The entire system of international law is in a deep crisis, and international organisations have turned to be unprepared for such challenges. The international legal order, agreed upon by the United Nations after World War II and repeatedly declared by the international community, has been grossly violated by a member of the UN Security Council – russia – which has a special responsibility to maintain and ensure peace and stability on Earth.

Russia's attack on Ukraine on February 24, 2022 has not only exacerbated the danger to Ukraine as an independent, sovereign and democratic state, but has created dangerous conditions for the entire civilised world.

Ukraine have had to defend not only its territory and independence from Russia's military invasion, but also justice, democracy, European security and the norms of international relations.

Russia's treacherous, full-scale invasion in Ukrainian lands led to the introduction of martial law in Ukraine, as provided for by the Law of Ukraine "On the Legal Regime of Martial Law"[1], which defines martial law as a special

[1] On the legal regime of martial law: Law of Ukraine (2015, May). *Bulletin of the Verkhovna Rada of Ukraine,* 2015, 28, 250.

legal regime, the procedure for its introduction and cancellation, the legal basis for the activities of state authorities, military command, military administrations, local self-government bodies, enterprises, institutions and organisations under martial law, guarantees of human and civil rights and freedoms and the rights and legitimate interests of legal entities.

The legal basis for the introduction of martial law is the Constitution of Ukraine, the Law of Ukraine "On the Legal Regime of Martial Law" and decrees of the President of Ukraine on the introduction of martial law in Ukraine or in certain areas of Ukraine approved by the Verkhovna Rada of Ukraine.

Under martial law, the adherence to and implementation of the norms and provisions of the Constitution of Ukraine as the basic law of the state has certain peculiarities which "directly affect the content and functioning of the constitutionalism system and, accordingly, change its paradigm, which requires scientific and praxeological research to identify and solve the problems which face Ukrainian society and the state"[1].

Martial law makes it impossible to ensure the constitutional rights and freedoms of all citizens of Ukraine and throughout Ukraine due to the fact that part of the population has left Ukraine, part of the territory is under temporary occupation, and the law also introduces temporary restrictions on certain rights and freedoms provided for by the Constitution due to the introduction of the martial law regime. Under martial law, Ukraine's constitutionalism has undergone certain modifications that require scientific analysis, given the changes in the regulatory framework of the constitutionalism system while the Constitution of Ukraine remains unchanged.

Changes in the functional mechanism of constitutionalism have their place in the system and functional mechanism of public authorities and local self-government bodies, in the temporary restriction of human rights and freedoms, in determining the list of fundamental (constitutional) human and civil rights and freedoms which cannot be restricted, in the use of special (emergency) organisational and legal means to ensure, protect and defend human rights under martial law.

The legal regime of martial law in Ukraine has led to a number of problematic issues of the functioning of legal science in Ukraine in the context of war.

The most urgent issue for the legal science under martial law is to substantiate the concept of state sovereignty, to confirm the thousand-year tradition of Ukrainian state-building in contrast to russian aggression and its anti-historical statements by russian leaders and "scholars" which declare that there is no Ukrainian people as such, and Ukraine as a state has no historical roots and no prospects for existence. Particular atten-

[1] Krusian, A. R. (2022). Modern Ukrainian constitutionalism under martial law. *Expert: paradigms of legal sciences and public administration,* 3(21), 14. DOI: https://doi.org/10.32689/2617-9660-2022-3(21) – 12–22.

tion should be paid to studying of the interaction between state authorities, local self-government bodies and civil society institutions both under martial law and during the postwar period, and to the development of proposals for improving the legal regulation of interaction between the state and society in specific forms and methods in order to strengthen the unity of the entire Ukrainian people.

On the 27th anniversary of the Constitution of Ukraine, President of Ukraine Volodymyr Zelenskyy proposed the guidelines for the future Ukrainian Doctrine for discussion.

As a guarantor of the adherence to the Constitution of Ukraine, the President proposed five main guidelines for the start of a nationwide discussion on the Ukrainian Doctrine:

– first – philosophy of our victory;

– second – globalisation of Ukrainian security;

– third – policy regarding heroes;

– forth – justice policy;

– fifth – 10 years transformation (new foreign policy, economy, relations between the state and society, development of territories, education and science, culture, level of security and freedom in Ukraine).

The Ukrainian doctrine proposed by the President of Ukraine must be substantiated by legal science in all its aspects. According to the President, such a doctrine should answer all fundamental questions of Ukraine's future development. The legal science should develop recommendations and proposals on legal regulation of the implementation of certain provisions of the Ukrainian doctrine.

Worth noting: If the doctrine is approved by the National Security and Defence Council of Ukraine (NSDC), which is not a representative but an advisory body, this will reduce its legitimacy. It would be logical for the Ukrainian Doctrine to be discussed at the level of the Verkhovna Rada of Ukraine, so that it could be adopted by the Parliament, the only legislative body in Ukraine. In this case, the level of legitimacy of the Ukrainian Doctrine will be much higher, and "it will really become the document that, along with our basic law – the Constitution – will determine our life for the next 5–10 years"[1].

Introduction of martial law in Ukraine, caused by Russia's military invasion of Ukraine, has led to changes in all spheres of public life, primarily in the areas of national security and defence, economy, education and science, culture, healthcare, entrepreneurship and business, protection of human rights and freedoms, and international relations.

One of the main problems of lawmaking under martial law is (although temporarily and only in accordance with the legal regime of martial law) that certain constitutional rights and freedoms of people are restricted. Temporary re-

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[1] Liskovych, M., & Rabchenyuk, M. *The Doctrine of the Victorious Ukraine: Bright and Timely*. Retrieved from https://www.ukrinform.ua/rubric-ato/3729669-doktrina-ukrainiperemoznici-askravo-i-vcasno.html. (Quote belongs to I. Reiterovych).

strictions of the rights and legitimate interests of legal entities are also introduced to the extent necessary to ensure the introduction and implementation of measures of the legal regime of martial law.

The conditions of martial law provide for the provision of the relevant state authorities, military command and local self-government bodies with the necessary powers to avert threats and ensure national security, overcome russian military aggression and liberate the temporarily occupied territories of Ukraine.

The introduction of martial law is proposed by the NSDC, agreed upon by the President of Ukraine and approved by the Verkhovna Rada of Ukraine.

On the night of 24 February 2022, russia launched a full-scale war against Ukraine with the aim of destroying Ukraine's sovereignty, independence and territorial integrity. President of Ukraine Volodymyr Zelenskyy, based on the NSDC proposals, in accordance with paragraph 20 of part one of Article 106 of the Constitution of Ukraine and the Law of Ukraine "On the Legal Regime of Martial Law"[1], decided to introduce martial law in Ukraine for a period of 30 days. The Decree of the President of Ukraine "On the introduction of martial law in Ukraine" was supported by 300 members of the Ukrainian Parliament.

Due to the ongoing aggression of the russian federation, martial law in Ukraine has been repeatedly extended by relevant presidential decrees with subsequent approval by the Parliament.

The martial law is aimed at consolidating all state resources – military, human, material, moral, financial, economic, and political – for the defence of the country and repulsing the criminal intentions of the aggressor country.

The introduction of the legal regime of martial law throughout Ukraine has raised a number of problematic issues for all branches of law and legal entities, including government authorities, local self-government bodies, military bodies, business and entrepreneurship, academics, law enforcement officers and human rights organisations, and citizens' associations, which require scientific and practical research.

Through its actions on the territory of Ukraine, russia has committed tens of thousands of war crimes, caused billions of dollars in damage to the economy and the environment, and inflicted material and moral damage on millions of Ukrainians.

There is an urgent question about the form of an international judicial body (tribunal), as well as the forms and methods of bringing the russian federation as an aggressor country to justice for war crimes committed on the territory of Ukraine. It is necessary to study and summarise the experience of international judicial bodies (tribunals) established in due course to prosecute state

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[1] On the legal regime of martial law: Law of Ukraine (2015, May). *Bulletin of the Verkhovna Rada of Ukraine*, 2015, 28, 250.

and military figures for war crimes (international war crimes tribunals for Rwanda and the former Yugoslavia, the Nuremberg Tribunal) and to develop proposals on the principles, powers, functions, and status of the future international court (tribunal) to bring the military and political leadership of the aggressor country to legal responsibility.

Along with the problem of bringing the military and political leadership of Russia to justice for war crimes, the issue of compensation for the damage caused by the russian federation to Ukraine arises. Legal scholars need to comprehensively analyse national legislation and international legal documents, and prepare proposals for the organisation of an international judicial body for reparations (compensation for damage) to Ukraine as a result of the military aggression of the russian rederation. The legal science should determine the jurisdiction of such a judicial body over legal relations arising from russia's aggression against Ukraine, and provide for the powers of such an international court to recover damages from aggression.

There is an urgent need for additional scientific development of proposals on the application of international humanitarian law, the Rome Statute and other international legal acts under martial law; it is also necessary to clarify the specifics of the application of international humanitarian law during a hybrid war, when russia is waging information, economic, biological and energy warfare against Ukraine and carrying out other types of aggressive actions against Ukraine, which requires further amendments to the current legislation of Ukraine.

The legal regulation of the status of refugees, internally displaced persons, deported persons, especially children, including orphans and half-orphans, also needs to be improved.

In the context of martial law, the legal science should pay special attention to the mechanism of ensuring and implementing the legal status of military personnel, other combatants, veterans and veterans with disabilities, members of their families, families of fallen soldiers and missing persons.

A new challenge for Ukrainian legal practice and science is the institution of prisoners of war and captured civilians, which necessitates an urgent need to study Ukrainian legislation regulating the status and rights of not only prisoners of war, but also civilians captured by the aggressor as hostages, prisoners of war or as part of reprisals. It is necessary to study the compliance of Ukrainian legislation with international humanitarian law, to develop proposals for bringing Ukrainian legislation in line with the requirements of international humanitarian law on the implementation of the legal status of prisoners of war and civilians captured by the aggressor.

Legal scholars need to refine the legal mechanism for documenting war crimes committed by russia on the territory of Ukraine, develop proposals to the criminal procedure and criminal legisla-

tion of Ukraine in order to implement international humanitarian law, international legal instruments for the protection of human rights and freedoms, the Rome Statute, and the case law of the European Court of Human Rights.

The war has caused damage to the lives and health of millions of Ukrainians, property of individuals and legal entities, and various business entities. Ukrainian civil and commercial legislation was adopted in peacetime and is designed for peaceful conditions of human existence and business operation. Under martial law, it is necessary to improve the legal mechanism for compensation for damage caused by the aggressor country to the life and health of individuals and property of legal entities (business entities), taking into account the decisions of the ECHR and other international courts.

The russian federation has caused enormous damage to Ukraine's environment, with the amount of damage estimated at trillions of hryvnias. The destruction of the Kakhovka hydroelectric power station dam, the destruction of the Oskilske reservoir in Kharkiv region, the deprivation of Mykolaiv of water for a long time as a result of enemy rocket attacks on the city's civilian infrastructure, the destruction of water pipes and power grids, and other war crimes against the environment are of the nature of ecocide.

Despite the massive destruction, damage and pollution of the Ukrainian ecosystem by the aggressor country, law enforcement agencies do not properly protect the environment.

Section VIII "Criminal offences against the environment" of the Criminal Code of Ukraine (Articles 236–254) does not provide for liability for damage to soil cover, mining, destruction of protective structures (dams, dikes, etc.) and other encroachments on the environment of Ukraine that have the nature of war crimes.

At the same time, Article 441 of the Criminal Code of Ukraine provides for criminal liability for ecocide – mass destruction of flora and fauna, poisoning of the atmosphere or water resources, as well as other actions that may cause an environmental disaster. We have all witnessed exactly the kind of actions by russia that should be assessed as ecocide, but not a single conviction for ecocide has been handed down in court during the entire period of the war.

The legal science should find out why environmental protection legislation is not fully used, propose jurisdiction to file a claim for compensation for environmental damage, clarify the concept and content of ecocide, move away from general evaluative terminology such as "mass destruction", "poisoning of the atmosphere or water resources", "environmental catastrophe", and specify the signs of this particularly serious crime against peace, human security and international law and order. It is necessary to propose amendments to the Rome Statute and prepare an appeal to the In-

ternational Criminal Court for damages for ecocide.

Speaking at the G20 summit, President of Ukraine Volodymyr Zelenskyy presented a 10-point Ukrainian formula for peace, one of which is the need to immediately protect Ukraine's nature and stop ecocide. At the same time, the European Commission stated that russia should pay reparations to Ukraine for the ecocide and called for continued recording of russian environmental crimes[1].

The legal science should make its programmatic tasks in substantiating Ukraine's role as a leader in peacekeeping efforts, pursuing the goal of ending the war fairly on the basis of the UN Charter and international law, and ensuring Ukraine's national security.

President Zelenskyy noted that "Ukraine has proposed a Formula for Peace – the only comprehensive and honest plan to overcome both the russian aggression itself and its consequences. The content of the points of the Formula for Peace and the Formula as a whole are in line with the UN Charter and supported by the UN General Assembly. More than 25 international documents have declared support for the Peace Formula, including statements and declarations by the G7, the European Union, and the Council of Europe"[2].

Presenting the Peace Formula at a meeting of the UN General Assembly on 23 February 2023, the President of Ukraine emphasised the following points that must be fulfilled to end russia's war against Ukraine:

– radiation and nuclear safety;
– food security;
– energy security;
– release of all prisoners and deportees;
– implementation of the UN Charter and restoration of Ukraine's territorial integrity and world order;
– withdrawal of russian troops and cessation of hostilities;
– justice, which includes a special tribunal for russia's crimes and compensation for all damages caused by the war;
– an end to the ecocide against the environment of Ukraine, compensation for all relevant damages caused by russia;
– preventive military, financial, infrastructural, technical and informational measures to avoid new aggression;
– fixing the end of the war by an interstate treaty.

Ukrainian legal schience should focus on legal support for the implementation of the Peace Formula, exploring specific issues of implementation of its concrete points.

Particular attention should be paid to the justification from the point of view of international law of radiation and nuclear safety, which provides for the

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[1] *Ecocide in Ukraine: why will Russia pay reparations?* URL: https://www.savednipro.org/ekocid-v-ukrayini.

[2] Speech of the President of Ukraine in the Verkhovna Rada of Ukraine on the occasion of the Constitution Day of Ukraine (2023, June). URL: https://www.rada.gov.ua/news/Top-novyna/238212.html.

withdrawal of russian troops from the territory of Zaporizhzhya nuclear power plant, its complete demilitarisation, transfer of the plant under the control of the International Atomic Energy Agency (IAEA) and Ukrainian personnel, and the refusal of the russian federation to use nuclear blackmail based on the Budapest Memorandum and the respective capabilities of the countries that supported the Ukrainian Peace Formula.

It is necessary to introduce legal support for the "grain deal" on a permanent basis, regardless of the continuation of the war, to encourage, through appeals and statements to the scientific community, countries in Africa and Asia interested in receiving food from Ukraine to actively advocate for the safe sale of grain and other food supplies from Ukraine in the interests of their people.

The legal science should conduct research to show that the food crisis was provoked by russia, it is a crime against humanity, it constitutes a serious violation of the laws of war, including violations of the Geneva Conventions, and falls under the jurisdiction of the International Criminal Court. It is necessary to substantiate the compliance of secure transport corridors (sea and land) with international humanitarian law and international transport law.

Under martial law, the activities of executive authorities, local governments, the judiciary, law enforcement agencies, and other public authorities in the areas of hostilities, de-occupied territories, and rear regions have radically changed, which requires appropriate regulatory support, amendments to the current legislation, taking into account the conditions of martial law.

It is necessary to give a legal assessment of the powers of the authorities and "judicial bodies" of the aggressor country in the occupied territories, its functions, methods and ways of operation, to identify signs of criminal offences under criminal law, and to develop proposals for a legal response to such activities, taking into account the norms of international conventions on the protection of human rights and freedoms.

On June 27, 2022, at the summit of member states, the European Union recognised and legally enshrined Ukraine's European future by granting Ukraine the status of an EU candidate.

Despite martial law, Ukraine has to undergo a large-scale transformation that will bring the standard of living, welfare and legal protection of the Ukrainian people closer to the level of the European Union.

Even earlier, on June 17, 2022, the European Commission announced clear and specific recommendations for reforms, the implementation of which is a prerequisite for Ukraine to start negotiations on EU accession.

Among the main points of these recommendations are the adoption and implementation of legislation on the selection of judges of the Constitutional Court of Ukraine, completion of the integrity check of candidates for the High Council of Justice by the Ethics Council

and selection of candidates for the High Qualification Commission of Judges of Ukraine, strengthening the fight against corruption, enhancing the protection of human rights and freedoms, a plan for comprehensive reform of the law enforcement sector, and completion of the reform of legislation for national minorities. The European Commission also recommends ensuring the proper pace of court cases and sentencing; completing the appointment of a new head of the specialised anti-corruption prosecutor's office by certifying the selected winner of the competition; and conducting the selection and appointment process for the new director of the National Anti-Corruption Bureau of Ukraine.

The European Commission recommended the introduction of a comprehensive anti-oligarchic law to limit the excessive influence of oligarchs on economic, political and public life, which should be done in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation.

Ukraine is also advised to ensure that its anti-money laundering legislation complies with the standards of the Financial Action Task Force (FATF). Ukraine, having temporarily lost control over parts of its territory in the east and south of the country in the war, suffering human and economic losses, continues to be a resilient democracy, moving closer to the European Union and gradually harmonising its legislation with EU legislation. In general, Ukraine has achieved political criteria that stabilise the functioning of state institutions, guarantee democracy, the rule of law, human and civil rights and freedoms, and respect for and protection of national minorities.

After implementing the recommendations of the European Commission, which Ukraine received as a candidate country for EU membership, it must undergo a process of adaptation to European rules, in which each stage requires the approval of all member states. The process of adaptation is reduced to the implementation of European rules, directives and recommendations in Ukraine and their incorporation into the Ukrainian legal system. Each further step, each action in this process, which should end with Ukraine's accession to the European Union, requires the unanimous consent of all EU member states.

Implementation of the recommendations made by the European Commission to Ukraine requires a lot of hard work, especially in the area of legal support for reforms that need to be implemented, first of all, in combating corruption, oligarchic influence on public life, protection of human rights and freedoms, and reform of the law enforcement (read human rights) system of Ukraine.

Each of the European Commission's recommendations stipulates a set of organisational and legal measures for its implementation, and none of them can be fully and efficiently implemented without the active participation of the Ukrainian legal profession.

Implementation of the European Commission's recommendations requires legal support, comprehensive measures by the state, executive authorities, local governments, all public authorities and civil society institutions.

Law plays a fundamental role in the state and society. The role of law is to purposefully and comprehensively influence the will, consciousness and behaviour of people, both individuals and groups and communities, encouraging them to behave in a manner prescribed by law.

Having chosen the path of European integration, Ukraine is obliged to bring its legal system in line with the legal system of the European Union by reforming its legal system, which cannot be done without in-depth legal research.

Ukraine is going through a complex process of radical change in its legal system, complicated by martial law and the need to wage a national liberation war against the russian federation. Adaptation to the new socio-political and economic realities caused by the European integration process covers all spheres of public life and, above all, the legal system, including relations between the state and business, the economy, entrepreneurship, the provision of services, social and legal protection of citizens and legal entities in times of war. The legal relations between the state and legal science are of particular importance, as Ukraine will not be able to successfully make the path of European integration without a developed legal science.

"Modern legal science should, firstly, become the foundation of lawmaking and law enforcement in terms of scientific substantiation of expediency and efficiency, study and legalisation, and, secondly, ensure systematic, balanced and internal consistency of legislation"[1].

The legal science is in the midst of historical processes of development of Ukrainian statehood and law. It remains an important component of public and state life even under martial law.

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LAW-MAKING: TODAY'S PROBLEMS

The article is devoted to the analysis of the "law-making" category. In one of the blocks, historical foundations are considered. Law-making, as a phenomenon of social reality, played and plays a significant, if not primary, role in the development of many civilizations. Yes, it is difficult to overestimate the importance of ancient sources of law for the legal "saturation" of the relevant state entities. Legal development is always accompanied by an appropriate or "inappropriate" understanding of justice (ancient sources are crystallized through ordeals, talion, blood revenge, etc.).

Another vector of consideration is theoretical generalizations: law-making activity is the transformation (with the help of legal prescriptions) of social relations into a system of legal relations; it is a process of familiarization with the legal needs of society, accompanied by the corresponding established procedures; this is the legally established procedural activity of state bodies to create new legal norms; this is the direction of the state's activity, related to the official consolidation of legal norms, through the formation of prescriptions, their changes, additions and cancellations. Law-making is aimed at creating and improving a single, internally consistent system of norms that regulate social relations. The legal nature of law-making is determined by the process of giving legal norms a universally binding character. Law-making is a special type of legal activity.

Thus, continuing the definitional series related to the category "law-making", we would like to emphasize the definition given in the Draft Law "On Law-making Activity" No. 5707 dated 25.06.2021 (the most modern draft of the normative legal act submitted for consideration, associated with the analyzed category). Law-making activity is the ac-

tivity of planning, development of a draft of a normative-legal act (its concept) and adoption (issuance) of a normative-legal act, the purpose of which is legal regulation and/or protection of social relations. Law-making activity in Ukraine is regulated by the Constitution of Ukraine, this Law, other laws of Ukraine, and secondary legal acts. The publication also defines the basis of the law-making process (justification, updating, improvement and changes in laws and by-laws). A separate direction of research is focused on practical issues related to law-making activities, in particular, optimization of the work of the Verkhovna Rada of Ukraine.

Key words: *law-making, law-making activity, procedures of law-making activity, tasks of the law-making process, forms of the law-making process, factors determining the law-making process.*

Formulation of the problem

Consideration of the category "law-making" is one of the primary problems of doctrinal study and practical implementation. There is no doubt about the thesis that the quality of life of every average person is related to the quality of law-making activity. Thus, one of today's tasks is awareness of the necessary components of the process of improving the law-making mechanism, as well as the prompt adoption of normative legal acts regarding the most urgent tasks of social development: economic, political, social, etc.

Analysis of recent research and publications

The theoretical basis of the research was the ideas and opinions contained in the works of scientists who made a relevant contribution to the stated problem, in particular: S. Bobrovnyk, A. Kolodiy, O. Kopylenko, O. Kot, N. Kuznetsova, N. Onishchenko, O. Petryshyn, S. Plavych, O. Skrypnyuk, Y. Shemshuchenko. At the same time, a significant number of aspects of this issue acquire new vectors of development in connection with the military aggression of the Russian Federation and require additional research.

The purpose of the article is to research the content of the category "law-making", relevant legal forms, historical foundations of the development of this concept, interpretations in modern scientific doctrine and practice.

Presentation of the main material

Complex and ambiguous processes taking place now in the field of international relations, in the development of the national legal system, and in the functioning of today's institutes and institutions could not but affect the processes directly or indirectly related to law-making, in particular, law-making activity.

Moreover, it seems to us that among scientific legal problems there are many questions related to martial law, which was introduced in connection with the full-scale invasion of the Russian Federation in Ukraine, as well as problems

focused on the period of peacebuilding. We will immediately emphasize that it is not necessary to "categorically" and "unconditionally" distinguish the above-mentioned directions in the near future. Moreover, we note that legal practices and doctrinal developments that arise or relate to the action of the spheres of human life during the martial law are "umbilically connected" to the processes of future peacebuilding. This is the creation of an international tribunal; this is the responsibility of the state-sponsor of terrorism and its accomplices; this is a question of the "restorative" stage and period; it is a question of human rights from compensatory measures to enforcement mechanisms; this is the construction of new safeguards of international law, international humanitarian law, increasing the efficiency of individual international institutions; guarantee measures, as well as the implementation of all necessary conditions and principles of Ukraine's accession to the European Union, etc.

We would like to draw attention to the fact that essential and instrumental factors should be distinguished in this matter, and both essential and technical components deserve attention. This was discussed at the meeting of the Scientific Advisory Council under the Chairman of the Verkhovna Rada of Ukraine on January 11, 2023. The following is relevant in this context: it was about the need to improve the general theoretical and branch directions of the current legislation and law-making activity. In this context, I would like to refer to the purely scientific or essential component of these processes.

Let us immediately note that what would seem to be a purely theoretical direction related to law-making activity has extremely important practical significance, since there is an unconditional certainty that the quality of our life depends precisely on the quality of law-making in general and its effectiveness in particular.

Law-making, as a phenomenon of social reality, played and plays a significant, if not primary, role in the development of many civilizations. Yes, it is difficult to overestimate the importance of ancient sources of law for the legal "saturation" of the relevant state entities. An example can be: Hammurabi the law-maker (18th century BC), where it was noted that the purpose of law is to ensure that the "strong" do not offend the "weaker" [1, p. 25–30]. The publicity of the law was ensured in a peculiar way: among such illustrative confirmations are the Dracont Laws (7th century BC), engraved on stone stelae, the Laws of the 12 Tables (5th century BC) – engraved on 12 trees tablets, Codex Seti I, which had a "rock form", i.e. was engraved on rocks (13–12 centuries BC), etc.

Legal development is always accompanied by an appropriate or "inappropriate" understanding of justice (ancient sources are crystallized through ordeals, talion, blood revenge, etc.).

Thus, we can state that the proper rules of behavior, permissions and pro-

hibitions that were in effect in society become the benchmarks of temporal and spatial legal development.

Returning to the present stage, the modern development of humanity, I would like to emphasize that the law-making process is always a dual purposeful activity: civil society and relevant law-making bodies.

In the context of the above, systematizing the views of leading scientists on the issue of law-making, we will first of all try to single out the following characteristic features and peculiarities:

1) law-making activity is the transformation (with the help of legal prescriptions) of social relations into a system of legal relations;

2) it is a process of familiarization with the legal needs of society, which is accompanied by appropriate established procedures;

3) this is a legally established procedural activity of state bodies to create new legal norms.

4) this is a direction of state activity related to the official establishment of legal norms by forming prescriptions, their changes, additions and cancellations. Law-making is aimed at creating and improving a single, internally consistent system of norms regulating social relations. The legal nature of law-making is determined by the process of giving legal norms a universally binding character. Law-making is a special type of legal activity [2, p. 721].

Thus, continuing the definitional series related to the category "law-making", we would like to emphasize the definition given in the Draft Law "On Law-making Activity" No. 5707 dated 25.06.2021 (the most up-to-date project of the normative legal act submitted for consideration related to the category under analysis). Law-making activity is the activity of planning, development of a draft of a normative-legal act (its concept) and adoption (issuance) of a normative-legal act, the purpose of which is legal regulation and/or protection of social relations. Law-making activity in Ukraine is regulated by the Constitution of Ukraine, this Law, other laws of Ukraine, and secondary legal acts [3].

After the definitional "reconnaissance", it is logical to move on to the goal that is assigned and laid down in the category of "law-making", namely, substantiation, updating, improvement and changes in the legal array.

Another block that must be considered when it comes to law-making is, in our opinion, the elementary composition of issues, namely: a) forecasting the normative form of a particular act; b) determination of the body or entity authorized to adopt the projected regulatory legal act; c) determination of the form of the projected normative legal act; d) preparation, adoption or amendment of the relevant act within the framework of mandatory procedures; e) detection of ineffective legal acts, including those that do not correspond to crisis situations, such as: aggressive manifestations of other states, ineffectiveness of preventive institutions (international law, inter-

national humanitarian law), destruction of national legal orders, ineffectiveness of action in such conditions of national legal systems.

Regarding the law-making process, it should be noted that it is possible to talk not only about the relevant goals, but also about the relevant tasks. Among them, we consider it necessary to emphasize two groups: 1) improvement of the law-making mechanism; 2) the need for prompt adoption of a normative legal act, which is the most relevant to the available socio-economic, political and social factors of the development of society.

Regarding the first task (improvement of the law-making mechanism), it is necessary to emphasize the procedures, methods proven by practice. The study of international legal practice provides an opportunity to get acquainted with the following: for example, in Belgium, at the Institute of Social Law, at the request of the Government, a normative design system called "SOLON" is being developed to determine the quality of legislation, which includes a material criterion (the content of normative legal acts) and a formal criterion (structure, design method, etc.). Moreover, such an idea is not know-how, because similar systems are already used in the Kingdom of the Netherlands (LEPA, OBW), in the Italian Republic (Lexidit, Lexeditior IRI_AI, Arianna, Norma). There is even a whole science of "legimatics", which deals with the study and research of the possibilities of computer technology. Scientists of the Institute of Social Law highlight the following advantages of the "SOLON" system:

1) helps standard design (at the prognostic stage) to avoid errors;

2) helps create bills faster and in a more productive way;

3) applies guiding principles when forecasting regulatory acts (more on this later);

4) plays an important role, since industry experts often do not have a legal education.

In turn, rule-making in the Kingdom of the Netherlands attracts attention with the existence and use of algorithms for creating legal norms, which transform formulas into legal norms, which greatly simplifies and speeds up the process of law-making, but at the same time requires special mathematical knowledge and knowledge of informatics. This experience has been successfully implemented in domestic institutions of higher education, in particular the experience of KNURE (Kharkiv National University of Radio Electronics).

Another presentation: in Latvia, traditionally, two institutions responsible for the improvement of normative drafting techniques and the quality of the law-making process – the Ministry of Justice and the State Chancellery – "cooperate". The relevant provisions regarding the procedure for the development of normative acts are fixed in several documents. Thus, the first of them is the Decree of the Cabinet of Ministers of Latvia "On the rules for the development of draft normative acts" dated 02.03.2003. Ac-

cording to local experts, the adoption of these Rules, firstly, ensures unity in the application of normative design techniques, and secondly, establishes mandatory requirements in the field of lawmaking in the broad sense of this concept. However, one of the shortcomings, in their opinion, is the lack of an indication of the use of appropriate tools of standard design technique in the case of the existence of alternative possibilities in standard design. The second document is the Guide for the preparation of regulatory acts. It is worth noting that the Manual has quite a lot of practical value, because it reveals the theoretical and practical aspects of using its tools and techniques, as well as instructions on observing language, stylistic requirements, grammar rules of normative legal acts. At the same time, unfortunately, the Guide has only a recommendatory character [4, p. 261].

With regard to the second task (prompt adoption of a normative legal act), which is the most relevant to the political and social realities of the development of society, it should be emphasized that law-making activity determines the interests of civil society, the state, social groups, but first of all, the interests of the People.

As noted by legal theorists, several types of factors influence the effectiveness of the law-making process: 1) those that determine the subject of legal regulation; 2) those expressing the positions of participants in law-making activity; 3) purely legal factors. Revealing these three groups of factors, it should be noted that they are collectively grouped into economic, political, social, ideological, national, international and legal. In addition to the listed factors, a major role is played by the internal development of the national legal system itself.

A few remarks about the forms of law-making activity.

Studying the available national and international experience, the following generalizations can be made: law-making, the law-making process is carried out in various forms: legislative activity, law-making activity of judicial bodies (USA, Great Britain), law-making of central and local state administration bodies. In this way, we can emphasize that the law-making process is the dominant type of the law-making process, which plays a decisive role in the improvement of all law-making activity.

Another aspect of our consideration. I would like to emphasize the role of civil society in modern law-making processes. It is the globalized civil society that "initiates" many processes regarding assistance to Ukraine in the fight against Russian aggression.

The thesis to which we addressed at the beginning of our presentation is extremely important – theoretical provisions should be more closely connected than ever with the practical needs of society, the state, and man. The most relevant topic demonstrating such a connection is the interaction of modern civil society and the Armed Forces of Ukraine. We will try to demonstrate this in the context of modern law-making problems.

Attention should be focused on the fact that it is the state at the legislative level that approves the basic principles and norms of interaction between civil society institutions and the Armed Forces of Ukraine, which covers a wide range of problems, among which we can single out:

1) the nature of the population's attitude towards the Armed Forces (level of trust, degree of confidence in their ability to protect society and the state);

2) availability of democratic control by civil society institutions;

3) the prestige of military service and the profession of a military serviceman;

4) moral readiness of the population to protect their Motherland and support the Armed Forces;

5) society's readiness for material costs related to maintaining and ensuring the normal functioning of the army, etc. [5, p. 7].

In addition, a separate vector of interaction between civil society institutions and the Armed Forces of Ukraine is volunteering, which is regulated by the Law of Ukraine "On Volunteering" dated April 19, 2011 (with subsequent amendments and additions). According to Article 1 of the specified Law, volunteer activity is a voluntary, socially oriented, non-profit activity carried out by volunteers through the provision of volunteer assistance. At the same time, one of the most important areas of volunteer activity is undoubtedly the following:

1) provision of volunteer assistance to the Armed Forces of Ukraine, other military formations, law enforcement agencies, state authorities during a special period, a legal regime of emergency or martial law, an anti-terrorist operation, implementation of measures to ensure national security and defense, repel and deter armed the aggression of the Russian Federation in the Donetsk and Luhansk regions, the implementation of measures necessary to ensure the defense of Ukraine, the protection of the safety of the population and the interests of the state in connection with the military aggression of the Russian Federation against Ukraine and/or another country against Ukraine;

2) provision of volunteer assistance to overcome the consequences of hostilities, terrorist act, armed conflict, temporary occupation;

3) providing volunteer assistance to overcome the consequences of the armed aggression of the Russian Federation against Ukraine and/or another country against Ukraine, as well as for the postwar recovery and development of Ukraine;

4) provision of volunteer assistance to persons/families who find themselves in difficult life circumstances due to damage caused by hostilities, terrorist act, armed conflict, temporary occupation, armed aggression of the Russian Federation against Ukraine and/or another state against Ukraine.

In this sense, it should be noted that the provision of volunteer aid, which is one of the forms of charitable activity and includes work and services performed and provided by volunteers free

of charge, requires adequate state and public control over it. After all, volunteer activities, especially those related to assistance to the Armed Forces of Ukraine during the war and, accordingly, the legal regime of martial law, require the involvement of large amounts of one or another material resources, in particular funds and property. In this regard, in the process of carrying out volunteer activities, appropriate abuses may occur, which require an appropriate, timely and effective response from the relevant controlling entities, aimed at eliminating the causes and conditions that contributed to them, as well as overcoming them negative, harmful social consequences.

However, unfortunately, the issue of legal provision of law-making control over volunteering activities was not embodied in the norms of the above-mentioned Law, which should be recognized as a gap in this area, which must be overcome by the Verkhovna Rada of Ukraine, taking into account relevant public and other necessary expert consultations .

Moreover, the provision of Article 13 of the Law of Ukraine "On Volunteering", which enshrines essentially a declarative provision regarding liability for violations of legislation in the field of volunteering, requires proper legal detailing. After all, specific legal responsibility for violation of the norms of current legislation, in particular administrative and criminal, is one of the most important legal guarantees for ensuring the effectiveness, predictability and progressive development of relevant social relations.

In addition to the above, one of the most important directions of interaction between civil society and the Armed Forces of Ukraine is the protection of the rights, freedoms and legitimate interests of military personnel, which includes a set of various aspects, in particular, the development, production and supply of modern types of weapons, the supply of food and medicine military formations of the Armed Forces of Ukraine, implementation of the necessary public procurement in these areas, protection of individual civil and social rights of servicemen and their family members, etc.

In this sense, it is important to emphasize that the bases or principles of activity of the Armed Forces of Ukraine in accordance with Article 11 of the Law of Ukraine "On the Armed Forces of Ukraine" are fidelity to the constitutional duty and military oath, the principle of the rule of law, legality and humanity, respect for the person, his constitutional rights and freedoms, the principle of openness, openness for democratic civil control, etc.

Conclusions

Considering all of the above, we can draw the following conclusions:

1. Modern legal doctrine demonstrates a powerful contribution to the development of the "law-making" category, as a sufficient number of definitions of this concept are given in monographic, textbook, and encyclopedic editions. We especially focus on the definition given in the Draft Law "On Law-Making

Activity" No. 50707 dated 06.25.2021 (the most modern draft of the normative legal act submitted for consideration). Law-making activity is the activity of planning, development of a draft of a normative-legal act (its concept) and adoption (issuance) of a normative-legal act, the purpose of which is legal regulation and/or protection of social relations.

2. The goal of law-making activity is proposed to determine justification, updating, improvement and changes in the legal array.

3. The elemental structure of the issues to be studied are the following: a) forecasting of the normative form of this or that act; b) determination of the body or entity authorized to adopt the projected regulatory legal act; c) determination of the form of the projected normative legal act; d) preparation, adoption or amendment of the relevant act within the framework of mandatory procedures; e) detection of ineffective legal acts, including those that do not correspond to crisis situations, such as: aggressive manifestations of other states, ineffectiveness of preventive institutions (international law, international humanitarian law), destruction of national legal orders, ineffectiveness of action in such conditions of national legal systems.

4. Among the tasks set when studying the law-making process, two groups should be emphasized: 1) improvement of the law-making mechanism; 2) the need for prompt adoption of a normative legal act, which is the most relevant to the available socio-economic, political and social factors of the development of society.

5. Forms in which law-making and the law-making process are carried out require separate study.

6. The study of the problem of legal support for the interaction of civil society and the Armed Forces of Ukraine becomes important.

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TRANSFORMATION OF THE VALUES OF LAW AND LAW-MAKING ACTIVITY UNDER MARTIAL LAW

Under martial law, through a political and legal interpretation of social reality, a new model of relations between the state and civil society is being formed, due to the nature of external aggression and the peculiarities of legal development, the mechanism of legal regulation. Adjustment of value orientations in the legal sphere is one of those tools that can ensure the transformation of the state system and legal development, that is, their restructuring in accordance with military needs, without which it seems impossible to achieve a balance in the mechanism of legal regulation, law and order and victory. After all, the purpose and means of state policy, including law-making, will depend on the fact that what values of law will be put at the forefront of the general public (restoration of territorial integrity and independence of the state, ensuring external security) or personal (guaranteeing the rights and freedoms of citizens). We are talking about the formation in the conditions of war as a state of emergency, a new structure or hierarchy of values of law, which in the process of law-making activity are translated into legislation, creating the basic conceptual foundations for winning and restoring peace, preserving the statehood and sovereignty of the power of the Ukrainian people as general social democratic values, opportunities for democratic development. Public interest and the public good as values of law acquire primacy through the redistribution of the axiological potential of law, which in conditions of martial law is a determining prerequisite for ensuring all other values of law. That is, the provision of general social values and needs is now a condition for the existence of an independent state, its further development and guarantee of the constitutional principle of recognizing a person (his rights and freedoms) as the main social value.

Key words: *law, value, lawmaking, justice, martial law, priority, hierarchy*

Relevance

Under conditions when active hostilities are conducted on the territory of the state, mass internal and external population migrations take place, traditional values are reassessed and changing, and sometimes the traditional relationship between the state and the citizen is destroyed regarding the implementation and provision of constitutionally defined rights and obligations, some of which are limited, and law enforcement, circumstances arise that make it impossible for the state to fully or partially implement certain functions and tasks, the special role and value of law as a regulator of public relations is more important than ever, an instrument for meeting the needs and coordinating the interests of various subjects of social relations.

As is known, the main task of the state in the person of law-making authorities is to form a system of rules of conduct that will ensure the balance of interests, protection of the rights and obligations of all subjects of law, both under ordinary and emergency conditions. Accordingly, each legal act has its essence and content, determined by the legislator or other subject of law-making and, in view of this, has a corresponding essential load. The presence of high-quality and legislation that corresponds to the objective development of social relations is in itself a value for any society and individual citizens, because it is a direct prerequisite for ensuring law and order, including under emergency legal regime.

After all, the norms of law should reflect the modern values of society, the modern understanding of the rule of law, the rights and freedoms of citizens, social justice, the rule of law, etc., which can acquire special significance in extraordinary circumstances. The mismatch of law to the needs of society, and especially to the principle of social justice, leads to the inefficiency of rightrealization and the gradual loss of legitimacy and axiological essence by the right.

In this aspect, it is also important to form a conscious belief in the subjects of social relations in the need to comply with the priorities and implementation of the norms of law and, accordingly, the ideas (values) inherent in its content. Therefore, if legal ideas are perceived by the majority of the population and the norms of law are consciously fulfilled, which reflect their content, then legal ideas from the sphere of proper are transformed into reality, law and order, national security, national, national and state sovereignty are ensured or restored.

In view of this, it is the regulating potential of law as a measure of freedom, justice, equality, humanism that can have an orderly and restorative effect on social relations. Under the conditions of martial law, through the political and legal interpretation of social reality, a new model of relations between the state and civil society, the state and the citizen is formed, due to the nature of external aggression and the peculiarities of legal development, the mechanism of legal

regulation. Accordingly, a number of new objects of knowledge of legal science arise, including the transformation of the value foundations of law and law-making activity under martial law, the clarification of the features of which is the purpose of our research.

Analysis of recent studies

The problems of the axiological dimension of law have long been in the field of view of specialists in sociology, sociology and philosophy of law, political science and theory of law. Separate aspects of clarifying the essence and content of legal values and values of law were devoted to the works of N. B. Arabadzhi, K. V. Gorobets, A. A. Kozlovsky, A. F. Kryzhanovsky, S. I. Maksimov, Yu. M. Oborotov, P. N. Rabinovich, Yu. V. Sayfulina, I. V. Kravtsova and others, who became the theoretical basis of the presented study. However, in modern conditions of legal development, the problem of the so-called movement of values in the field of law and law-making activity in the conditions of martial law, which has not yet received proper understanding and conceptualization in the theory of law, has gained importance and needs of scientific justification.

The main material

Throughout the evolution of law, it develops various specific values (legal), which carry civilizational and cultural layers associated with an understanding of freedom, justice, order, the preservation of oneself, loved ones and all social integrity[1]. In this aspect, it is necessary to consider law as a value, which is one of the most important means of streamlining social relations in resolving military conflicts, social crises, etc. This is the power of law, as opposed to the right of force.

It is believed that law always has in its content some constants – fundamental provisions, values, the exclusion of which from the content of law leads to the loss of its essence. Among these principles are justice, human dignity, freedom, equality, etc. The power of law is expressed in how consistently and effectively these values are embodied in the form of legal norms and law enforcement practices. The more law can guarantee the realization of these values, the higher is its strength. From this point of view, the values that underlie the content of law act as a kind of coordinates for the application of legal coercion: the power of law should manifest itself where and when fundamental values are threatened[2].

Distinguishing legal values and values of law as the content of the axiosphere of law, it should be emphasized that it is legal values that determine the

[1] Oborotov, Y. N. (2011). Legal understanding as an axiological principle (postulate) of law. *Law of Ukraine,* 1, 112.

[2] Saifulina, Yu.V. (2015, May). Law and power: some philosophical and legal problems. *The power of law and the right of force: historical dimension and modern vision of the problem: materials of the XXXII International. historical and legal conference*. Kyiv-Poltava: PUET, 35.

content, purpose and essence of law, underlie it and act as means of understanding and explaining legal reality. These are the values of due, and the values of law are the values of life, which come from the immediate needs of a person (or another subject of law, such as the state – from auth.) In a particular situation[1].

According to Yu. M. Oborotov, the values of law are phenomena that are not legal in their basis, but are significant for man and society, and therefore protected and provided by the state[2]. V. Gorbulin and A. Kaczynski, studying national values, consider it expedient to structure them on a hierarchical basis and talk about three groups of national values: the individual (1), society (2), the state (3). At the first level – individual – the following are significant: human rights and freedom, private property, patriotism, diligence, peacefulness, tolerance, family, individualism. At the second – social – level of primary importance are: welfare, social justice, interethnic and interfaith harmony, liberal democratic traditions, material and spiritual heritage. Finally, at the third, state level, values such as natural resources, constitutional order, national security, state sovereignty, territorial integrity, the system of interstate relations and some others become decisive[3]. The vast majority of these values are not legal, but are of great importance for these subjects and therefore receive protection and security from the state, and are the values of law.

However, in the aspect of understanding the system of legal values, it is worth turning to the problems of a situational approach in axiology, within which the personal, social or state axiosphere of law is considered not as stable, stable systems, but as systems that are mobile, determined by a specific situation and preferences of subjects of value relations[4]. In view of this, exactly what is valuable and priority for society and the subject of law-making under certain circumstances is translated into a legislative array and implemented in public relations as goods that are protected and protected by the state.

Therefore, the values realized in social relations acquire the character of good. In the philosophical sense, good is a general concept to denote what embodies a positive value content[5], and in real social relations – these are objects or phenomena that meet the interests of a person, society or state, satisfying their needs. That is why they are secured, protected and protected by law. In a democratic society, the law takes into account the interests of the majority, determines

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[1] Horobets, K. V. (2013). *Axiosphere of law: philosophical and legal discourse*. Odessa: Phoenix, 94, 99, 102–103.

[2] Oborotov, Y. N. (2001). *Traditions and innovations in legal development*. Odesa: Jurid. Lit., 33.

[3] Gorbulin, V. P., & Kachynskyi, A. B. (2010). *Strategic planning: solving national security problems*. Kyiv: NISD, 24.

[4] Horobets, K. V. *Axiosphere of law: philosophical and legal discourse*, 103.

[5] *Philosophical encyclopedic dictionary*. (2002). Kyiv: Abris, 58.

the ratio of the general (public, state) interest and the individual, personal interests, trying to achieve its balance on the basis of the principle of social justice.

Important for the study of the problems of transformation of the values of law in extraordinary circumstances is to clarify their relationship with each other. Currently, in the science of law there is no unambiguous opinion about the possibility, in principle, and the need, in particular, to hierarchize and classify legal values. Some scholars believe that all legal values are absolute, expressed through one another, which does not allow them to be compared and compared. And hierarchy, in turn, destroys the moral basis of law and law itself[1].

However, a different approach to the values of law has been formed, according to which there are several options for determining their list and hierarchy. In particular, one of them defines such a hierarchy based on humanistic traditions, and the other – from the values defined and enshrined in the constitution. In the first case, the highest value of the right is human life, then – freedom, equality and dignity, human rights, property, education, culture, civil society, etc[2]. According to the normative approach, the main value of the right is human rights enshrined in the constitution.

In addition, in the theory of law, an approach has been conceptually formed, according to which the typology of value hierarchies is carried out, depending on the dominance of certain legal values under certain socio-political circumstances. In particular, these are etatist domination (dominance of the value of the state and governance), liberal domination (priority of the value of freedom), utilitarian domination (priority perception of instrumental values), balanced domination (legal values harmoniously interact, speaking in their formal legal expression)[3].

From the point of view of priority in a stable society and under a democratic political and legal regime, it is traditionally believed that "individual values of a person (personality) always prevail over social values. Individual values are the link between a person and society, the culture of a particular society. Man himself was and remains super valuable – his life, activity, creativity, – man as a being is not so much biological as social[4], for which a system of legal regulation is being built. A person as a value in social relations is presented as an individual, a person, a member of civil society and a representative of the nation – a citizen of the state. In view of

[1] Kravtsov, I. V. (2017). Classification of legal values and its significance for legal theory and practice. *Scientific notes of NaUKMA. Legal sciences*, 200, 52.

[2] Horobets, K. V. (2012). Hierarchy of values of law. *Bulletin of the Academy of Advocacy of Ukraine*, 2, 77–81.

[3] Hryshchuk, O. V., & Solomchak, H. B. (2016). *Positive legal responsibility of a person: determinative aspects.* Khmelnytskyi, 236.

[4] Matyazh, S. V., & Berezyanska, A. O. Classification of values and value orientations of the individual. *Scientific works. Sociology,* 213(225), 30.

this, distinguish the content of the value potential of law.

Under the conditions of martial law, which, within the framework of a situational approach, is an emergency situation that causes a number of factors, mainly of a subjective nature, there is a transformation of the list and priority or hierarchy of the values of law. Priority in this case means the superiority of some interests and values over others when adjusting the goals and directions of the state in general and law-making activities in particular in war conditions. Implementation of priority in law-making activities involves clarifying the needs and interests of society, the state, individuals, including their rights and freedoms as legal values and determining the preference, consistency, and scope of their implementation, because "the value system changes only during crisis periods, moreover, these changes relate mainly to the structure of values, as a result of which some values become more significant, others are relegated to the background[1].

That is, there is a rapid value reorientation in society, it absolutizes those goods that are most important during martial law, correspond to its interests and needs. These processes are objectified in the course of legal development by clarifying the ratio of personal and public, determining value priorities and their standardization through extraordinary law-making.

Thus, at present, the problem of compliance of priority in the hierarchy of values of law, built on the primary value of a person, enshrined in constitutional principles and current legislation, with new, objectively existing relations of martial law, has become especially acute.

First of all, this task involves determining the goal of the state, which would correspond to social development in specific circumstances. This goal, being complex and heterogeneous in content, can be political, economic, social and implemented in domestic and foreign policy, thereby having differences. Currently, in the theory of law and the theory of public administration, the purpose of the state is mainly associated with its functions and tasks. In a democratic state, the purpose of its activities, the sphere of state interest, is formulated by the head of state and parliament as representative institutions of public power, which search for spheres and determine the boundaries of legal influence, its value burden.

Realization of the state interest depends on: politically correct awareness of the need for specific state needs; scientifically based establishment of directions for finding opportunities to meet these needs; application of a set of specific organizational and legal measures to implement these opportunities; the degree of coverage by organizational and legal means of all possibilities to meet the necessary national needs; the degree

[1] Zlobina, O., & Tikhonovych, V. (2001). *Modernization of the value system and means of life. Social crisis and personal life strategies.* Kyiv: Stylos, 59. Retrieved from https://core.ac.uk/download/pdf/77240711.pdf

of strict implementation of organizational and legal measures[1].

In accordance with the concept of the military regime defined in the Law of Ukraine “On the Legal Regime of Martial Law,” the strategic goal of the relevant state authorities, military command, military administrations and local self-government bodies, which generally determine the state, including legal, policy under martial law, is “to prevent threats, repulse armed aggression and ensure national security, eliminate the threat of danger to the state independence of Ukraine, its territorial integrity.”

To realize this goal, the above-mentioned bodies are vested with the necessary powers regarding the regulatory and legal organization of relations in the state, including the temporary, caused by the threat, restriction of the constitutional rights and freedoms of man and citizen and the rights and legitimate interests of legal entities, indicating the validity of these restrictions. Accordingly, the existence of national and national threats gives grounds for the application of restrictions.

Fully supporting the fact that «the establishment of human rights is the main task of modern states that have proclaimed man, his life, health, honor and dignity, inviolability and security of the highest social value and have undertaken legal obligations to introduce effective means of protecting it from the arbitrariness of public power and, to a certain extent, attacks by private individuals»[2], under martial law, the interests of an individual or certain social groups, including the value of the life of an individual as a value of law, have ceded the primacy of the value of preserving society and the state. It is to ensure the interests and benefits of the state and the nation, their protection and preservation, that all organizational and legal efforts of the state during the emergency period of martial law are directed. The implementation of these tasks will ultimately allow the state to ensure the welfare and security of every person, citizen, which is its main task.

Thus, the ratio of public and private interests and corresponding values is determined. However, it is unacceptable to oppose «public (state) interest, relevant constitutional values, on the one hand, and respect for individual human rights, on the other hand, as often happened in peaceful times. During the war, the perception that the public interest (for example, defense, national security), in which individual rights and freedoms are accumulated, should be revealed most of all. For example, the restriction of the movement of citizens (curfew, checkpoints) or even the seizure of citizens' property for the needs of defense is aimed at protecting the most fundamental human rights and freedoms – the right to life, their dignity and freedom (for example, protection from the activities

[1] Sirenko, F. V. (2006). *Interests and power*. Kyiv: Oriyany, 54.

[2] Hristova, G. (2018). *Positive obligations of the state in the field of human rights: modern challenges*. Kharkiv: Pravo, 6.

of sabotage and subversive groups of the enemy). Restrictions on human rights during the war are purposeful and massive, but it is obvious that under the conditions of a constitutional special regime – martial law – the grounds for justifying it are different than in peacetime[1].

In view of this, the introduction in Ukraine of restrictions on certain constitutionally enshrined human rights from February 24, 2023 was due to the need to ensure public interest in the conditions of martial law in Ukraine and entailed an urgent need to rethink and improve traditional means of maintaining law and order, ensuring the rule of law as common values. The primary provision of public interest, personifying the needs of society and the state, in this case covering all vital areas of national security and defense, creates the necessary opportunities to ensure the interests, rights and freedoms of individual citizens, is a condition for their implementation. The latter directly depend on the economic, financial, political and legal capabilities of the state. In accordance with the satisfaction of public needs and values, ensuring the interests of society and the state, such individually defined values of law as freedom, equality and dignity, human rights, property, education, culture, etc. do not receive full security.

I. Hrytsak draws attention to the ability of the Ukrainian people to maximize the concentration of efforts to repel/overcome the mortal threat to their existence. The scientist calls this ability «factor X» – the self-organization of Ukrainian society, behind which stands a powerful historical tradition. It is, in fact, about the intuitive feeling of approaching the limit beyond which the essential quality of the system itself, that is, the Ukrainian ethnic group, is lost. A powerful third-party bifurcation acts as a kind of catalyst for the concentration of the internal potentials of the people, aimed at eliminating the action of such a factor[2]. Such a catalyst now was the war imposed on Ukraine, which consolidated the people around the idea of gaining victory.

This became possible due to «positive changes in value trends, especially among representatives of the middle and younger generations of Ukrainians in modern times, which are associated with the awareness of the importance of national values (sovereignty, territorial integrity, security), mutual axiologists and atitiums (tolerance, solidarity, responsibility, justice), cultural identifiers of the

[1] Dissenting opinion (concurring) of the judge of the Constitutional Court of Ukraine Lemak V. V. regarding the Decision of the Constitutional Court of Ukraine (second senate) in the case of the constitutional complaint of Serhiy Oleksiyovych Polishchuk regarding the compliance with the Constitution of Ukraine (constitutionality) of Clause 4 of Article 16–3 of the Law of Ukraine «On Social and Legal Protection of Servicemen and Members of Their Families» (the case of enhanced social protection military personnel). Retrieved from https://ccu.gov.ua/sites/default/files/docs/1_p2_2022_1.pdf

[2] Krysachenko, V. (2022). National values of Ukraine: essence, diversity, consolidated potential. *Ukrainian studies*, 1(82), 44.

nation (language, culture, religion, etc.), etc.[1]

Restoration of the pre-war volume of these values is not possible without preserving peace, and now in conditions of war – without winning and establishing or restoring peace. It is the achievement of peace as a value on a national scale that is the main task of the state of Ukraine at the present stage, coinciding with the personal interests of the citizens of Ukraine, which will contribute to solving the problem of preserving peace in the international, global aspect, which is aimed at most countries of the civilized world. In accordance with this task, the law-making policy of the state under martial law is formed and implemented.

Conclusions

Thus, it can be argued about the formation in the conditions of war as a state of emergency, a new structure or hierarchy of values of law, which in the process of law-making activity are translated into legislation, creating the basic conceptual foundations for victory and restoration of peace, preservation of statehood and sovereignty of the power of the Ukrainian people, as common democratic values, opportunities for democratic development. Public interest and public good as values of law acquire primacy through the redistribution of the axiological potential of law, which under martial law is a determining prerequisite for ensuring all other values of law.

In our opinion, the adjustment of value orientations in the legal plane is one of those tools that can ensure the transformation of the state system and legal development, that is, their restructuring in accordance with military needs, without which it is impossible to achieve a balance in the mechanism of legal regulation, law and order and victory. After all, the purpose and means of the state's law-making policy will depend on which values of law will be put at the forefront of the general public (restoration of the territorial integrity and independence of the state, ensuring external security) or personal (guaranteeing the rights and freedoms of citizens). That is, the provision of common values and needs is now a condition for the existence of an independent state of Ukraine, its further development and the guarantee of the constitutional principle of recognition of a person (his rights and freedoms) as the main social value.

[1] *Ibidem, 2022, 31.*

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CONTENT OF THE CONCEPT "VECTOR OF DEVELOPMENT OF ADMINISTRATIVE LAW OF UKRAINE"

Purpose *of the article is to define the content of the concept of «development vector of administrative law of Ukraine».*

Methods. *For this, one should turn to general theoretical techniques. A significant role in the methodology of formulating the content of legal categories and concepts is assigned to the «classical» principles of scientific knowledge, including: comprehensiveness of research, comprehensiveness, historicism.*

Results. *It has been established that the meaning of the concept «development vector of the administrative law of Ukraine» is based on the meaning of the category «transformational process». It can be understood as radical changes in the nature, structure and functioning mechanisms of state power, the political system, and the administrative sphere, as well as the achievement of a qualitatively new state. It was determined that the transformation process is not an aimless movement. An important role is played by the formation of its development vector. The concept of a vector is defined as a quantity characterized by a direction. It was determined that after the restoration of Ukraine's independence, people-centered provisions were recognized as the ideological foundations of administrative law. There has been a transformation of the administrative-command law into a branch that*

normatively defines and regulates the rights and obligations of state activity in relation to interaction with civil society, is a tool for the functioning of a democratic, legal state. It was determined that the experience of implementing democratic patterns of those states that received positive results of their verification, in particular the Europeanization of the doctrine of administrative law and its normative component, is important in shaping the development vector of administrative law. It is indicated that it is worth keeping a balance between the use of positive experience and the general copying of provisions of the doctrine and practice of other states. It has been established that the development of domestic administrative practices and legislation is long-winded, researched by scientists, its division into: the times of Kyivan Rus and the Galicia-Volyn Kingdom; the Lithuanian-Polish era; the Cossack-Hetman era; the period from the end of the 19th century until 1917 p.; the period of the Ukrainian Republic (1917–1920); the period of Soviet occupation; the period of restoration of Ukraine's independence. The development of the scientific component of the domestic doctrine of administrative law is continuous, continued in the works of public and church figures, scientists, and teachers. In some historical periods, it was different from state legal practice for objective reasons. The historiographical analysis of the domestic doctrine shows that during its development it was in a contextual relationship with the Western European doctrine, but not identical to it. Authentic traditions of Ukrainian administration were formed in a contextual relationship with Western European doctrine. Advanced approaches and ideas were developed at all stages of development. Magdeburg law and traditions of Lithuanian and Polish administration had an impact. The positions of domestic church figures on state power were of great importance in the development of the scientific component and in the applied development of statehood. The philosophy of Kosacks played a leading role in the formation of authentic Ukrainian traditions of administration. After the restoration of Ukraine's independence, there is a return to authentic domestic regulations and administrative practices. Trends in the development of theory and practice in the administrative field appear around the vector. To define them, it is necessary to rely on the general foundations of the category «development trends» as «the direction of the development of some phenomenon, thought or idea, the implementation of the law according to its inherent logic of movement».

Conclusions. *The vector of development of modern administrative law can be defined as the formation of a partnership between a democratic, legal state and civil society according to a human-centered ideology based on the Europeanization of doctrine and administrative norms, taking into account the authentic traditions of domestic administration.*

Key words: *transformational process, development trends, authentic traditions, Europeanization of administrative law, Western European context.*

Introduction

For a long time, domestic administrative law has been in a state of systemic transformation, the parameters of which are determined by the processes of civil society development and the formation of a democratic, legal state. As O. Andriyko aptly stated in the early 2000s, although administrative law is considered one of the main branches of law in most

countries of the world, its progress is quite slow, the legal science of Ukraine plastically forms an opinion about the subject, goals and tasks of administrative law, its main institutions and their certainty (Andriyko, 2003: 258–260). As S. Stetsenko rightly noted, administrative law is one of the fundamental branches of Ukrainian law, which is comparable to such branches as constitutional, criminal, and civil law, and determines the basic principles of the state, state bodies, and officials. Administrative law studies legislation, which in scope far exceeds the legislation of any other branch of law. Based on its fundamental nature, it is necessary to be aware of the role it plays in the legal system of Ukraine. Norms of administrative law regulate social relations in such areas as the functioning of state power in general, executive power, local self-government, public regulation in the field of defense, economy, education, health care, foreign and internal affairs, etc. (Stetsenko, 2018: 26).

The purpose of the article is to define the content of the concept of “development vector of administrative law of Ukraine”.

For this, one should turn to general theoretical techniques. A significant role in the methodology of formulating the content of legal categories and concepts is assigned to the “classical” principles of scientific knowledge, including: comprehensiveness of research, comprehensiveness, historicism. At all stages, it is worth checking with the provisions regarding the objective determination of the chosen research methods by its subject.

1. The transformation process

Domestic scientists turn to the analysis of the reasons for the long-term “transformation” of administrative law. Thus, the unhurried progress of administrative law is associated not only with certain organizational and resource difficulties of state-building processes, but with factors of a mental nature (Maslova, 2020: 118–128). Among them: the established understanding of the essence and purpose of administration, subconscious, crystallized during the period of the totalitarian regime of the Soviet occupation (Bazhan, 2004: 395), non-acceptance of the democratic foundations of the existence of society and the state or a hypertrophied idea of them, the level of legal culture and legal awareness among citizens, the professionalism of state authorities, social responsibility, etc. Of course, this list of prerequisites is not exhaustive, among them there are other factors that can be summarized as the formation of civil society and its institutions, which is actually the quintessence of the modern functioning of the domestic system of power as a whole (Maslova, 2020: 118–128).

Administrative and legal science after the restoration of Ukraine’s independence was transformed in accordance with the provisions of the democratic, legal doctrine from the sphere of public

administration into the sphere of law, which determines the mechanism of interaction between the state and citizens (Bozhok, 2017: 181). This branch of law is in a state of political transformation, the changes of which are determined by the Concept of Administrative Reform in Ukraine (Remesnyk, Yeshchenko, 2019: 61). The status of a phraseological constant was given to the statement that a new ideology of the relationship between the state and the citizen is currently being formed in Ukraine.

Most of the existing categories in modern scientific literature, which should reflect the dynamics of the development of state, social and political processes, do not adequately reveal their real diversity, complexity and multidimensionality in the modern Ukrainian state-legal reality. The use of the concept of "transformational process" is thought to be productive for the analysis of the content and features of modern social, governmental and political processes.

It can be understood as radical changes in the nature, structure and functioning mechanisms of state power, the political system, and the administrative sphere, as well as the achievement of a qualitatively new state. At the same time, the concept of "transformational process" is neutral in terms of assessing the dynamics and directions of transformations. Without excessive ideological load, it allows to adequately identify and analyze the factors that influence the course and development of social, state, and political processes, taking into account their variability and possible inconsistency, in particular, to identify the main vector of changes in the administrative sphere, by determining the trends in the relations between the state and civil society, as well as the peculiarities of the development of legal awareness and legal culture (Pampura, 2017: 151).

2. Development vector

The transformation process is not an aimless movement. An important role is played by the formation of the main vector of development. The concept of a vector (lat. "the one that carries") is defined as a quantity characterized by a direction (Lukyaniuk, 2023). This term can be used for a schematic understanding of the provisions of the domestic doctrine regarding the development of administrative law.

The administrative branch in the domestic scientific and practical planes is burdened with archaic concepts of state rule and planning, a distorted idea of the dominant state. These terms of the past, obviously, had little in common with the doctrine of a democratic, legal state and were actively used during the Soviet occupation. After the restoration of Ukraine's independence, democratic provisions of the administrative-legal doctrine were formed, and the administrative legislation was updated. The ideological foundations of people-centered provisions, in particular V. Averyanov's, in the transformation of the administrative-command "law of public administration" into a field that norma-

tively defines and regulates the rights and obligations of state activity in relation to interaction with civil society, is a tool for the functioning of democratic, legal state.

Important in shaping the content of the concept of "vector of development of administrative law" is the experience of implementing democratic patterns of those states that received positive results of their verification (Kudryachenko, 2011: 91). In particular, we are talking about the Europeanization of the doctrine of administrative law and its normative component (Prokopenko, 2011). Experts emphasize that public administration in Ukraine is one of the key areas for achieving the conditions and criteria for membership in the European Union (EU) (Rudik, 2013: 34–40). Since 2005, there has been a clear trend towards a gradual strengthening of the influence of European law on the content and direction of Ukraine's development by placing elements of European conditionality in the context of unilateral or bilateral documents or initiatives. However, despite the considerable experience of the EU in the process of integration of post-communist countries, there is still a tendency to propose new, detailed conditions for Ukraine.

The degree of conditionality that the EU applies to Ukraine varies significantly due to the inconsistency and high degree of unpredictability of the national European integration policy, as well as due to the so-called "fatigue" from the enlargement that the EU is experiencing after accepting twelve new members (Rudik, 2013: 40). The slow but steady spread of EU law creates a significant impact on domestic administrative law. It is constantly enriched with new content.

At the same time, it is worth keeping a balance between using positive experience and generally copying provisions of the doctrine and practice of other states. To do this, it is necessary to systematically analyze the processes of the development of domestic administrative law, their essence and prospects, to constantly improve the scientific toolkit, to train a new generation of patriotic specialists in the field of law – this mediates the formation of authentic provisions of administrative doctrine and practice.

In this context, provisions on the state, the rule of law, and state power are of conceptual importance for understanding the legal nature of the modern vector of administrative law development and the regulatory and institutional foundations of state administration. Administrative law appears as an expression of the legal nature of the state and vice versa: the essence of the state forms its administrative law, as a modern legal branch of European content.

The development of domestic administrative practices and legislation is lengthy, researched by scientists, its division into: the times of Kyivan Rus and the Galicia-Volyn Kingdom; the Lithuanian-Polish era; the Cossack-Hetman

era; the period from the end of the 19th century. until 1917 p.; the period of the Ukrainian People's Republic (1917–1920); the period of Soviet occupation; the period of restoration of Ukraine's independence. The development of the scientific component of the domestic doctrine of administrative law is continuous, continued in the works of public and church figures, scientists, and teachers. In some historical periods, it was different from state legal practice for objective reasons.

The historiographical analysis of the domestic doctrine shows that during its development it was in a contextual relationship with the Western European doctrine, but not identical to it. Authentic traditions of Ukrainian administration were formed in a contextual relationship with European doctrine. Advanced approaches and ideas were developed at all stages of development. Magdeburg law and traditions of Lithuanian and Polish administration had an impact. The positions of domestic church figures on state power were of great importance in the development of the scientific component and in the applied development of statehood. The philosophy of Cossacks played a leading role in the formation of authentic Ukrainian traditions of administration. In contrast to the provisions of the Western European doctrine, where the ideas of absolute monarchy remained central for a long time, the domestic provisions were directed, for the most part, to the formulation of the ideas of authentic Cossack statehood. After the restoration of Ukraine's independence, there is a return to authentic domestic regulations and administrative practices.

Supporting the scientific discourse, lawyers, in particular historians of law and the state, solve the question: is there a transition from the primacy of the totalitarian state-manager during the Soviet occupation period to democratic, legal standards of administration in the period after the restoration of Ukraine's independence, or a return to traditional authentic Ukrainian administrative provisions and practices?

It is worth recording the opinion that the administrative branch is in the process of transformational transformation of the scientific basis, ideology and practice of interaction between the state and civil society, the transition from the model primacy of the totalitarian state-manager during the period of Soviet occupation to democratic, legal standards of administration after the restoration of Ukraine's independence. An important role in the content of the development vector of the administrative field is played by the context of Western European doctrine, the Europeanization of administrative law in the practical plane.

Trends in the development of doctrine and practice in the administrative field appear around the vector. To determine the relevant trends, it is necessary to rely on the general foundations of the "development trends" category. In the encyclopedic literature, a trend is defined

as "the direction of the development of some phenomenon, thought or idea, the implementation of the law according to its intrinsic logic of movement" (Bazhan, 1984: 194).

At the same time, applying the process of forecasting as a research tool, it is necessary to take into account the presence of two types of connections and interdependencies between various phenomena and their signs – functional and correlational (Moiseev, 2008: 196–201)

Conclusions

The vector of development of modern administrative law can be defined as the formation of partnership interaction between a democratic, legal state and civil society according to a human-centric ideology based on the Europeanization of doctrine and administrative norms, taking into account the authentic traditions of domestic administration. It is around this vector that trends in the development of theory and practice in the administrative field emerge.

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ANTI–CORRUPTION RESTRICTIONS ON RECEIVING GIFTS BY OFFICIALS OF STATE BODIES IN CONDITIONS OF CONFLICT OF INTEREST: EU EXPERIENCE

Abstract. *As the experience of European countries shows, the first step towards committing corrupt acts is the ability of a government official to receive gifts. Anti-corruption restrictions on receiving gifts for government officials in foreign countries to avoid conflicts of interest include both administrative and criminal measures. Attention is drawn to the fact that the UN Convention against Corruption (2003) enshrines provisions on restrictions on the receipt of gifts related to the use of official powers or official position both during their performance and after the termination of activities related to the performance of state functions. Such restrictions are stated to include the filing of government declarations of non-official activities, occupations, investments, assets, and significant gifts or income that may create a conflict of interest in the performance of their functions as government officials. And also include restrictions on the professional activities of former public officials in the private sector after their resignation or retirement, if such activities or work are directly related to the functions that the public officials performed during their tenure or for which they were responsible observation. It was found that in some EU countries, at the legislative level, mandatory declaration of gifts has been intro-*

duced by persons holding political positions, and in some countries – by all public employees in order to avoid conflicts of interest. An analysis of court decisions in Ukraine on the receipt of gifts by healthcare officials subject to the Law of Ukraine "On the Prevention of Corruption" was carried out. It is concluded that, according to the legislation of Ukraine, the above-mentioned persons may not have a conflict of interest at any time of receiving a gift, but only if this occurs before or during the performance of their duties in the interests of the donor. For categories of government officials, national legislation should provide clearer parameters for receiving gifts related to hospitality, where each case should be assessed according to special criteria.

Keywords: *administrative and legal support, conflict of interest, restriction of gifts, prevention of conflicts of interest, settlement of conflicts of interest, prevention and settlement of conflicts of interest, civil servants, foreign experience, healthcare.*

Problem formulation

Ensuring proper organizational and legal settlement of conflicts of interest is a strategic priority of anti-corruption activities of public authorities and civil society institutions. The existential significance of the permanent updating of anti-corruption legislation and the development of anti-corruption institutional infrastructure is formally defined as an unconditional imperative in Ukraine and the European Union member states [1, p. 261]. As the experience of European countries shows, the first step on the way to committing corrupt acts is the opportunity for a public official to receive gifts [2]. According to the provisions 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 (2014), it was declared that the Parties cooperate in the fight against corruption both in state bodies (Art. 22) [3] and in the private sphere, in particular, a number of preventive measures are provided for countering the illegal receipt of gifts. In addition, among the main areas of implementation of the National Anti-Corruption Strategy in Ukraine, the activation of international cooperation in the field of prevention and counteraction of corruption is envisaged, namely: (a) bringing Ukraine's anti-corruption policy into line with international standards in the field of prevention and counteraction of corruption; (b) implementation of preparation and signing of interstate (interagency) bilateral and multilateral agreements on cooperation in the field of prevention and counteraction of corruption; (c) deepening cooperation with partner special services and law enforcement agencies in the field of counteraction of corruption; (d) implementation in Ukraine of the best practices of foreign countries in the field of prevention and counteraction of corruption, primarily regarding the introduction of the institute for the protection of honest informants; (e) formation of the image of Ukraine as a state that actively opposes manifestations of corruption, and

obtaining international support for this activity [4]. The State Anti-Corruption Program for 2023–2025 emphasizes the fact that the legal regulation of prohibitions and restrictions on receiving gifts is imperfect in Ukraine, and not in all cases the prohibitions are backed by measures of legal responsibility [5]. For Ukraine, the issue of determining the illegality of gifts is extremely relevant, because in many cases, people give gifts to public officials in order to resolve issues in one's own interests [2]. The above indicates the relevance and need to clarify the content and features of foreign experience of administrative legal regulation of restrictions on receiving gifts, accepted in conditions of conflict of interests and establishing the possibilities of its use in the legislation of Ukraine.

Analysis of recent research and publications

Separate works are devoted to the study of administrative and legal support for the prevention and settlement of conflicts of interest in the activities of the judicial authorities [1], the prevention and settlement of conflicts of interests as a way of countering corruption [6], conflicts of interests in the field of public service [7, p. 407–427], prevention and settlement of conflict of interests in the field of health care [8, p. 387–398], anti-corruption bans and restrictions on the activities of police officers in Ukraine [9], legal settlement of conflicts of interests in the system of anti-corruption law [10], regarding the limitation of gifts to public officials [11, p. 222], [12], etc. indicate that research on the legal support for restrictions on receiving gifts that are accepted in conditions of conflict of interests is not sufficient and point to the need for further analysis of foreign experience on these issues.

Presenting key material

When studying anti-corruption restrictions on the procedure for receiving gifts by public officials in foreign countries related to conflicts of interest, it is important to consider them both in the system of administrative and criminal legal measures. However, we are interested in the experience of regulating such restrictions precisely from the point of view of administrative law. Thus, in order to limit such a form of concealment of corruption manifestations as receiving gifts, clause 5 of Article 8 of the UN Convention against Corruption (ratified by Ukraine) emphasizes that each participating State strives, in appropriate cases and in accordance with the fundamental principles of its domestic law, to introduce measures and schemes that oblige public officials to submit declarations to the relevant bodies, including about significant gifts, in connection with which a conflict of interests may arise [13]. As international experience shows, it is quite difficult to distinguish between a «gift» and a «bribe» (unlawful benefit) in practice, so the issue of receiving and giving gifts by public offi-

cials, in order to prevent the emergence of corruption in their activities, must be regulated at the legislative level [1].

In particular, certain provisions of the UN Convention against Corruption contribute to establishing restrictions on gifts related to the use of official powers or official position both during their performance and after the termination of activities related to the performance of state functions: 1) on the submission of state declarations about outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials (Part 5 of Article 8); 2) on restrictions to prevent conflicts of interest and on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure (clause «e» of Part 2 of Article 12); (3) regarding the criminalization of acts of public officials in case of non-compliance with the requirements of anti-corruption restrictions related to the receipt of gifts during the performance of official duties [13].

Other international documents also indicate the need to limit gifts for public officials, namely: the Code of Conduct for Law Enforcement Officials (1979), the International Code of Conduct for Public Officials (1996), the UN Declaration On Combating Corruption and Bribery in International Commercial Transactions (1996), the Resolutions of the UN General Assembly Action against Corruption (1997), the Convention on Combating Bribery of Officials of Foreign States in the Case of International Business Transactions (1997), the OECD Recommendations on Further Combating Bribery of Foreign Public Officials in International Business Transactions (2009), the Resolution of the Council of Europe Twenty Guiding Principles for the Fight Against Corruption (1997), the Statute of the Group of States Against Corruption (GRECO) (1998), the Criminal Law Convention on Corruption (1999), the Civil Law Convention on Corruption (1999), the Model code of conduct for public officials (2000), recommended by the Council of Europe, the Additional protocol to the Criminal Law Convention on Corruption (2003), etc.

Thus, the International Code of Conduct for Public Officials contains a number of provisions, failure to comply with which indicates a violation of anti- corruption restrictions on the use of official powers during and after their termination, as well as regarding the receipt of gifts, services, and property. State officials must strictly: 1) observe impartiality and not abuse the given powers and authority in the performance of their functions (clause 3); 2) avoid personal financial and commercial benefit or personal and financial benefit for their families (clause 4), etc. [14]. Article 7 of the Code of Conduct for Law Enforcement Officials introduces restrictions on abuse

of office, requires not to receive gifts, benefits, or other incentives while performing one's duties [15]. Among the main instruments for the prevention of conflicts of interest, according to the study of policies and practices for the prevention of conflicts of interests in the EU countries, conducted by the OECD (hereinafter – the Organization for Economic Cooperation and Development), certain restrictions include the obligation to declare gifts, declare personal interest in decisions that are made, as well as the possibility of applying the right to recuse or standard procedures for the release of public officials from the performance of official duties, if participation in the discussion or adoption of a specific decision may cause a conflict of interests, etc. [16, p. 11].

The national legislation of Ukraine defines certain rules and restrictions on receiving gifts, for the persons specified in clauses 1, 2 of Part 1 of Art. 3 of the Law of Ukraine «On Prevention of Corruption» dated October 14, 2014 No. 1700-VII [17], also administrative responsibility is provided for in the Code of Ukraine about Administrative Offenses (Article 172–5) [18] The National Agency on Corruption Prevention [19] provides certain recommendations and examples of the application of legal restrictions on the receipt by public officials of gifts, which are accepted in conditions of conflicts of interests, however, in practice, problematic issues remain in their application, there is ambiguous judicial practice on these issues. Thus, violations of the legal restrictions on the receipt of gifts by officials in the field of health care, which are subject to the Law of Ukraine «On Prevention of Corruption» [17] entail administrative responsibility, provided for in Art. 172–5 of the Code of Ukraine about Administrative Offenses [18]. However, inept application of legislation leads to certain troubles. As an example, the court decision in case No. 727/286/18 on bringing to administrative responsibility the senior nurse of the city clinical hospital under Art. 172–5 of the Code of Ukraine about Administrative Offences (violation of restrictions on receiving a gift). The grounds for opening the proceedings were «repeated facts of the senior nurse receiving gifts from subordinates as a sign of gratitude for her conscientious performance of her functional duties», which were recorded in the administrative offense protocol [20, p. 106]. At the court hearing, it was proved that the gifts were received in connection with the performance of official duties. Consequently, subject to the exercise of such powers, officials of legal entities of public law in the field of healthcare are subjects of administrative liability for offenses related to corruption. However, for a corruption offense to exist, a causal connection must be established between the act (receiving a gift) and the performance by the person who committed it of the functions of the state or local government. If there is no such connection (and here it is absent), there is no basis for administrative liability un-

der 172–5 of the Code of Ukraine about Administrative Offenses [18].

At the legislative level, national legislation provides for the term «gift» (Article 1). An explanation of this term is provided in the Law of Ukraine «On Prevention of Corruption» dated October 14, 2014 No. 1700-VII. It includes: 1) money, 2) other property; 3) advantages; 4) benefits; 5) services; 6) intangible assets. Law of Ukraine «On Prevention of Corruption» dated October 14, 2014 No. 1700-VII also stipulates that restrictions on receiving gifts consist of three categories, namely: 1) prohibited; 2) permitted with certain restrictions; 3) allowed. In Ukraine, at the legislative level, the conditions, grounds and extent of the «legality» of the gifts receipt are provided. Based on the provisions [17], [8, p. 391], [11, p. 227], [1], of recommendations of the National Agency on Corruption Prevention [19], the components of a conflict of interests (real, potential) are: 1) private interest, 2) discretionary official or representative powers (at that, the professional duties of a public official and his/her powers as a manager are also important), 3) the presence of a conflict between private interest and powers. In the presence of such conditions, a decision made by an official in favor of the person from whom he/she or his/her relatives received a gift is considered to have been made under conditions of a conflict of interests and is subject to cancellation. In particular, O. M. Shevchuk points out that a conflict of interest in public officials is a situation in which a public official, performing his/her duties, has a private interest (personal interest), which although not necessarily causes the adoption of an illegal decision or the commission of an illegal act in the sphere of public service, but can lead to this in the case of making decisions, or performing or not performing actions when executing official powers [7, p. 425].

Let's find out the definition of the «unlawful benefit» and «gift» categories, which are given in Art. 1 of the Law of Ukraine «On Prevention of Corruption» [17]. «Unlawful benefit» is money or other property, advantages, benefits, services, intangible assets, any other benefits of an intangible or non-monetary nature that are promised, offered, given or received without legal grounds; recall that the category «gift» is money or other property, advantages, benefits, services, intangible assets that are given/ received free of charge or at a price lower than the minimum market price [17]. Therefore, the difference between them lies in the fact that in the case of unlawful benefit, money or other property, advantages, benefits, services, intangible assets, any other benefits of an intangible or non-monetary nature are obtained without legal grounds.

In some European countries, mandatory declaration of gifts by persons holding political positions, and in some countries – by all public officials, has been introduced at the legislative level. Thus, in Poland, the obligation to declare gifts

is provided for persons holding political positions, as well as local elected positions, in Hungary – for members of Parliament, in Great Britain, Spain and Germany – for members of the Government and persons holding political positions, and in Latvia – for all public officials. Members of the German Parliament must declare gifts if their value exceeds 5,000 euros [1]. In addition, it is generally prohibited in Finland for public officials to receive any gifts or entertainment services from persons whose cases are under consideration, if this may affect the consideration of such cases. An absolute ban on gifts for public officials is provided for in French law, with the threat of being prosecuted in case of violation of the ban. Similar prohibitions are characteristic of the legislation of Canada, China and other foreign countries [21, p. 93]. In particular, in France, on December 29, 2011, Law No. 2011–2012 «On strengthening the safety of medicines and health care products» was adopted, which establishes a fine of 30,000 euros for an expert who hid information about his/her connections with the commercial sphere [22, c.169].

In Singapore, both the public and private sectors are restricted from receiving business-related gifts. The «due diligence» approach, which is usually considered as integrity, involves an original rule that can be defined as «no gifts and displays of generosity» [23, p. 16]. In Singapore, a public official who has a specific private interest is prohibited from participating in any discussion, vote or decision on a matter of interest, from attending any meeting or working session in a matter where he/she has a conflict of interest, he/she is not authorized to sign any document on a financial transaction in a case where such public official has a potential interest; he/she cannot be a participant in any collegial meeting if it provides for a quorum to make a decision in the event of a conflict of interest [24].

In Great Britain, gift restrictions refer to the general regulation of the principles of integrity, possible payments related to «generous hospitality» where each case will be evaluated according to special criteria. [25, p. 59]. In the United States of America, a gift is anything that can be expressed in monetary terms, namely: money, goods, various services (for example, such as travel, hotel accommodation, meals, tuition fees, etc.). Exceptions to this rule are clearly defined at the legislative level (for example, soft drinks or coffee, greeting cards or similar souvenirs of insignificant value are not considered gifts) [1]. In Italy, members of the Italian government and their relatives are prohibited from keeping for personal possession so-called «entertainment gifts» received from official occasions worth more than 300 euros. Gifts worth more than 300 euros remain at the disposal of the administration or members of the government can keep them, provided they pay the difference (over 300 euros). And since 2013, the limit of the permissible value of «courtesy gifts of small value» is equivalent to a maximum of 150 euros [26].

Conclusion

The condition for restriction on receiving gifts for persons engaged in activities related to the performance of the state or local self-government functions in national legislation is exhaustive. At that, there should obligatory be an appropriate legal connection of such persons with public functions in the understanding of "activities related to the performance of functions of the state or local self-government". According to the legislation of Ukraine, a conflict of interest in the above-mentioned persons may arise not at any time of receiving a gift, but only if this occurs before or during the performance of their duties in the interests of the grantor. For categories of public officials, national legislation should provide clearer parameters for receiving gifts related to «hospitality», where each case should be assessed according to special criteria. Such criteria will help to «highlight» the «lack of transparency» in the receipt of such gifts or the concealment of improper benefits.

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EPISTEMOLOGICAL CONTEXT OF TRANSFORMATION OF ANTI–CORRUPTION LEGAL REQUIREMENTS IN THE CONTEXT OF UKRAINE'S EUROPEAN ECONOMIC INTEGRATION

Abstract. *The article reveals the epistemological context of transformations of anti-corruption legal requirements in the conditions of European economic integration of Ukraine. It has been established that the elimination of the dominance of human defects by the tools of legislation and law enforcement practices becomes effective when the reproducible knowledge reflects the scientific awareness. The subject of knowledge is the whole complex of issues of fostering the manifestation of good virtues and their suppression. Otherwise, both economic reproduction and economic progress are excluded. For Ukraine, both processes now depend on an understanding of the respective progressive solutions that the highly developed nations of the EU have to offer. In fact, integration into the EU is historically determined and currently historically inevitable, and therefore requires meaningful dynamic transformations of domestic legislation. The most urgent direction of these transformations requires interdisciplinary knowledge related to the fight against corruption and its minimisation.*

It has been established that the epistemological context of the creation and application of anti-corruption legal norms consists of scientifically proven, comprehensive knowledge about the mechanism of neutralisation of corruption by means of coercion and stimulation. The methodology of gaining knowledge through human consciousness involves the use of logical resources, namely 1) rational conclusions of formal logic; 2) contradictions and patterns of dialectical logic; 3) actions and events of historical logic; 4) arte-

facts of art logic. The truth of knowledge, verified by these means of reasoning and empirical experience, is then partly expressed by mathematical and linguistic symbols, and the rest is conveyed in an intuitive way. The understanding of that which does not fit into the forms of words and numbers is done mentally and sensitively. At this point, it should be emphasised that the praxeological dimension of pure epistemology requires taking into account the characteristics of the cognitive subjects of a specific social community. This requirement extends the scientist's sphere of responsibility beyond epistemology and involves mastering knowledge of its historical determinants. It is concluded that the teleological attitudes of the Ukrainian nation include the study of the values of European nations, which have united for the purpose of economic well-being. Integration into the EU requires knowledge of the mechanisms for combating human vices, eliminating corrupt distortions and using human virtues in EU structures.

Regional civilisational stratification persists due to both intra-national and international dishonesty. Accordingly, global integration based on fundamentally unified legal standards requires the elimination of counterproductive factors at both levels of social communication. The focus of attention on good virtues is determined differently from the existing configuration of national associations. Economic and other issues of cultural heritage are first a consequence and then a cause of the manifestation of good virtues. At the same time, military alliances confirm the deep ideological contradictions of nations. This shows the denial of the possibility of creating a global union of nations based on the manifestation in legal reality of the good virtues of its members. It is on the basis of the legal manifestation of the degree of virtue that nations and their associations are formed in the modern world.

Keywords*: integrity, economy, European Union, epistemology, legislation, corruption, legal culture, legal values, offenses, court***.**

1. Introduction

Culture and the material objects that express it are organised around an economy of exchange between preservation and destruction. The transience of all material media that humans desire and develop into cultural forms for representing, recording and communicating experiences with one another, works to extend communication beyond the temporal and physical limits of the life of the human body (Stapleton, 2022). Such anti-corruption intentions and expectations, which are not based on scientifically proven, comprehensive knowledge of the mechanism of corruption neutralisation, and which are not materialised in cultural artefacts in the form of legislative and judicial acts, become illusory. Language in such contexts means a tendency inherent in the relevant subjects, technology, art, law or religion, to transfer content to the mind. Every expression of human mental life can be understood as a kind of language, and this understanding, in the manner of a true method, raises new questions everywhere. It is possible to speak of a language of music and sculpture, of a language of justice. All com-

munication of the contents of the mind is language. Words are only a special case of human language and of justice, poetry, or whatever underlies it or is based on it (Walter, 1996).

Incorruptibly true to itself, it penetrates infinitely deeper into the facts of matter than sentimental ratiocination. The material content itself, which yields only to philosophical perception, or more precisely to philosophical experience, remains inaccessible to both, but whereas the latter leads to the abyss, the former reaches the very ground where true knowledge is formed (Walter, 1996). The key to understanding this hypothesis lies in the details of both the subject of knowledge, integrity and its significance for law and economics, and their characteristics. Dishonest distortions of legal relations and knowledge of them are changeable, often not obvious. The more complex the content and structure of a person's consciousness, the more sophisticated their content and form. They are distorted in the minds of legal subjects, such as those who commit corrupt acts, and often also in the minds of citizens who make a legal assessment of these acts. The consciousness of society and its groups (ethnic, religious, labour, etc.) is superimposed on the interrelations of all these components. The overarching or higher order ontological categories characteristic of cognitive science are: individuals (or objects), states, processes, and capacities (Khalidi, 2023). In addition, a collective intention provides participants with a collective reason for action that may or may not overlap with their personal intentions (Rota, 2023).

Nations and peoples are a special legal phenomenon, a meta-legal subject. They are not direct participants in legal relations, they pursue their interests through other persons. They are spiritual and legal communities of people, which fundamentally distinguishes them from any legal entities, which are the result of legal communication and human interaction, and is expressed in the achieved unity of legal consciousness. They are the basis of the integrity of legal systems, form a single "legal field", are the bearers of sovereignty, a source of public power, etc. (Makarenko, 2019). When there is less corruption, there is more innovation (Aghion, Antonin, Bunel, 2021). A social community with a high level of spiritual development (e.g., German, Portuguese, English, Japanese, Singaporean, Dutch, Scandinavian) can be expected to have an inertial positive influence on every member of society, and vice versa. Even if a person is not interested in the requirements of anti-corruption legislation, a society with such a level of civilisation will certainly provide him with information about proper legal practices, examples of lawful behaviour and other cultural artefacts of social progress. This person has no other way out than to perceive all this in a minimally sufficient volume. The function of violence in lawmaking is twofold, in the sense that lawmaking pursues as its end, with violence as its means, what

is to be established as law, but at the moment of instituting it it does not reject violence; rather, at this very moment of lawmaking it specifically establishes as law not an end unalloyed by violence, but one necessarily and intimately bound up with it, under the title of power. Lawmaking is the exercise of power, the assumption of power, and in this respect an immediate manifestation of violence. Justice is the principle of all divine lawmaking, power is the principle of all mythical law-making (Walter, 1996).

2. Analysis of Recent Thematic Resources

The issue of legal epistemology, the transformation of the requirements of the anti-corruption law and the conditions of the European economic integration of Ukraine in a variety of relationships are revealed in legal, philosophical and economic doctrines. O. O. Bandura revealed the dialectical relations of legal epistemology as a component of legal philosophy with legal ontology, anthropology, praxeology and axiology, 2018; M. V. Banchuk – ideology and culture of human rights defenders' activity in the system of civil society, 2004; S. V. Bobrovnyk – an anthropological-communicative approach to the analysis of compromise and conflict in law, 2011; V. M. Vartsaba – tactical and psychological bases of the investigation of crimes of organised criminal groups, 2003; K. V. Horobets – axiosphere of law, 2012; M. V. Danshin – classification of concealed crimes in criminological methods, 2000; O. I. Dergunova – theoretical bases of the genesis and transformations of the psychological type of legal understanding, 2020; E. P. Yevgrafova – theoretical-applied principles of legal objectivity, 2016; O. A. Ivakin – problems of dialectical philosophy, 2003; Yu. Yu. Kalinovsky – legal consciousness of the Ukrainian society, 2010; Yu. V. Melyakova – subject-object relations, forms, levels, methods of cognition, types of truths and other elements of the paradigmatic structure of legal epistemology, 2015; M. P. Orzih – personality and law, 2005; I. V. Paterilo – law as a value category, 2009; T. T. Polyansky – abuse of law, 2013; O. E. Prots – legal culture of youth in Ukraine, 2013; S. M. Skurikhin – status and competent legal culture of servicemen of the Armed Forces of Ukraine, 2011; V. M. Trepak – investigation of bribery of judges and overcoming countermeasures by means of operational and investigative activities, 2011; V. I. Tsarenko – formation of legal awareness of the military border guards personality of Ukraine, 2003; A. V. Shilo – use in criminal proceedings of information obtained as a result of secret investigative (research) actions; N. Walker, K. Holtfreter – application of criminological theory to academic fraud; and others. At the same time, the epistemological context of the anti-corruption law's transformation in the conditions of Ukraine's European economic integration has not been sufficiently explored. In this regard, ques-

tions remain about the relationship between the object of knowledge and its subject in the creation and application of legal norms, which are designed to minimise the manifestation of human defects, to ensure the strengthening of the good human virtues tendency dominance in the course of legal relations, in particular, for the purpose of forming the capacity of Ukrainian nation integration into the desired type of material and spiritual values reproduction, which is characteristic of the EU countries. Therefore, the purpose of the article is to reveal the epistemological context of anti-corruption legal requirements in the conditions of European economic integration of Ukraine.

3. Epistemological Analysis of Legal Grounds for the Unification of Nations

Despite the integrative processes taking place in the modern world, the development of cultures and separate areas of culture is connected with the preservation of the qualitative certainty of each of them. From these positions, national legal cultures continue to act as carriers of traditions and innovations in law, ensuring the preservation of their uniqueness and separateness in interaction with the legal cultures of other states, regional legal cultures, as well as the legal culture of the world order. The unification of legislation and other components of the social system of Ukraine with the corresponding components of the social system of the nations belonging to the European Union is a dynamic process of interaction and mutual influence of national legal cultures, which requires guidance in order to preserve the ability of the national legal culture to be an expression of those unique features of the legal mentality of the Ukrainian nation, which determine its viability – reproduction and maximum possible progress (Stanyk, 1999). Otherwise, the achievement of goals will weaken the nation (Makarenko, 2019). Viability is a criterion for assessing the expediency of preserving the characteristics of a nation. If the feature and/or the value of a nation, the combination of such features in a specific civilisational context and its dynamics do not allow it to reproduce and develop culture, then the nation must transform itself, namely: a) abandon the value and/or not rely on the feature, their combinations for a period of time as long as they do not allow it to progress; b) revive and use them when they provide progress as a result of the changes that have taken place in the civilisational context. This kind of transformation will mean both the independent creation of new features and values of the national mentality, and their borrowing from those nations that express the legal mechanism of development in specific historical periods.

External linkages of social communities update the concepts of regional and global influence on their integrity and, accordingly, knowledge about it. Differences in national, ethnic, class and caste ethical and legal norms draw attention to

differences in the ethical and legal evaluations of the representatives of these social communities. Provided that there is an internal social consensus on the main legal issues, there is reason to talk about the possibility of unifying such a legal order with similar structures of legal organisation of other societies. Provided that there is an internal social consensus on the main legal issues, there is reason to talk about the possibility of unifying the legal order with similar structures in other societies. A civilisational equalisation between social communities involves the elimination of significantly different assessments of good virtues and their corresponding legal norms. The one who already acts well achieves the highest good.

Key questions about the human good concern access to basic resources for survival and reproduction in contemporary civilisations. Life always carries a hint of corruption to indicate that it is composed of dead matter (Walter, 1996). Corrupt nations restrict this access to such an extent that they simultaneously show demographic and technological decline, as well as a significant decline in artistic and scientific potential. In "corrupt" countries, the relationship between the tax burden and growth is negative, while in "democratic" countries it is significantly positive. The more corrupt the government, the lower the threshold at which taxation starts to have a negative impact on growth. Taxation is therefore an indispensable tool for stimulating growth and making it more inclusive. It enables the state to invest in growth levers such as education, health and research, and because it enables the state to redistribute wealth and insure individuals against idiosyncratic risks (job loss, illness, obsolescence of skills) and macroeconomic risks (war, financial crises, etc.). However, this instrument must be used with caution: its short-term effects on social mobility are not proven, excessive taxation can discourage innovation and thus growth, and so forth (Aghion, Antonin, Bunel, 2021). Countries with a tendency to corruptly distort the law consume not for the sake of progress, but against it.

An important consequence of this interaction between the level of development and the impact of competition on a country's growth is corruption. The more corruption there is, the greater the ability of incumbent firms to pressure politicians to reduce competition and prevent new firms from entering the market. Corruption is expected to be more of a drag on growth in advanced countries (Aghion, Antonin, Bunel, 2021). The association of such nations with their counterparts is not something unequal, but entirely artificial according to the parameter of legal integrity. Formally, such associations are possible, but they become a legal reality when they actually regulate legal relations based on the good virtues of all. Human faults, arrogance, whims, evil deeds and immoral offences should constitute a small part, up to 10%, of legal relations. Otherwise, the declaration of unity based on

the principle of the rule of law will not become a fact that strengthens the Union. The logic of the history of civilisation convinces that the scale of these unions, even at regional level, is a long-term and labour-intensive matter. Both parameters imply the need to ensure the succession of generations. The results of the achievements must be perceived by the successors at the appropriate level of spiritual vibrations of knowledge about the mechanisms of permanent legal assurance dominance of integrity.

The concept of legal acculturation, dialogue of legal cultures, dynamics of legal cultures (A. F. Kryzhanivskyi, M. V. Tsvik) contributes to the search for acceptable solutions for the successful international unification of mechanisms ensuring the dominance of human virtues in legal relations. Its content touches upon the interaction and mutual influence of national legal cultures at the level of public authority, private legal relations, science, legislation, as well as the stability, positive and negative nature of the interaction of national legal cultures, the strength of their identity, the ability to assimilate innovations without deforming one's own legal values (Stanyk, 1999). At the global level, the legal intentions of regional associations of states have not yet been realised. The reasons for this are that the focus of the public authorities of each country during integration is not on the fundamental legal concept of integrity and the rule of law, but on applied issues of military security, economic potential, etc. Another factor of disintegration is the actual unpreparedness of some nations to civilisationally progressive legal and ethical standards of other nations. The solution to the third issue of regional and global integration of people on the basis of good virtues lies in the ability of social associations to use the strengths inherent in each nation (ethnic group) that is part of such an association. The proof of this ability to unite nations lies in the fact that each individual nation is able to identify the productive qualities of each of its members and use them effectively. Otherwise, there is no international analogue of mutual nourishment with the energy of good virtues. The fourth factor in the natural global disintegration of nations is transnational corruption. Some nations have a consumerist attitude towards others. The social justice of technologically advanced nations is to some extent ensured by the exploitation of other nations, the social injustice of such less developed nations. Globalisation can work in a world of converging values and effective conflict management. Governance – the processes and rules that govern an organisation – is central to manifesting the integration of profit and purpose. This includes creative practices that manifest and bring to life core values. For example, a key challenge for the international community will be to ensure that, in the future, the practices and values of international criminal justice become the basis for evidence-gathering that successfully informs systematic prosecutions in courts and tribunals that

respect due process and its ontology of human virtues (The Future of Global Affairs).

The above-mentioned reasons for the lack of global consensus and sincerity regarding the possibilities of legal enforcement of the dominance of human virtues in legal relations determine at least the trends of population migration, refugees and other global problems. All other things being equal (lat. 'ceteris paribus'), a person migrates to the social environment that is closest to him in terms of spiritual development: culture, lifestyle, traditions, methods of communication, and so forth. Legal traditions are produced directly by the participants in legal relations, thanks to the experience of the people. Legal heritage is created by scholars (legal doctrine), ideologists (state ideology) and people (participants in legal relations). Both legal heritage and legal tradition perform the function of transmission. These phenomena of legal reality move from the past to the present and are preserved in the socio-legal memory. The preservation and use of elements of the previous legal system is carried out both as a result of a critical rethinking of the legal heritage and as a result of the objective impossibility of abandoning that part of it which constitutes legal traditions (Kobko-Odarii, 2021). The practice of EU enlargement has shown that the adaptation of the national legislation of the associated countries to the legal reality of the EU must be balanced and have the character of both hard and soft legal obligations of the parties, depending on the spheres in which harmonisation is carried out, taking into account the specificity of relations with a particular country. In order to ensure the flexibility of the processes of adaptation of the worldview of a broad part of the population of Ukraine to the perception of the content of universal legal values of the EU, legal and cultural communication between Ukraine and the EU at all levels should be filled with practical content (Petryshyn, Kaganovska, Perederii, 2022).

4. Integrity Challenges in Ukraine's Integration into the EU

The community of human beings is based on their virtues. The saturation of these virtues is directly proportional to the ability of the people united on this basis to reproduce the level of material and spiritual values. For instance, if the Italian, Spanish, Portuguese and Ukrainian nations have a heightened aesthetic sense, other nations that lack it use these nations' abilities to invent original design solutions. The alternative ways of seeing include a distinct bodily and sensory dimension, which can blur the line between a representation and what it represents, inviting one to understand certain images as the embodiment of a spiritual presence, without reducing them to mere symbols of something else (Rota, 2023).

The state accumulates the energy and will of the nation (Makarenko, 2019). Its dysfunction is the result of ignoring the significance of the peculiarities of the

national mentality. For the nation this means a shift towards the dominance of human defects that distort the nature of law in legislation, administrative and judicial acts of its application. The extent and duration of such distortions, which are classified as corruption violations in the field of public-legal relations, cause wars, famines, genocides and other acute social crises, excluding opportunities for the progress of all humanity. The complexity of the current situation in Ukraine is manifested in the lack of economic growth, the decline in the standard of living of the majority of the population, the strengthening of corruption in the power structures, the decline in the level of social morality, the stagnation in the development of national culture (Makarenko, 2019). The extermination of the intellectually developed population of Ukraine by the communists in the years 1917–1991 meant the loss of the Ukrainian nation's ability after 1991 to reproduce its economic (demographic, technological, spiritual-cultural) potential, to neutralise corrupt distortions, theft of national wealth by individuals, etc. Ukrainian lawyers, analysing the current state of the national legislative system, point out that its typical feature today is imbalance, contradiction, material imperfection, corruption, and so forth (Popadynets, 2020). Since 1991, the economy and politics, and often the judiciary, in Ukraine have been run by people who have failed to prevent critical threats to national security, who have enabled the theft of national wealth, the dominance of bribery, nepotism and other forms of corruption, profound inequality for the majority of the population, its cultural decline and other social injustices.

By way of illustration, it can be said that the majority of enterprises were run by people not by vocation but by corrupt distortion and/or violence. As a result, the work of these enterprises became inefficient, wages were unreasonably low, and the enterprises gradually went bankrupt and/or became a burden on the social system. The standard schemes of inefficiency have become the following criminal acts: a) borrowing from banks for unprofitable projects and not repaying these loans; b) using company funds for one's own purposes; c) a cycle of organised bankruptcies of the same company, changing only the name, but leaving the production facilities and personnel. The construction of 'homo economicus', the rational being par excellence, turned out to be a failed attempt to construct an ahistorical and transcendent subject endowed with a universal and instrumental rationality applicable at any time and to any social activity (Herscovici, 2023).

The result for such authorities and entrepreneurs was economic decline and the loss of the ability to effectively prevent military aggression from outside. In this context, the words of Justice William Douglas ring true: "Absolute discretion, like corruption, marks the beginning of the end of liberty." (Powderly, 2020) For example, the ability to reproduce and

process milk and meat raw materials, and to make food products from them, has been significantly weakened. Other examples, namely: a) since 2008, Ukraine has stopped the production of artificial respirators, which will be urgently needed from the end of 2019 to the beginning of 2020, when the lung damage of millions of Ukrainians will spread as a result of exposure to the COVID-19 virus; b) since 1995, a single plant in Ukraine, which has a full cycle of car production, has not been able to eliminate technological backwardness and restore competitiveness due to corruption. The managerial and technological solutions proposed for this purpose by foreign companies – Peugeot, Fiat, General Motors (especially Adam Opel GmbH and others), Daewoo – were mostly rejected. The destructive influence of corruption on the organisational skills of officials and entrepreneurs has prevented the implementation of projects in the rocket, aircraft, ship, tank, automobile and other science-intensive industries. The tendency of the domestic management system to depend on the virtues of other nations has continued to this day. At the same time, it is growing exponentially, covering more and more areas of governance and regulation that require advanced solutions that are already available in other countries. States form anti-corruption associations based on the criteria of judicial, managerial and expert control over the spread of corruption, which demonstrates spiritual poverty and economic failure. Ukraine has ratified international anti-corruption treaties with the United Nations Office on Drugs and Crime; the UN Human Rights Council in the person of the Special Rapporteur on the Independence of Judges and Lawyers, the Group of States against Corruption, the Committee of Experts of the Council of Europe on the Evaluation of Anti-Money Laundering Measures, the Organisation for Economic Cooperation and Development, Eurojust, Europol, the European Partners against Corruption, the European Anti-Fraud Office, the International Money Laundering Group, the Organisation for Security and Cooperation in Europe, Interpol, the World Bank and the European Bank for Reconstruction and Development.

Empirical material on the causes of the dysfunction of public governance and private management of material production in various spheres enables the formulation of legal solutions that eliminate the determinants of this dysfunction, namely: corruption distortions and their numerous bifurcations in the form of organised crime. New concepts, lists of characteristics, grounds and other components of legal formulas should cover corruption practices regularly reproduced in social relations, recognising them as torts, as well as properly describing the judicial procedures for bringing disciplinary, administrative and criminal responsibility for corruption offences. For example, in the investigation of bribery offences, the bribe-taker is interested in the fact that in his/her criminal activ-

ity he/she uses his/her official position, causing significant damage to the prestige of the state whose functions are entrusted to this person. The personality of a bribe-taker has several features that characterise it from different perspectives: a) in terms of the correct exercise of its public authority; b) attitude to it (free, not oriented towards legal prescriptions, allowing violations bordering on abuse or crime; with fear of responsibility, loss of position; within the framework and limits established by law and professional functions); c) from the point of view of moral principles; d) the character of the person; e) a tendency to various kinds of abuse, links with criminal groups, and so forth (Mishkov, 2005).

5. Awareness of Legal Dysfunctions of Anti-Corruption Legislation

The effect of punishing corruption requires a change in the behaviour of the vast majority of public officials from a cynical contempt for law and morality to respect for these values, as well as for justice and equality in their dealings with other citizens. It is important to eliminate corruption and administrative pressure on judges as the greatest obstacle to a domestic judiciary based on the rule of law, thereby guaranteeing the protection of the interests of economic entities on which the economic well-being of all depends. It is the duty of the judge to receive any offer of evidence which may be made to him, even though the parties themselves, through negligence, ignorance or corrupt collusion, should not have made it. A judge is not placed in this high position merely as a passive instrument of the parties. He has a duty of his own, independent of them, and that duty is to ascertain the truth. One of the primary tasks of the judicial function is to render a judgement based on the interpretation of the rules applicable to the facts of the case, and to do so expeditiously and in accordance with procedural fairness (Powderly, 2020).

The transparency of relations between state authorities and non-governmental organisations should be created by increasing public confidence in state authorities as a result of reducing the risks of corruption, effective use of funds, state financial support of non-governmental organisations, enshrining in national legislation European principles and standards of interaction of state authorities with non-governmental organisations, ensuring unification and standardisation of rules and procedures of relations between authorities and citizens (Popadynets, 2020). The demonstration of good virtues by one's own example should be a standard in the work team, supported by colleagues and accompanied by thematic, educational and cultural events. All these measures require the establishment of a fair economic basis. Money is a store of value and the standard by which debts and other legal obligations, habits, opinions, conventions, in short, all kinds of relationships between people, are more or

less rigidly fixed. As for individual freedom, it must be limited in such a way as to ensure the conditions for the reproduction of this collectivity. Adam Smith, for example, recognises the need to maintain the general conditions that allow for the reproduction of capitalist society: legitimation and respect for private property based on the creation of legal and state structures. Economic freedom can be effective only when these general conditions are realised (Herscovici, 2023). If the distribution of wealth is based on the results of labour activity, contrary to the quality of human abilities, on artificial, contrived grounds, the authority of good virtues, educational programmes on the value of integrity and other progressive ideas will not be sustainable and long-lasting.

The course of social relations based on the rule of law and the human traits relevant to it is determined, among other things, by the behaviour of political subjects who receive a mandate from the people to solve national and local public problems. Any distortion of the established values of law and morality by anyone from the parliament and local councils significantly weakens the anti-corruption policy. If such violations are large-scale, massive, then there is no reason at all to talk about success in eliminating corruption distortions. Theft of public property and other disregard for public interests by the public administration, including the government and the executive committee of the local council, as well as representatives of justice such as judges, prosecutors, investigators, and police, and numerous inspectors of various services, such as personnel, disciplinary commissions, customs, border, fish protection, forest protection, antimonopoly, and financial, form a nihilistic attitude towards the law and good human virtues. The despondency of citizens generated and fuelled by such content cannot be overcome by the amount or content of scientific knowledge on anti-corruption. The limit of the effect of legal knowledge in the field of anti-corruption is set by corruption offences committed by officials of public authorities. Their mistakes limit the development of everyone. The pursuit of private interests in the exercise of public authority narrows positive prospects for society. In fact, these prospects are closed and, accordingly, the demand for legal knowledge, which by definition concerns the public interest, is excluded. In this situation, the scientist and the knowledge he produces appear illusory. The social reality of the corrupt mechanism of building relationships, where corrupt distortions exclude the legal essence of these relationships, becomes more understandable and expected. Instead, people saturate their interactions with each other with violence, injustice, human suffering, existential degradation and other consequences of the symptoms of the perversion of human consciousness. The decay of justice in state institutions is a cyclical and inevitable regression from a point of origin in the violent establishment of law. Whether one sub-

scribes to natural law or positive law, where "natural law … regards violence as a natural datum" and "positive law … regards violence as a product of history", violence is an unavoidable part of both the establishment and the maintenance of law, legitimised by the abstract assumption of justice (Walter, 1996; Stapleton, 2022).

6. Correlation of Corruption with Legal Institutions to Address It

The interdisciplinary nature of the subject of anti-corruption knowledge makes it very difficult to grasp and implement in practice. There are so many links and relationships in the legal mechanism that it is easy to violate its logic and/or distort its meaning in practice. When such links are violated massively, for a long time, in the face of weak resistance from the population and/or with the conspiracy of criminals, then corruption dominates and it is too difficult to deal with it using the classic tools of administrative and criminal law. Their criminal norms become inadequate. It is possible to counteract corrupt distortions and thus ensure openness to legal opportunities on the basis of properly structured and sufficiently meaningful scientific knowledge, as well as on the condition that it is updated in time and consistently implemented in social reality. Otherwise, this kind of knowledge is impossible, because an exceptionally deeply corrupt society does not become a suitable environment for collecting empirical data sufficient for proper verification of scientific hypotheses and conclusions truth. This relationship determines the need for each nation to compare itself with each other according to the criterion of the presence of corruption in real life. It is like daily gymnastics for the physical body of a person. The human community needs a daily, weekly, monthly, yearly and long-term check of the conformity of its communication practices with the nature of the law embodied in human virtues. According to the results of such a comparison, the more corrupt nation necessarily needs the help of the less corrupt nation and its associations. This is assistance in the form of knowledge transfer about more virtuous practices in public administration, the judiciary, political communication, the drafting of legal norms, etc. For example, the academic mobility project "Enhancing legal research capacity and excellence" under the UKRI Twinning Programme (Dr Hannah Bows J., Durham University; 2–23 July 2023). The comparative legal method of implementing transnational anti-corruption policy also involves taking into account the specifics of national features of legal relationship building and the appropriate adaptation of such borrowed knowledge.

The above-mentioned transfer of knowledge is illustrated by the experience of relatively corruption-free countries. As an example, if in the Federal Republic of Germany the freedom to express one's will and severe, unavoidable punishments for offences are the

basic principles of the legal system, then in Ukraine this freedom is significantly corrected by coercion, violence (of the family, the work team, the authorities), and the judicial procedures and practices of their application are so corrupt and vulnerable that punishment can be avoided. If in Singapore there is a public consensus on the issue of high financial support for civil servants, in Ukraine there is no such consensus. On the contrary, there is a growing tendency towards legal infantilism in the sense of overestimating the ability to work effectively with the funds allocated for this purpose, especially at the local level, as well as distrust of public authorities. Equally simplistic in corrupt societies is the condescending attitude towards the incompetence of public authorities, the tolerance of their unreasonably large material support, especially for members of parliament, judges and law enforcement officers. The social mission of each level of public power makes each of its representatives responsible for the actions of all his colleagues. At the same time, there is no correlation between the commission of a corruption offence by a public official and the corresponding reduction in funding for members of his working team who occupy equivalent positions and/or have a similar legal status. In other words, the commission of a corruption offence by a Member of Parliament should lead to a proportional reduction in the funding of other Members of the institution. This calculation is based on the total amount of bribes and unlawful enrichment established in court decisions on the guilt of the respective representatives of public power structures.

The experience of Canada, New Zealand, the AUKUS countries and the EU in defining the spheres of responsibility of each public official by means of sufficiently detailed professional instructions is useful for dynamic integration into the standards of a high legal culture. For Ukraine, this means, firstly, the need to carry out the full range of legal work on the development and implementation of such instructions. And secondly, to reflect in these instructions cases of manifestations of a good initiative of a public servant aimed at achieving legitimate goals and/or ensuring their achievement, although such action formally contradicts the provisions of legal requirements. It is quite possible to implement this recommendation within the limits of detailing the praxeological dimension of the rule of law principle for each area of public administration. The success of the implementation of this anti-corruption measure correlates with the material motivation of the public official. The impulse to cleanliness is sometimes divorced from the desire for justice. It then loses itself in minutiae, only to reappear like a phantom, exaggerated in large-scale events as a mixture in which purity and impurity are indistinguishable. There can be no metaphysical purity that is ultimately permanent without a struggle to perceive the highest and most extreme laws governing the world (Wal-

ter, 1996). The emergence of social order, or “civilisation”, is also the development of the political will to impose prohibitions on the bodies and behaviours of those who live within it. This imposition is largely achieved through the expression of laws in the semiotic systems of visual cultures (Stapleton, 2022). The epistemological demand for transparency of legislative, administrative and judicial decisions of public authorities is considered within the framework of theories of open civil society; legal, social state; electronic governance and justice; as well as information security against the background of global military, food, financial and other challenges, anti-terrorist policy as a component of national security, etc.

Scientific disciplines and sub-disciplines are related in complex ways, in particular through “inter-field theories” that do not imply a direct or indirect reduction between them. On the one hand, it would be possible to go beyond the categories currently used to explain and predict people’s actions and utterances and largely replace them with a new cognitive vocabulary. On the other hand, theoretical advances are often made by introducing new categories alongside current ones, or by splitting current categories into subcategories while retaining the original categories (Khalidi, 2023). Definition of values, terms, concepts and other theoretical constructs of law, accompanied by comprehensive, exhaustive explanations of the ways of structuring thought processes and their results, constitute the initial basis for transformations in anti-corruption creation and application of tort, incentive and other legal norms. Hypotheses and sanctions of corruption offences subject to labour, service, administrative and criminal law. Their disclosure requires, inter alia, thorough criminological knowledge. Lawyers conduct legal research and perform various legal tasks on a daily basis (Echaore-McDavid, 2007).

For excessively corrupt countries (where the measure is the loss of national wealth and the halting of progress), even the correct definition of corruption offences in accordance with available domestic and foreign academic doctrine becomes impossible. In other words, favouritism, nepotism and familism in the public service are not recognised as separate offences in national anti-corruption legislation, but have become part of legal abstractions within the framework of institutions for combating discrimination in the workplace and in other areas of the distribution of material benefits, conflicts of interest, co-working and the combination of jobs/positions. The second weakness of the criminal dimension of anti-corruption legislation is procedural. This makes every stage of the anti-corruption judicial process susceptible to corruption influence – from the moment the materials of the corruption case are prepared until the court makes its final decision on the case. Compliance with procedural deadlines, the accuracy and com-

pleteness of the content of procedural documents, the sufficiency of evidence of a corrupt act can be weakened by biased assessments of unscrupulous law enforcement officers, prosecutors and judges. In this case, excellent knowledge of forensic methods and tactics of criminal corruption and/or related organised crime investigation, professional application of covert investigative actions, i.e., the practical side of investigative actions within the criminal process, is also required. At the same time, knowledge of typical techniques and operations of preparation, execution and concealment of crimes, characteristic traces of illegal actions, personal characteristics of criminals and other elements of the criminal mechanism is an important prerequisite for making effective recommendations of a tactical nature aimed at solving the tasks of the investigator in an anti-corruption criminal case (Tarkan, 2021).

Another variant of legal sabotage can be expressed in illegal political, criminal and/or other pressure on representatives of the judiciary to make illegal decisions on the corruption case under their jurisdiction. A variant of procedural sabotage of corruption cases is expressed by overly centralised law enforcement structures that concentrate authority over all components of the legal order, from minor offences to crimes against humanity and national security. Such structures are characterised by unreasonably broad powers without clearly and exhaustively defined limits, without scientific justification of both the scope and content of such powers. Such structures included, for example, the Ministry of Internal Affairs of the USSR, the current Federal Security Service of the Russian Federation. The downside of an overly strong executive, however, is that political leaders may abuse their power to prevent innovation that might threaten their power, or to enrich themselves rather than implement effective reforms, and possibly, in the long run, to perpetuate their power. In other words, an overly strong executive can drift towards autocracy, generating corruption at the expense of innovation and thus weakening a nation's prosperity (Aghion, Antonin, Bunel, 2021). Understanding these patterns of distortion of administrative procedures in the sphere of law enforcement presupposes the creation of specialised courts, law enforcement agencies and other bodies that naturally balance and/or control each other, compete with each other in matters of public recognition, citizens' trust, efficiency, demonstration of their own uniqueness and irreplaceability and/or the virtue of their employees. According to this logic, countries with serious corruption problems create specialised anti-corruption agencies, bureaus, prosecutors' offices and courts.

The development of dysfunctional justice systems, which reveal an ontology of corruption, requires the support of the judicial bodies of nations free of corruption and fruitful cooperation in this field, in accordance with the norms of international law, updating the rele-

vant scientific conceptualisation. Systemic bias is usually understood to occur whenever a system or institution consistently produces outcomes that favour one group or set of individuals over others. These products may include beliefs and judgments. Thus, a legal system is systemically biased if it produces legal judgments that favour corrupt individuals over honest ones. A financial system is one that consistently produces financial judgments that do the same. It is well known that liberal democracies and their institutions are riddled with systemic bias – what can be called institutional bias. Institutional bias is best thought of as corruption – a rot that eats away at institutions and produces unjust outcomes. It is not too difficult to spot, but it is difficult to stop – because those who benefit from these systems tend to be those in power. But there is another kind of systemic bias that lies further beneath the surface and is correspondingly harder to expose. This kind of bias operates not at the level of institutional systems but at the level of conceptual systems. It comes in various forms, but since it involves or is the result of a kind of systemic bias, and bias of this kind is a kind of corruption, I will call it epistemic corruption. A conceptual system is epistemically corrupt when its concepts are consistently used to produce unjustified and false judgments on a range of issues that favour one group of people over another. So understood, epistemic corruption is an element in other forms of systemic corruption, because it operates at the level of how people think, and how people think affects how they act. The corruption of institutional bias is a consequence of epistemic corruption (The Epistemology of Democracy, 2023).

The anthropologically determined international character of law presupposes the unity of States and peoples, their economies, cultures and ideologies. The same nature of a person makes it possible to achieve the same legal result everywhere, in particular the primacy and affirmation of human virtues over vices in legal and other social practices. The creation and reproduction of culture requires novelty, creativity, and a sense of biological mortality through the transmission of an idea into an imagined future. Cultural objects and forms also imply destruction and the fragile energetic limits of both humanity and the objects it creates. The desire for an experience free from the utility of survival, through the "non-productive expenditure of energy", appears in the impulse to represent a thought, an idea or an experience to other bodies and to make it manifest in the world, separate from one's own agency, in other words, the impulse towards timelessness, exists in the birth of art (Stapleton, 2022).

7. Conclusions

Therefore, the effective elimination of the dominance of human vices by means of legislation and law enforcement practices becomes effective when reproducible knowledge reflects awareness of the entire complex of nurtur-

ing issues, the manifestation of good virtues and their suppression. Otherwise, both economic reproduction and economic progress are excluded. For Ukraine, these two processes now depend on the understanding of the respective progressive solutions guided by the highly developed nations of the EU. In fact, integration into it is historically determined and currently historically inevitable, and therefore requires meaningful dynamic transformations of domestic legislation. The most urgent direction of these transformations requires interdisciplinary knowledge related to the fight against corruption and its minimisation. The epistemological context of the creation and application of anti-corruption legal norms consists of scientifically proven, comprehensive knowledge about the mechanism of neutralisation of corruption by means of coercion, encouragement, etc. This knowledge is characterised by its subject and content. This knowledge is characterised by its subject and content, the information about which enables a correct understanding and explanation of this subject. The subject of knowledge is virtue, guaranteed by law. The widening and deepening of knowledge necessarily involves a transition from abstract to concrete thinking, a comparative approach to the study of the acceptable experience of nations that have successfully neutralised corrupt distortions of the legal content of social relations. The implementation of the financial responsibility of the labour collective for the unscrupulous actions of its members and the fulfilment of the other innovative solutions in the field of judicial mechanisms of anti-corruption policy appear in the national legal space through the harmonisation of all its constructive components (concepts, axiological values, etc.).

Incentives and other incentives to neutralise corruption supplement the tort norms of the anti-corruption legal mechanism. The methodology of obtaining knowledge about the above-mentioned subject understood by human consciousness involves the use of logical resources, namely 1) rational conclusions of formal logic; 2) contradictions and patterns of dialectical logic; 3) facts of historical logic; 4) artefacts of the logic of art. The truth of knowledge, verified by these means of reasoning and empirical experience, is then expressed partly by mathematical and linguistic symbols and partly in an intuitive way. The understanding of that which does not fit into the forms of words and numbers takes place mentally and sensitively. At this point, the praxeological dimension of pure epistemology requires taking into account the characteristics of the cognitive subjects of a specific social community, which brings one into the sphere of responsibility of its historical determinants. The teleological attitudes of the Ukrainian nation involve the study of the values and traditions of European nations that have united to ensure their economic well-being. Integration into the EU requires knowledge of how to

combat human flaws, eliminate corruption distortions, and use human virtues in its structures.

Regional civilisational stratification persists due to both intra-national and international dishonesty. Accordingly, global integration based on fundamentally unified legal standards requires the elimination of counterproductive factors at both levels of social communication. The focus of attention on good virtues is determined differently from the existing configuration of national associations. Economic and other issues of cultural heritage are first a consequence and then the cause of the manifestation of good virtues. Simultaneously, military alliances confirm the deep ideological contradictions between nations. This shows the denial of the possibility of creating a global union of nations based on the manifestation in legal reality of the good virtues of its members. Nations and their associations in the modern world are formed on the basis of the manifestation of the degree of legal virtue. Accordingly, the question of the mechanism of unification of nations based on the achievements in the field of real manifestations of good virtues and the rule of law, their succession from generation to generation, their role in the capitalisation of economic relations and ensuring their sustainable development is a good perspective for further research.

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ON THE QUESTION OF THE PRACTICE OF ESTABLISHMENT AND DEVELOPMENT OF INTERNATIONAL INFORMATION SECURITY AS A LEGAL MECHANISM FOR THE IMPLEMENTATION OF ELECTRONIC GOVERNMENT

Abstract. *The article examines the peculiarities of the formation, development and functioning of information security in the practice of the leading countries of the world,*

as one of the key legal mechanisms for the implementation of e-government. International information security is studied as one of the key aspects of the international security system, along with its main elements and models of the global information security system. Modern concepts of international information security are analyzed. It was established that the principles of the indivisibility of security and the responsibility of states for their information space should be the basis of the problems of international information security in a broad sense. The main elements and two main approaches to the content of international information security have been studied. Based on the results of analytics research, general models of the global information security system have been defined and analyzed. The practice of formation and development of information security in the USA and in the countries of the European Union, where national security has become the key direction of information security development, has been analyzed. The practice of cooperation of Ukraine in the field of information security with the most influential international organizations was studied. It should be noted that the cross-border nature of threats to information security necessitates the development and implementation of complex efforts to effectively counter them in cooperation with international organizations. It was concluded that the internal and external aspects of international information security are designed to reliably protect the cultural heritage of each individual country of the world, its intellectual property of business entities and citizens, as well as special information constituting state and professional secrets. And also the fact that information security, as a field of legal regulation, a priori cannot develop without taking into account the international legal field and the experience of foreign countries.

Keywords*: informational security, electronic governance, information and communication technologies, system, experience, protection.*

INTRODUCTION

The contemporary stage of societal development is characterized by the increasing role of the information sphere, which constitutes a complex of information, information infrastructure, subjects engaged in the collection, formation, dissemination, and utilization of information, as well as regulatory systems arising from such social relations.

The changes brought about by computerization over the past 30 years have been profound and extensive, impacting the core of social existence, people's lifestyles, and their security. These social changes have found theoretical reflection in a series of new concepts of social development that emerged at the end of the 20th century [1, p. 131].

Today, there is a pressing need for state and legal regulation of scientific, technological, and informational activities that would correspond to the realities of the modern world, the level of development of information technologies, international legal norms, while effective-

ly protecting Ukrainian national interests [2, p. 71]. Relations related to ensuring international information security, which are crucial for society and the state today, require rapid research and legislative regulation. Moreover, in domestic science, this issue remains underexplored, and many scholars have not reached a consensus on key issues within this problem [3, p. 71].

Information security, on one hand, is part of the e-governance concept; on the other hand, it is a significantly broader concept that emerged long before the phenomenon we have been investigating. Questions of information security that, in one way or another, relate to the legitimation of political power can be divided into four major groups. E-governance, as repeatedly emphasized, appears here in its instrumental manifestations as a model for organizing the interaction of the state, citizens, and business based on the use of ICT opportunities [4, p. 93].

It is widely accepted that today there are two main approaches to the content of international information security worldwide. The first group of countries demonstrates an approach to the issues of international information security in a broad sense, based on the principles of indivisibility of security and the responsibility of states for their information space. The second group of countries narrows the issue of international information security down to international cyber security, focusing on combating crimes in the field of information and communication technologies, including the fight against cyber terrorism. As a result, these approaches reflect different understandings of the place of information security in the complex system of information security at both the international and national levels. The first approach, in our opinion, implies the legalization of significant space to restrict informational rights and freedoms of individuals in favor of ensuring the information security of the international community and individual states. Supporters of such development in international policy are mostly states that face significant challenges in implementing constitutional principles of democracy or do not recognize democratic values at all.

The second approach is characterized by a much greater social and economic orientation, foreseeing the establishment of international standards for information rights and freedoms of individuals (especially related to network usage) at a sufficiently high level. This approach does not involve interference in issues of information sovereignty, conducting information wars, and some other aspects of the political and military spheres [5, p. 382–383].

The study examines the practices of formation, development, and functioning of international information security in the practices of leading countries worldwide, as one of the key legal mechanisms for implementing e-governance. Its complexity explains its scientific under-research. Various aspects of this issue have

been investigated by both foreign and domestic scholars, including V. Akhramovych [2], B. Cathy [4], T. Damian [4], T. Muzhanova [2], Y. Pepa [2], G. Shuklin [2], R. Tsagarousianou [4], S. Zozulia [2], O. Busol [11], O. G. Danylyan [1], O. P. Dzioban [1], O. D. Dovhan [13], I. M. Doronin [13], S. B. Zhdanenko [1], I. M. Zabara [6], O. O. Zolotar [5], V. A. Lipkan [16], T. V. Popova [16], A. Fedorov [8], I. G. Khanin [7], V. G. Shchepankivsky [10].

The aim of the article is to explore the practices of the formation and development of international information security in the practices of leading countries worldwide and to generalize the existing body of research on this issue by well-known domestic and foreign scholars, as well as to provide authorial conclusions.

1. MATERIALS AND METHODS

To achieve the formulated goal and tasks in the research, general scientific and legal methods of scientific cognition are applied. This allowed for a thorough analysis of all issues regarding the specifics of the formation and development of international information security in the practices of leading countries worldwide and its possible reception in Ukraine. The historical method helped establish that the idea of international information security emerged in the 1950s, with its primary goal being to ensure the national security of each country globally. Furthermore, in the early 21st century, the Convention on Cybercrime was adopted within the framework of the Council of Europe, essentially being the only international document in the field of international information security.

The dialectical method enabled the exploration and acquisition of new knowledge about the content and ideas of the international information security system in the United States and European Union countries, which are key legal mechanisms for implementing e-governance. This involves the creation and maintenance of appropriate engineering and technical capabilities and information organization that correspond to real and potential threats, as well as demographic and economic conditions in the country.

The comparative-legal method was used to investigate and compare information security systems in the United States and European Union countries, revealing that the information security of most countries globally is characterized by a high degree of protection and the resilience of essential life spheres to hazardous information influences.

The synthesis method aided in obtaining new knowledge that the international information security of individuals aims not only to ensure the integrity of the person and their capacity for development but also to preserve their information and data, taking into account the realities of the formation of modern information society.

Moreover, this method helped establish that a range of international organi-

zations are currently involved in developing international standards and recommendations to enhance the level of international information security.

The analysis method helped establish that, in today's conditions, the level of development and security of a country's information space is a systemic factor in ensuring security, actively influencing the state's political, economic, military, informational, and other components of national security. Information security is a complex, systemic, multi-level phenomenon, and its state and development prospects are directly influenced by external and internal factors, the most crucial of which include: 1) the global political situation; 2) the presence of potential external and internal threats; 3) the state and level of information and communication development in the country; 4) the domestic political situation in the state.

Furthermore, through the method of analysis, it becomes evident that international information security takes precedence in the 21st century within the framework of a state's national security. Consequently, only such a state can aspire to leadership in economic, military-political, and other spheres, maintaining a strategic and tactical advantage, and exercising more flexible control over economic expenditures for the development of armaments and military technology. Additionally, the effectiveness of a state's information security system becomes a decisive factor in the politics of any subject in geopolitical competition. Ineffectiveness of the information security system may serve as a factor capable of leading to large-scale accidents and catastrophes, the consequences of which can include the disruption of state governance and the collapse of the national financial system.

The method of generalization has led to the conclusion that ensuring the information security of individuals, society, and the state, solely through the efforts of one state at the national legislative level, is deemed ineffective in contemporary conditions. Threats to information security acquire a global dimension, necessitating collaborative efforts at the international level.

2. RESULTS AND DISCUSSION

2.1 Place of Information Security in the System of International Security.

It is well-known that the information security of individuals is an integral component of international information security. In the terminology of the United Nations (UN), international information security refers to the protection of the global information system from the so-called "triad of threats" – terrorist, criminal, and military-political threats.

In this regard, the opinion of Zolotar O. O. is correct, stating that the information security of individuals in a globalized society belongs to the subject area of international public law. Therefore, among the sources, attention should be paid to 1) international treaties, 2) customary international law, and 3) general principles of law, as well as 4) judicial

decisions and 5) doctrines of the most qualified experts in public law from various nations, as auxiliary means for determining legal norms enshrined in Article 38, paragraph 1, of the Statute of the International Court of Justice of the UN as applied sources of international law, in addition to the mentioned three main sources. Decisions (acts) of international intergovernmental organizations are also considered sources of international law. Although they are not applied in disputes by the International Court of Justice of the UN, they perform a regulatory function, determining the behavior of states as the main subjects of international law [5, p. 299–300].

On the other hand, according to Zabara I. M., modern concepts of international information security are characterized by a consistent understanding of: 1) the place and significance of information technologies, their interrelation within the information space (cyberspace), the role in realizing the general concept of the information society; 2) the need to protect the most crucial national infrastructures, global information and communication networks and systems, as well as the integrity of accumulated information; 3) the complexity, seriousness, and multitude of threats to information and communication technologies (hereinafter referred to as ICT) related to processes of both natural and anthropogenic character, as well as human activity; 4) the ineffectiveness of traditional strategies (such as measures applied analogously in the process of arms control or their restraint); 5) state tasks arising at national and international levels; 6) the need to unite efforts to preserve and expand the contribution that ICT makes to ensuring the security and integrity of states; 7) the necessity of international cooperation in developing strategies to reduce risks for ICT [2].

Alongside this, there is an opinion that international information security should be considered as one of the key aspects of the international security system, necessitating international legal regulation. The principles of indivisibility of security and state responsibility for its information space should form the basis of the issue of international information security in a broad sense. Therefore, countering threats of a military (military-political), terrorist, and criminal nature using ICT must be carried out systematically and in a coordinated manner. Accordingly, international legal regulation should extend to all specified structural elements, and to achieve this, the adoption of an international agreement at the universal level is proposed. An example of implementing such a combination is the Agreement between the governments of member states of the Shanghai Cooperation Organization on cooperation in ensuring international information security dated June 16, 2009, which reflects relevant provisions of this concept [5, p. 316].

In this context, the main elements of the emerging international information security system, according to I. Khanina, should include: 1) international doctrinal

documents of a universal nature dedicated to informatization, information society, and information security; 2) international standards in the field of information security; 3) international professional (specialized) institutions dealing with information security issues in various fields; 4) international-regional institutes and structures created by integration associations (e.g., the EU); 5) institutions created by military-political organizations (e.g., NATO); 6) national doctrines, concepts, and strategies [7].

As early as August 2000, the World Organization of Scholars, at its 25th session, listed the threat to international information security as the foremost threat to humanity. Several times, the UN General Assembly called on the global community to discuss the issue and make decisions to eliminate the possibility of using information for purposes incompatible with ensuring the security of humanity. The adoption of such decisions was hindered by states dominating the information sphere and actively developing information weapons [8, p. 91].

Therefore, Ukraine's participation in bilateral and multilateral international structures for ensuring both regional and its own information security is a relevant direction of state policy in this field.

It is important to note that at the beginning of the 21st century, within the framework of the Council of Europe, the Convention on Cybercrime was adopted, being practically the only international treaty whose participants are not only members of the Council of Europe but also some other countries. Ukraine signed this convention on November 23, 2001, ratified it on March 10, 2006, and it entered into force on July 1, 2006. According to it, the main goal of the Council of Europe is to achieve greater unity among its members [9].

The issue of international information security consistently holds a central place on the agenda of the Shanghai Cooperation Organization (SCO). In 2006, the organization's participants adopted the Statement of Heads of State of SCO Member States on International Information Security. The document expressed concern about "the use of ICT for purposes that pose a threat to the security of individuals, society, and states." The primary goal was stated as the intention of states to coordinate measures to respond to security threats in the information sphere. During further SCO events, new documents were adopted regulating the behavior of states in the information space and the responsible use of ICT, based on a common vision and trust between the union's countries. In 2009, a foundational document was signed, defining the format, goals, and principles of cooperation among the SCO countries in the field of international information security – the Agreement between the governments of member states of the Shanghai Cooperation Organization on cooperation in ensuring international information security [5, p. 323].

It is essential to emphasize that global information confrontation strategies form the basis of analytical develop-

ments by research institutions in various countries, aiming to secure informational leadership in the realm of international security. According to research findings, analysts identify several models of the global information security system:

1. Model A – establishing an absolute defense system for the country, an information leader against any form of offensive information weapons. This model implies objective advantages in potential information warfare, compelling other countries to seek alliances in military-informational actions with the information leader country. It may involve a system of strict control over the opponent's information weaponry based on potential international documents on information security.

2. Model B – creating a significant advantage for a state, a potential initiator of information warfare in offensive types of arms. It involves neutralizing the defense systems of the opposing state using means of informational influence, coordinating actions with allied states through the use of defined information weapons to identify sources and types of information threats.

3. Model C – the presence of several info-leader countries and potential confrontation among them, defining a factor restraining the expansion of information threats. This model aims to ensure the future dominance of one state in the field of international information security with substantial influence on the global infosphere and predominant authority in addressing issues of global world order.

4. Model D – all conflicting parties use information transparency to form situational alliances, achieve advantages in local decisions capable of blocking technological leadership. It involves utilizing the opportunities of info-infrastructure in specific territories to organize internal conflicts between opposition forces (political, separatist, interethnic conflicts) for conducting international anti-terrorism information operations.

5. Model E – the confrontation of the global community with international organized crime capable of controlling the course of political, economic, social, and ultimately, civilizational processes. The possibility of such a model is outlined in the research of the U. S. National Intelligence Council's report "Mapping the Global Future" – 2020 in the "Cycle of Fear" scenario, which is the most pessimistic scenario for the future of the global community [9, p. 222–224].

The phenomenon of international information security is determined by the strategic orientation of information weapons against critical structures of vital activity and the functioning of the international community. Recognizing information weapons as a new global type of weapons of mass destruction, catastrophic in its consequences of use (some researchers refer to information weapons as "information apocalypse").

Therefore, the issue of international information security is a significant com-

ponent of a country's geopolitical image in the field of international relations and a manifestation of trends in new global challenges and profound processes [10, p. 228].

2.2 Formation and Development Practice of Information Security in the USA
Regarding the practice of the formation and development of information security in the USA, there are several perspectives on this matter. According to Busol O., the U. S. state policy in the field of information security has undergone a long evolutionary path, consisting of four stages: emergence – 1939–1947; formation – 1947–1982; active development – 1983–2001; fundamental improvement – 2001 to the present [11].

Its historical roots extend much deeper than the establishment of the Advanced Research Projects Agency (ARPA) in 1957, a military research agency whose network project ARPANET became the first step towards the emergence of the internet.

It is evident that ensuring national security has become a key direction in the development of information security. The origins of legal regulation in the field of information security date back to the early 20th century. The first law in the field of information security in the United States, the "Information Protection Act," was enacted as early as 1906. However, intensive development of legislation regarding information security began after the invention of computers and the creation of the ARPANET network. The underlying ideas aimed at complete privatization and liberalization of the information technology market, emphasizing the unnecessary need for public control over the development of networks and their content. Additionally, it focused on the primary role of building networks as the basis for developing services (in contrast to the European model, which prioritized the development of the service sector, followed by its technical and network support) and universalizing telecommunication services for all [5, p. 331].

A crucial component of the legal framework for information security in the USA was the establishment of federal criminal responsibility for crimes in the field of computer information in the Counterfeit Access Device and Computer Fraud and Abuse Act.

An important feature of the American model of legal support for information security is the priority of national interests in addressing information security issues, including private interests. The Computer Security Act, for instance, declares that the requirements of government agencies to ensure the necessary level of information protection may apply to any "important information" [5, p. 333–334].

The modern systematic organizational activity in the field of information security at the national level can be considered to have begun with the directives of President Bill Clinton's administration. Presidential Decision Directive 63

(PDD 63) on "Critical Infrastructure Protection" in 1998 and the subsequently signed "National Plan for Information Systems Protection" in 2000 defined the main directions of state and societal activities in ensuring information security.

Significant changes occurred in the U. S. information security system after the events of September 11, 2001. The Enhancement of Federal Law Enforcement Act designated unauthorized penetration into state computer networks for gain or harm as a form of terrorism, significantly increasing the powers of the FBI for monitoring the internet [5, p. 334–335].

In summary, the practice of forming U. S. policy in the field of information security combines aspects such as strengthening the U. S. information security system, U. S. dominance in the global information space, and attempts to combine market instruments in regulating the information sphere with extensive state powers exercised by authorized bodies in controlling information resources.

2.3 Practice of Formation and Development of Information Security in European Union Countries

Regarding the implementation of information security practices in EU countries, the European Commission outlined its common European policy in a document titled "Network and Information Security: European Policy Approach" in 2001 [12]. "Network and information security" referred to the ability of a network or information system to resist accidental or malicious events that threaten the availability, authenticity, integrity, and confidentiality of stored or transmitted data and the services provided through these networks and systems. A broader approach to understanding the concept of "information security" was expressed by a representative of Sweden during discussions on international information security issues at the 56th session of the UN General Assembly. According to this perspective, information and network security mean protecting personal information about senders and recipients, safeguarding information from unauthorized changes, protecting against unauthorized access to information, and creating a reliable source of supply for equipment, services, and information. It also encompasses protecting information related to military potential and other aspects of national security. Insufficient protection of vital information resources and information and telecommunications systems can pose a threat to international security.

Also noteworthy is European Council Resolution No. 2003/C 48/01 of February 18, 2003, on the European approach to network culture and information security. This resolution proposes that member states contribute to ensuring security as a crucial aspect at both the state and private levels [5, p. 341].

In 2004, the European Union established the European Network and Information Security Agency (ENISA) to

enhance the efficiency of the internal market. The agency acts as a consultant and a center for advanced technologies in the field of network and information security for EU member countries and institutions. Additionally, it promotes the development of relations between EU member countries, EU institutions, businesses, and the private sector [13, p. 16].

The "e-Europe 2005" program acknowledged that ensuring information security is not purely a technological problem. It largely involves human behavior, knowledge, and anticipating threats and protection methods [14].

In 2016, the European Parliament adopted the EU Directive on network and information security, aiming to establish common cybersecurity standards and improve cooperation among EU countries [15]. Its provisions are designed to help companies more effectively combat hackers and prevent attacks on digital infrastructure that spans multiple countries or the entire European Union.

It is also impossible not to mention the interesting and correct opinion of T. V. Popova and V. A. Lipkan, who, in their joint work on the information security of the European Union, consider the protection of personal information about senders and recipients, protection against unauthorized changes, unauthorized access to information, and the creation of a reliable source of supply for equipment, services, and information. The information security of the European Union also encompasses protecting information related to military potential and other aspects of national security. Insufficient protection of vital information resources and information and telecommunications systems can pose a threat to international security. The European Union's position on information security is characterized by rationalism, as it names specific concepts of different types of information as the subject of security. Moreover, a clear distinction is made between the features of human and societal information security (personal information, information support for societal life) and the information security of the state (information support for national security) [16, p. 138].

2.4 Issues of Ensuring Information Security in Ukraine

It is worth noting that today, the legislator consistently emphasizes the issue of information security in e-governance. Furthermore, Ukraine's aspirations to be a full member of the European Union necessitate following European principles, norms, and standards in the field of information society management and information protection.

For Ukraine, which has faced the hybrid nature of information warfare, issues of ensuring information security have become increasingly important. Considering this, the development and improvement of the foundations of information security in Ukraine are among the most crucial and particularly relevant tasks for the state.

Within our research, it is important to highlight that the transboundary nature of threats to information security necessitates the development and implementation of comprehensive efforts for effective counteraction in collaboration with international organizations. Thus, Ukraine's most active cooperation in the field of information security is observed with NATO under the "Science for Peace and Security" program. This program utilizes support mechanisms in the field of information security, such as grants for establishing and strengthening existing relationships, expert visits, technology transfer, the creation of research centers, and support for research projects.

In general, cooperation between NATO and partner countries, including Ukraine, within the framework of the Euro-Atlantic Partnership Council (EAPC) and the Partnership for Peace (PfP) program, entails certain commitments regarding the exchange and protection of information. To increase the transparency of military planning and defense budgets and ensure democratic control over armed forces, parties may participate in mutual information exchange about the implementation of specific measures. Before exchanging any classified information between a PfP participating country and NATO, information security authorities must mutually ensure that the receiving party is ready to provide information protection.

Ukraine's accession to the PfP program involved signing and ratifying, in 2002, the Agreement on Security between the Government of Ukraine and the North Atlantic Treaty Organization [17]. Subsequently, on April 27, 2015, Ukraine signed and ratified the Cooperation Agreement in the Field of Logistics Support between the Cabinet of Ministers of Ukraine and the NATO Support and Procurement Organization (NSPO) [18]. According to these agreements, the parties agree to consult on political and security issues, expand and intensify political and military cooperation in Europe, acknowledging that the effectiveness of cooperation in these areas involves the exchange of classified information and/or restricted access information.

It is noteworthy that the Agreement on Security between the Government of Ukraine and NATO and the Cooperation Agreement in the Field of Logistics Support between the Cabinet of Ministers of Ukraine and the NATO Support and Procurement Organization are significant achievements for Ukraine in the field of information security. They define the essential requirements for the exchange of classified or confidential information between Ukraine and NATO, its protection, and may serve as a basis for adopting relevant documents in the process of further cooperation or Ukraine's full integration into the Alliance.

CONCLUSIONS

In modern conditions, the level of development and security of a country's information space are crucial factors

in ensuring security. They actively influence the state of political, economic, military, information, and other components of national security. The tendency to ensure national security and its components is taken into account by leading countries and defense blocs when modernizing their own strategies. However, the names of documents revealing the content of the national security concept vary among different states. For instance, in the United States, it is the “National Security Strategy,” in Canada – “National Security Policy,” in Italy – “Strategic Concept of National Defense,” and similar documents in the United Kingdom, China, and a range of other countries are referred to as “White Papers.” In Ukraine, it is the “White Book,” the revised edition of June 8, 2012, No. 389/2012 “National Security Strategy of Ukraine ‘Ukraine in a Changing World’” [19], and No. 390/2012 “Military Doctrine of Ukraine” [20].

Therefore, the internal and external aspects of international information security, aimed at reliably protecting the cultural heritage of each individual country, its intellectual property of economic entities and citizens, as well as special information constituting state and professional secrets, are of utmost importance.

In summary, it should be noted that ensuring information security at the levels of individual, societal, and state, solely through national legislation and efforts, is considered ineffective in today’s conditions. Since threats to information security acquire a global dimension, they require joint efforts at the international level.

Hence, the opinion has emerged that information security, as an area of legal regulation, a priori cannot develop without considering the international legal field and the experience of foreign countries. This is dictated by the very essence of the information sphere, which is challenging to confine within national borders in a democratic state. Importantly, legal regulation should not only correspond to the chosen political course but also be based on existing social practices, respond to the urgent interests of citizens, and meet the demands of society. The development of legal support for human information security takes place in specific historical conditions and is inseparable from the legal status of individuals in the state, the level of development of democratic processes, and the legal culture of society.

RECOMMENDATIONS

The significance of this research lies in the serious concern arising from the proliferation of unlawful collection and utilization of information, unauthorized access to information resources, illegal copying of information in electronic systems, violations of information processing technologies, launching of virus programs, destruction and modification of data in information systems, manipulation of societal and individual consciousness,

and so forth. Many states are deeply troubled by the state of information security, the dependence on which will grow with technological progress. They are developing and implementing a comprehensive set of legal, organizational-technical, and economic measures to ensure information security. Therefore, the pertinent issue emerges regarding the protection of information through the establishment of robust information security.

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THE POTENTIAL OF TERRITORIAL COMMUNITIES AS A FACTOR OF SOCIO-ENVIRONMENTAL DEVELOPMENT OF TERRITORIES

Abstract. *The aim of the article was to examine the potential of territorial communities as a factor in the socio-environmental development of territories. Comparison and*

observation were the main methodological tools. The conducted research revealed that the potential of territories in the EU countries serves to increase the capacity of communities in the field of decentralization and socio-environmental development. A public energy system in Oberrosphe, which is based on communal heating, is promising. The project of the city of Tartu which provides for the involvement of the population in the conservation and restoration of biodiversity is worth noting. The appropriateness and potential of using the integrated modification methodology (IMM) in the development of design for sustainable urban development were established. The design maximizes the use of the potential of territorial communities, social and environmental levers. The Porto di Mare eco-project in Milan, which provides for the transformation of a polluted and degraded area into a self-sufficient ecological and social territory with the involvement of territorial potential deserves consideration. Similar initiatives can be implemented in Ukraine in the context of sustainable development of the country in the course of post-war socio-environmental restoration of the affected territories.

Keywords: *"green" economy, ecological potential, environment, social groups, sustainable development.*

1. Introduction

Humanity's collective ecological footprint is growing under the influence of population growth and unsustainable consumption rates. The transformation has intensified over the past consequences. The changes include increasing CO2 and global temperature, rapid loss, and degradation of nature. Increased erosion, reduction and pollution of natural resources, increased probability of floods and droughts, reduction of biodiversity, and loss of aesthetics and recreational functions are also negative markers. The COVID-19 pandemic, military conflicts, and a resultant sharp change in human activity become a clear impulse for the shift in anthropogenic disturbances. Russia's invasion of Ukraine and active hostilities aggravated the energy crisis [1]. This modifies some of the persistent human impacts on land, water, and the atmosphere [2]. Current shocks combined with unsustainable urban and rural development create challenges for settlements, exposing their vulnerability and inadequate governance paradigms [3]. Recovery after the economic impacts of the pandemic and military conflicts and a simultaneous accelerated transition to a "green" economy requires collective efforts. This problem can be solved through high-quality state management and ecologically oriented activities of local authorities.

The potential of territorial communities is a factor in the socio-environmental development of their territories. Socio-environmental development is supposed to mean the implementation of environmental solutions, which use ecosystem processes to meet social needs [4]. The issue of effective and rational use of the property of the territorial community is particularly relevant [5]. There

is a strong connection between social and environmental sustainability, which is especially necessary for social groups whose means of subsistence depend on environmental potential [6]. Knowledge of governance and social innovation has become an integral part of the study of socioenvironmental development [7]. Socioenvironmental development of territorial communities should be based on evolutionary and social aspects, consciously research human adaptation to the environment and human-induced changes in the environment [8]. In view of the foregoing, the aim of the article is to consider the potential of territorial communities as a factor in the territories' socio-environmental development. The aim involved the following research objectives: 1) determine the modern trends in ensuring a sustainable ecological future required for the socioenvironmental development of territories; 2) categorize in progress the state, problems, and prospects of the territorial communities' potential as a factor of socio-environmental development in the EU countries and Ukraine with the aim of further implementation of the relevant tools and practices for the post-war socio-environmental recovery of Ukraine.

2. Literature Review

The work [5], became the main implement and the background for this research. The study was focused on the analysis of the peculiarities of decentralization in Ukraine. Special attention is paid to the research of the goals of the reform at different levels of public administration and the actual condition of legislative support for decentralization in Ukraine. The risks of forming united territorial communities and the main trends were identified in this research. The need to use a comprehensive approach to ensuring employment, effective management of territorial communities' property, spatial planning, and use of natural resource potential is emphasized. The problems of organizing the functioning of the social sector in territorial communities are considered.

The study [7], had an influence on the author's attitude toward the issue under research. The authors held an all-round analysis of the aspects of territorial development and social sustainability. The problematic issues arising during the implementation of social, political, and cultural components of sustainability and socioenvironmental development were considered. The findings of [9] on the essence of the united territorial community as a subject of managing socio-environmental development were taken into account in the course of the research. The strengths and weaknesses of local development were analysed. Proposals regarding the strategic plan for the development of the territories of united territorial communities were developed. The study [10], deals with the state of the strategic vision, and compliance with regulatory documents that govern the development of united territorial communities. Certain features and additional tools that will contribute to the suc-

cessful implementation of the strategy were also studied. It was concluded that it is necessary to find prerequisites for increasing investment attractiveness through the potential of united territorial communities.

The findings of [11] on a new approach to urban socio-environmental design are worth noting. Urban form, institutions, discourse, and accessibility design, which connect people with nature and each other and contribute to urban changes, are considered. The work, [8], was used when shaping the author's position. It emphasizes the environmental consequences of human influence on natural potential. The authors made a detailed analysis of approaches to modelling global biodiversity, which is focused on direct anthropogenic influence. A significant uncertainty regarding the consequences for the environment and the population, as well as the lack of recommendations on biodiversity conservation strategies, was noted.

The studies [5, 12], covered the issues related to district-level integrated actions. The immixtures for the sustainable provision of services and the role of the potential of urban areas in initiating urban transformations are analysed.

The article [13], on how rural communities are addressing each of the problems identified in the European Green Deal at the local level is worth noting. The author emphasized the importance of developing eco-villages. The author focused on the need to orient the rural community to inclusive development and joint planning of a sustainable future.

The work [1], presents an analysis of the impact of the COVID-19 pandemic and Russia's war against Ukraine on the global economy. The importance of greater diversification of energy sources and reliance on local potentials in the development of renewable energy sources was noted.

The active research of the issues chosen in the article confirms that the potential of territorial communities as a factor of social and ecological development of territories requires special attention. The diversity of studies in this field is also stated. It is needful to conduct a study according to new research criteria.

3. Methods

The research results were obtained through a set of practical tools and scientific methods tested at each stage of the research.

Comparison and observation were the main practical methodological tools. A comparison was used to identify the variability of aspects of the involvement of economic entities and social groups by territorial communities in the socio-environmental development of territories. The observation was applied to generalize the types of the potential of territorial communities in the context of achieving the declared sustainable development goals. Both of these practical methods were used for determining effective vectors of the post-war socio-

environmental development of the territories of Ukraine in the context of territorial communities' effective practices in Europe. The practical methodological tools helped to predict the preliminary mechanisms of effective implementation of the EU practice in Ukraine.

The method of system analysis enabled achieving the aim and fulfilling the research objectives set in the article, as well as to differentiate elements of the studied subject, in particular when identifying the features, properties, and characteristics of the legal regulation of the interaction of the territorial communities' potential with the territories' development confirmation.

The historical method was used during the study of step-by-step transformations of the territorial communities' influence in the context of the socioenvironmental development of territories in the realities of property management. This method makes it possible to identify the modern tendencies in the transformational evolution of the territorial communities' potential.

The historical legal method was applied to identify the promising determinants of international cooperation in the field of post-war restoration of Ukraine.

The methodological tools listed below were used during the research: abstract logical analysis – for theoretical generalization and substantiation of research directions and results; dialectical method, theoretical generalization – for identifying regularities in the interpretation of basic concepts underlying theoretical aspects of legal regulation of territorial development programs and the involvement of territorial communities in these programs; system and statistical analysis – to analyse and evaluate the activities of territorial communities.

The regulatory acts and documents in the area under research were interpreted through the formal legal method. The functional method opened up the opportunity to describe the activities, tasks, and main prospects in the sphere of interstate partnership in view of the realities and transformations of approaches to the socioenvironmental development of territories in the context of the impact of military operations on the territory of Ukraine on global socio-environmental processes. The dogmatic method was used to draw conclusions in line with the aim of the research and the outlined objectives.

4. Results

Socio-environmental development of territories should be carried out by using the potential of territorial communities. The territorial potential is supposed to mean the capabilities of residents of territorial communities, which are related to work and life processes. This definition also includes the participation of local institutions in the configuration of development and day-to-day activities together with participation and inclusiveness plans. Knowledge, skills, relationships, values, motivation, and conditions allow individuals, organizations, and institutions to perform their

functions and achieve the development goals there were made responsible. Development potentials are elements that make up the structure of a territory, based on issues ranging from physical characteristics to elements of identity. Figure 1 demonstrates examples of the potential of territorial communities.

HUMAN CAPITAL POTENTIAL considers the analysis of the demographic background and existing relations with production factors. It reveals what opportunities the residents have and how adequate the territory is for their development.	**FINANCIAL POTENTIAL** refers to the identification and description of units capable of supporting the exploitation of the community's factors of production. This requires recognition of the initiatives of existing corporate, financial and credit institutions, both public and private.	**PRODUCTION POTENTIAL** is related to units, activities, production chains necessary in the organization, exploitation of production factors that make up the production structure in the territory. It also relates to the actions of residents, which are based on their resources and skills
MATERIAL POTENTIAL consists of basic services, housing and equipment. It considers the establishment of the characteristics, use, availability, quality of the specified elements in the territory as part of the assets within the framework of the economic structure for the community development	**SOCIAL CAPITAL POTENTIAL** involves the analysis of relationships, networks of residents in the territory with the aim of developing the activities of the territory, paying special attention to collective actions	**NATURAL RESOURCE POTENTIAL** It includes landscape, relief, land resources, hydrological and climatic conditions, minerals, nature reserve fund. Attention must be paid to the types of use to establish relationships and relevance to the activities of the community

Fig. 1. Potentials of territorial communities

The European Union established the administrative, fiscal, and political independence of local authorities [14]. Local and regional authorities (LRAs) are playing an important role in all policy spheres. Their actions have a major impact on supporting the European Green Deal and climate neutrality.

Policy instruments such as the European Fund for Sustainable Development Plus (EFSD+), the New Leipzig Charter, the Climate Neutral and Smart Cities Mission, and the New European Bauhaus are used. They help in the socioenvironmental development of amalgamated territorial communities. The development and implementation of tools aim to achieve more ecologically clean and more socially liveable cities. For example, the New Leipzig Charter, [15], provides a key political background for the sustainable development of European cities. The Charter determines three characteristics of ideal cities – green,

fair, and productive. Digitization is a necessary component of implementation. An important factor in this process is the optimal practice of the potential of territorial communities. The EU will direct its efforts to support efficient and smart agriculture because of the military aggression of the Russian Federation against Ukraine [16]. This is required to minimize or avoid repurposing land for food or energy production. This should be done both inside the country and in other developing countries. Besides, the EU can play an active role in assisting Ukraine in its increasingly dangerous environmental situation.

In November 2022, the European Commission approved funding of over €380 million for 168 new projects across Europe [17]. The projects are aimed at supporting biodiversity, restoring nature, and circular economy. These initiatives will contribute to the transition to clean energy across the continent. Territorial potential should be used to the maximum possible extent. The priority tasks of local self-government bodies include the creation of nature conservation areas, and the increase of vegetation areas, which is a component of the planning of open spaces and microdistricts [14]. The goal of the European project urbanLIFEcircles is to improve city-wide biodiversity management in Tartu (Estonia) by involving human potential [18]. Tartu implements the project in cooperation with Aarhus and Riga. Planned activities include the involvement of the population in the work on conservation and restoration of biodiversity. Together with partners, the project will improve the diversity of green spaces and the functioning of green corridors, and also improve the accessibility of the rich natural environment of the city. Information about biodiversity will be disseminated among city residents. The project involves cooperation with private gardeners. The budget of the project is € 3.7 million, it is expected to be completed by 2027.

The European Green Deal requires a significant response from rural Europe. The agricultural sector is the main source of greenhouse gas emissions. It is directly related to the reduction of biodiversity and the threat to water quality in Europe. To promote a circular economy, one of the Spanish projects will promote hybrid tractors for use in vineyards and gardens. This will help to reduce fuel costs by 45% and lubricant use by 30%. Community heating initiatives often become the basis for public energy developments in rural areas of the EU countries. For example, they have been successfully implemented in Germany. There are 240 families living in the village of Oberrosphe in Hesse. By 2020, almost half of all households have agreed to receive energy from a district heating system which is based on the use of local energy, including wood. The heating cooperative began to get waste heat from the CHP plant, which provided about 50% of the heat demand. This resulted in an annual reduction of about 700 tons of carbon emissions.

Community households connected to the heating system didn't need oil anymore, and there was no longer a need to pay for the maintenance of oil-fired boilers.

At the same time, the territorial community in Ukraine fulfills tasks of local importance [19]. It is a component of the local self-government system, the primary subject of local self-government, and the implementer of its functions and powers [20]. In 2015, 159 amalgamated territorial communities (ATCs) were created. In 2020, those settlements that did not join any amalgamated territorial community were amalgamated according to the established criteria. This was a way to approve a new administrative-territorial system, territories of territorial communities, and determine administrative centers. As of January 10, 2022, 1,470 communities, 136 districts, 119 district councils, and 119 district state administrations were established in Ukraine [21].

Local development of territorial communities of Ukraine should be based on the location and socioeconomic development of territorial communities. These processes should be carried out through the use of endogenous potential. Territorial communities of Ukraine are elaborating development strategies for the purpose of sustainable development. There is a document that is based on the strategic planning of state regional policy [22]. The strategy sets long-term strategic and operational goals and objectives for the sustainable economic, social, and environmental development of the territorial community. Such strategies are implemented on the basis of action plans for their implementation, which are approved by the relevant village, settlement, and city council. The system of monitoring and evaluation of the implementation of the development strategy of territorial communities is a special focus.

Ukraine has created the conditions for the implementation of the Strategic Environmental Assessment (SEA) [23]. The main component of the vision of the progress of territorial communities of Ukraine is improving the state of the environment. Figure 2 presents the environmental weaknesses identified in the course of SWOT analysis (strategic planning method) in cities and villages [24].

Settlement initiatives, especially in the context of effective use of property, are an example of successful practices of socio-environmental development through the use of community potential. The powers of territorial communities in the field of the communal property include ownership and disposal in their own interests of property that belongs to them both directly and through local self-government bodies [20]. In 2022, four communities of the Poltava region signed a contract on cooperation in the establishment of a joint utility company for the development of the waste management system [25]. The financial potential of the territorial community can be involved in joint financing (maintenance) of communal enterprises. In 2022, the Polianska Village Community of the Zakarpattia re-

gion signed inter-municipal cooperation agreements with 16 nearby communities on the creation of a waste sorting plant for 80 jobs. The volume of investment in construction is €12 million. The future plant will process about 60,000 tons of waste per year. Moreover, one hundred percent processing is expected. The plant should produce about 3 thousand tons of fuel for industrial furnaces every year from plastic [25].

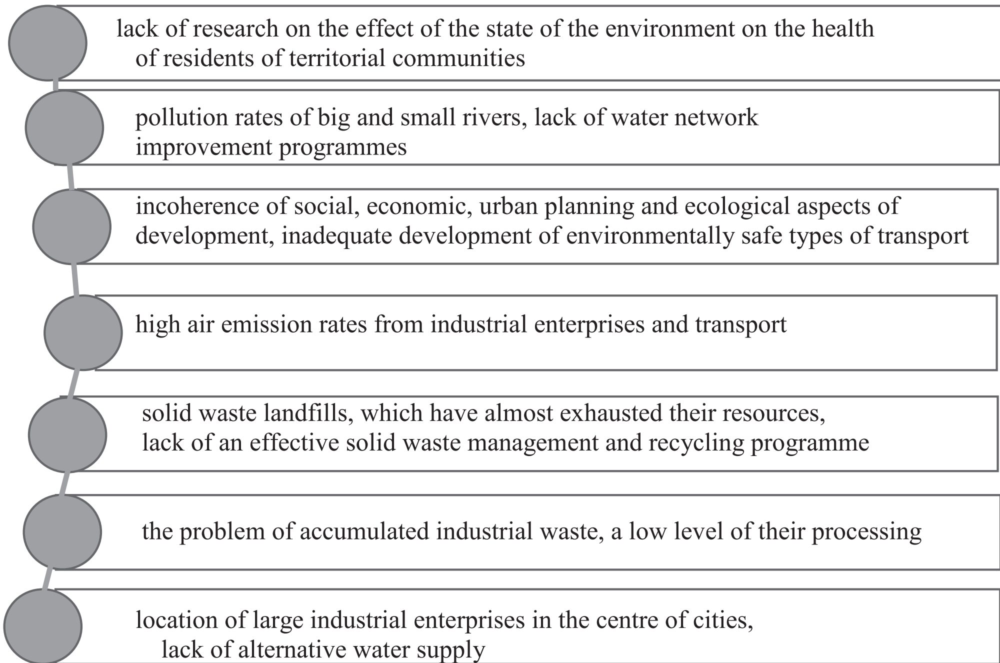

Fig. 2. Factors of the negative state of the environment of the territories of cities and towns of Ukraine

Territorial communities can also direct the funds of local budgets for the implementation of innovative projects, by allocating, for example, a share of the land potential of the community. The Piadytska Village Community of the Ivano-Frankivsk region receives about 30% of the funds from special technology for growing blueberries on an allocated plot of 16 hectares. The drip irrigation system was purchased through the USAID DOBRE program. In 2022, the community will use its equipment to repair the road, make drainage, and widen riverbeds having used ₴20 million from the local budget. The problem of flooding was also solved. The Prylisnenska Community in Volyn united the community's natural resources and human potential for socio-ecological development [26].

Besides, it was able to successfully lease a share of land and attract investors. More than 65% of the territory of the community is under forests, which are most suitable for growing berries. Currently, almost 20% of the population of the community is engaged in berry cultivation. Human potential is increased because young people who worked abroad began to return to the community. There are also investors who lease land and invest in berry cultivation in the community. The utility company also earns by helping the investor with the cultivation of the land. As a result, the community began to receive revenues that finance kindergartens and leisure centers. One of the main goals of the development strategy of the Prylisnenska community is the creation of a berry cluster, which was developed in cooperation with U-LEAD. Another, larger-scale goal of the community is the creation of profitable production of an alternative source of energy – wood chips – financed from the local budget of the community.

Strengthening the role of business in solving social and environmental problems is an example of expanding the socio-environmental orientation of using a municipal property. Zaporizhzhia uses waste heat from PJSC “Zaporizhstal” to provide a hot water supply to the city’s districts. This initiative also contributed to solving environmental problems in addition to helping the population in solving social needs. In 2018, the volume of natural gas replacement amounted to 15.559 MCUM, a reduction of greenhouse gas emissions into the environment – 5.0%. In 2019, respectively, 10,820 MCUM (4.1%), and in 2020–2,670 MCUM (1.7%) [27].

Current interconnected crises seriously threaten the implementation of the SDGs by 2030 [26]. Russia’s military aggression against Ukraine led to the large-scale destruction of energy infrastructure and the infrastructure of populated areas of Ukraine. The war caused damage to Ukraine’s environment of over ₴1.35 trillion [26]. The number of pollutants in the atmospheric air exceeded 67 million tons. 3 million hectares of forests were affected, and about a third of the territory of Ukraine will require demining. The currently mined dam of the Kakhovska HPP and the nuclear threat at the occupied Zaporizhzhia NPP is one of the biggest dangers at the moment.

The restoration of the affected territories becomes a necessary direction in Ukraine in view of Russia’s military aggression. A set of priority organizational, financial, social, environmental, and other measures are being developed in the country. They are aimed at the accelerated restoration of critical and social infrastructure, and residential and public facilities. These facilities should become ready for the return of internally displaced persons and refugees to the region, and favourable conditions should be created for the activities of business entities. Special functional types of territories are determined accordingly [22, 28]. They include restoration areas.

These are territorial communities on the territory in which hostilities took place. These are also territories that are characterized by a sharp deterioration in the level of socio-economic development.

Territorial communities with significantly better geographical, demographic, and socio-economic indicators of development compared to other similar territories of the region are regional poles of growth. The level of socio-economic development is low in territories with special conditions for development. Or there are natural, demographic, international, security, or other objective restrictions on using the potential of the territory for development. Selfsufficient territorial communities with existing socio-economic potential are territories of sustainable development. They are capable of balanced economic, social, and environmental development. In July 2022, in Ukraine, the National Council for the Recovery of Ukraine from the War [29], developed the Draft Ukraine Recovery Plan. The Environmental Safety working group was created to deal with ecological restoration issues. The post-war recovery of cities, rural areas, and their communities must take into account all current social, economic, and environmental factors.

5. Discussion

It can be concluded that world integration and globalization processes require the implementation of the idea of sustainable development. Sustainable development is supposed to mean an equilibrium between the reception of the needs of mankind and protecting the needs of future generations [10]. The sustainability of the territorial community reflects its ability to accumulate and effectively use the existing potential. The territorial community identifies and uses the reserves to meet the current needs, and ensure the development of the territory and the competitiveness of the community in the short and long run [9].

It can be stated that the understanding and assessment of interdependencies and feedback links between social and environmental systems is an important link in advancing the necessary social transformations. The concept of sustainable development emphasizes the need to ensure the existence of social and environmental systems to support human life [6]. These relationships must be recognized both locally and globally. This enables the development and implementation of effective management systems and institutions [30]. According to researchers, a completely new look at territorial planning and the use of territorial potential based on awareness of the value of nature is required. A clearer understanding and awareness of the benefits of nature for people and the ecosystem, in general, is becoming important.

It can be stated that an important link in advancing the necessary social transformations is the understanding and assessment of interdependencies, and feedback links between social and ecological systems. The concept of sustainable de-

velopment emphasizes the need to ensure the existence of social and ecological systems to support human life [6]. These relationships must be understood and recognized both locally and globally. Only then will it be possible to develop and implement effective management systems and institutions [30]. According to the researchers, a completely new look at territorial planning and the use of territorial potential is needed, based on awareness of the value of nature. It was established that a socioenvironmental focus is necessary to regulate the sustainability of the ecosystem, which returns to the human system through ecosystem services [2]. The socio-environmental treatment to the development of a sustainable development strategy of territorial communities becomes an important innovative mechanism. It will help communities to realize their potential based on the sustainable development concept. A policy discourse sensitive to climate change, the ongoing global loss of biodiversity is required to increase the sustainability of urban socio-environmental systems [11]. It should also be sensitive to the social potential that the urban framework can provide.

It can be concluded that the main component of the vision of the city's development is the improvement of the environment. The Porto di Mare eco-district is a possibility to show the potential results of the sustainable recovery for territorial low-carbon energy planning strategies [12]. According to the researchers, significant socioenvironmental development will affect most of the city.

The example of Oberrosphe village in Hesse (Germany) demonstrates the use of the territory's potential, and the diverse nature of initiatives and institutional forms. It paves the way for Green Deal results in rural Europe [13].

It can be stated that military conflicts cause the devastation of territories and communities, and the destruction of territorial potential. This results in a deteriorated quality of life in view of instability. In this case, the responsibility for ensuring socioenvironmental sustainability should be a nationwide consensus [31]. The framework of a prosperous solution to the socio-environmental objective is strengthening the principles of equal international cooperation. It is closely related to many worldwide matters of the progress of civilization, and above all to the problem of war and peace [32].

6. Conclusions

Ensuring the growth of citizens' well-being is the primary right direction of the evolution of democratic states. This aim can be reached through high-quality public administration. The interaction of society with the surrounding natural environment is changing in order to ensure a sustainable future. Strategies for the sustainable development of territorial communities are implemented in the context of socio-environmental growth.

The main component of the vision of the development of EU cities and towns is improving the state of the environment and the social sphere. In this context, the reuse of old territories takes on a new significance for cities. The regeneration of these spaces with the intensification and mixing of their uses can create sustainable urban spaces that improve the excellence of existence. The application of an integrated modification methodology (IMM) is becoming mandatory in the elaboration of sustainable urban development design. The main goal of IMM design is the enhancement of the environmental characteristics of complex adaptive city systems by modifying their components and optimizing architecture. The social lever of IMM design depends on services, assistance, healthier lifestyles, solidarity, and sharing. The Porto di Mare eco-district project in Milan is an example of combining economic, social, and environmental aspects in the course of sustainable urban regeneration.

Ukraine's territorial communities are elaborating on sustainable development strategies. One of the strategic courses of the progress of territorial communities in Ukraine is a healthy environment and resource conservation. International projects and programs provide assistance in achieving the socio-environmental progress of territorial communities. Urban and rural communities of Ukraine implement successful practices of socioenvironmental development through the use of community potential. Russia's military aggression continues to damage the environment, infrastructure, housing, energy, and other facilities. The restoration of the affected territories is the necessary direction of socio-environmental development in Ukraine.

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ADAPTATION OF THE LEGISLATION OF UKRAINE IN THE FIELD OF GUARANTEEING INDIVIDUALS' INVESTMENTS TO THE LAW OF THE EUROPEAN UNION

Abstract. *The harmonization of the legislation of Ukraine with the law of the European Union and its adaptation to the key requirements of building a common European legal space covers various areas of legal regulation, one of which is the area of guaranteeing deposits of individuals. It is established that in conditions of increased economic instability, there is an increase in banking risks, the implementation of which may lead to problems in the solvency of banks and the possibility of non-receipt by depositors of their savings placed in bank accounts. In this regard, the protection of the rights and legitimate interests of depositors requires the introduction of additional guarantees by revising and improving the legal regulation of the system of guaranteeing deposits of individuals in Ukraine and ensuring the stability of the financial system which will speed up the processes of adaptation of Ukrainian legislation to EU law in the relevant sphere of legal relations. One of the priorities of the European course of Ukraine is the adoption, improvement*

and implementation of legal acts in the field of consumer rights protection, developed taking into account the acts of EU law, with the aim of implementing the constitutional obligation of the state and bringing the legislation of Ukraine in line with the unified approaches of the consumer rights protection system. Therefore, the purpose of the article, based on a systematic analysis using comparative legal, dialectical and other methods, is to analyze the main directions of adaptation of the legislation of Ukraine in the field of guaranteeing the contributions of individuals to EU law and to provide proposals for improving the legal regulation of the relevant relations. The article substantiates the necessity in the process of further rule-making activities in the field of guaranteeing deposits of individuals, it is important to study the positive foreign experience in protecting the rights and legitimate interests of depositors, in particular, the possibility of existence, along with the Deposit Guarantee Fund for individuals of state ownership, of non-state deposit guarantee funds, coordination of actions and exchanging information between banks as participants in the deposit guarantee system, optimizing the timing of refunds on deposits, lifting restrictions on deposits in banking metals, providing the opportunity for the depositor to receive compensation in the deposit currency, limiting the circle of persons whose deposits are not subject to reimbursement, etc., which will help increase public confidence in the banking system and accelerate the process of legal adaptation of the regulatory framework of Ukraine to the EU norms and standards in the field of securing deposits of individuals.

Keywords: *adaptation of Ukrainian legislation to EU law, guaranteeing deposits of individuals, protection of depositors' rights and interests, legal certainty.*

INTRODUCTION

The integration of Ukraine into the European Union (hereinafter referred to as the EU) is impossible without bringing domestic legislation into compliance with EU legislation, which is a prerequisite for the successful implementation of the European aspirations of our state. However, the adaptation process, which began since the entry into force of the Partnership and Cooperation Agreement between Ukraine and the European Communities and their member states[1], according to which a course was proclaimed to bring domestic legislation closer to EU legislation and law, is not easy, taking into accoun the significant volume normative material on all priority areas of adaptation.

In general, the system of European law is a combination of two interrelated legal subsystems – integration law and national legislation [2, p. 21]. At the same time, EU law closely interacts with international law, the norms of which are enshrined in the founding treaties of the EU, treaties on the accession of new states to these associations, agreements concluded by the EU with other subjects of international law [3, p. 30].

The sphere of banking law, according to the Law of Ukraine "On the national program for adapting the legislation of Ukraine to the legislation of the European Union" dated March 18, 2004 No. 1629-IV, belongs to the priority areas in which the legislation of Ukraine is being adapted to the legislation of the

European Union. Having signed the Association Agreement between Ukraine, on the one hand, and the EU, the European Atomic Energy Community and their member states, on the other hand, ratified by the Verkhovna Rada of Ukraine in September 2014 (hereinafter – the Association Agreement) [4], as well as having received the status of a candidate for EU membership, Ukraine pledged to provide a high level of consumer protection, including in the field of guaranteeing bank deposits.

Annex XXXIX to Chapter 20 of the Association Agreement sets out the EU legislative acts that need to be implemented into national legislation. In particular, these are EU acts aimed at regulating issues related to consumer guarantees, pre-trial consumer protection, consumer contracts, and e-commerce. Therefore, it is of particular importance to bring Ukraine's national deposit guarantee legislation in line with EU legislation and to harmonise the deposit protection system in Ukraine with EU principles, approaches and practices.

Today, in the context of growing economic instability, there is an increase in banking risks, the realisation of which may lead to problems with the solvency of banks and the possibility of depositors not receiving their savings placed in bank accounts. In this regard, the protection of the rights and legitimate interests of depositors of banking institutions requires the introduction of additional safeguards by reviewing the regulatory framework of the deposit guarantee system in Ukraine in line with current realities and ensuring the stability of the financial system.

Improvement of national legislation in the field of deposit guarantee should be carried out taking into account trends in the legislation of EU countries, international legal acts and determining the feasibility of introducing certain legal structures into Ukrainian legislation. In addition, when updating the mechanism of legal regulation of relations in the field of deposit guarantee, the developments of the Supreme Court in the relevant categories of cases should also be taken into account, since one of the important tasks of modernising the civil legislation of Ukraine is to bring its provisions in line with the requirements of legal certainty [5, p. 6]. In order for domestic legislation to meet the quality requirements, its provisions must contain clear and unambiguous wording, which will contribute to the achievement of the purpose of legal regulation of the relevant relations, simple and understandable perception of legal norms.

An analysis of recent research and publications shows that there is a constant focus on the issues of legal regulation of relations in the field of deposit guarantee. The legal aspects of the functioning of the system of guaranteeing deposits of individuals and the peculiarities of the legal status of the Deposit Guarantee Fund were the subject of research by V. I. Borisova, V. A. Vasylieva, H. V. Voitsekhovska, O. V. Dzera, A. V. Zelisko, O. I. Zozuliak,

N. S. Kuznetsova, I. M. Kucherenko, D. S. Leshchenko, V. V. Luts, T. V. Mazur, E. S. Khodak, M. S. Chemeris and other scholars. At the same time, without diminishing the significance of the scientific achievements of scholars, we note that certain issues of legal regulation of relations in the field of deposit guarantee remain insufficiently explored, which necessitates deepening and broadening the research in the context of reforming national legislation and its adaptation to EU law. In particular, it is necessary to analyse the international legal obligations assumed by Ukraine under the Association Agreement, as well as the compliance of Ukrainian legislation with the provisions of EU acts on deposit insurance.

The purpose of the article is to identify the main areas of adaptation of Ukrainian legislation in the field of deposit guarantee for individuals to EU law and to develop proposals for improving the legal regulation of the relevant relations.

1. MATERIALS AND METHODS

The methodology of the study is determined by its purpose and consists in determining the specifics of legal regulation of relations in the field of deposit guarantee for individuals, and also in formulating relevant recommendations for improving the civil legislation of Ukraine in the relevant area of relations by adapting it to EU law.

The article is based on the provisions of the EU and Ukrainian legislation in the field of deposit insurance, in particular: Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014, Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014, Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009, Directive 94/19/EEC of the European Parliament and of the Council of 30 May 1994, Civil Code of Ukraine No. 435-IV dated 16 January 2003, Law of Ukraine “On Amendments to Certain Laws of Ukraine on Ensuring Stability of the Deposit Guarantee System” No. 2180-IX dated 01 April 2022, Law of Ukraine “On Banks and Banking Activities” No. 2121-III dated 07 December 2000, Law of Ukraine “On the Individual Deposit Guarantee System” of 23 February 2012 No. 4452-VI, Decision of the Constitutional Court of Ukraine of 22 September 2005 No. 5-rp/2005, Decision of the Constitutional Court of Ukraine of 27 February 2018 No. 1-p/2018, etc.

The article uses general scientific and special legal methods of scientific knowledge, namely, comparative legal, philosophical and functional methods, dialectical and formal legal methods, and the method of analysis and synthesis.

The main method used is comparative legal method, which, being a method of studying the properties of legal phenomena, their similarities and differences by comparing them to establish trends in their development, was used to review the provisions of current Ukrainian legislation and the provisions of the

EU Council Directives on deposit insurance and consumer protection. This made it possible to outline common and distinctive features of the deposit insurance system and to propose positive European experience for implementation in Ukraine.

In turn, the philosophical and functional methods, as general scientific methods of cognition of complex legal phenomena and their patterns in the dynamic (activity) aspect, which reflect the universal connections of the existence of law, direct the direction and shape the way the cognitive process itself functions, made it possible to outline the prerequisites for developing an effective mechanism for legal regulation of relations in the field of deposit guarantee.

The dialectical method of cognition, based on the exceptional cognitive potential of the categories of dialectics, which are universal logical forms of thinking that reflect those general properties, relations and connections that exist in objective reality, accompanied the entire process of scientific research and made it possible, in the context of modernisation of Ukrainian civil legislation, to identify the main areas of adaptation of Ukrainian legislation in the field of guaranteeing deposits of individuals to EU law and to provide proposals for improving the legal regulation of the The categories of dialectics are the axiomatic foundations of any scientific worldview and should serve as the theoretical basis and conceptual framework of scientific research. In turn, the formal legal method, which is manifested in the analysis of sources of law, formal certainty of law, the procedure for systematising regulatory material and the rules of legal technique, was applied in the analysis of Ukrainian legislation and EU legal acts in the field of deposit guarantee.

Among other methods of studying the above issues, the author used the method of analysis and synthesis, the content of which is both the division of the subject matter of research into its component parts (parties, features, properties, relations, etc.) with a view to their detailed and comprehensive study, and the integration of the previously divided parts of the subject matter of research into a single whole. Using the methods of analysis and synthesis, which mutually presuppose and condition each other, the author examines individual elements within the integral structure of the mechanism of legal regulation of relations in the field of deposit guarantee.

The scientific ideas presented by the authors include the target, methodological, substantive, organisational and legal, and effective components.

2. RESULTS AND DISCUSSION

2.1 EU law in the field of deposit guarantee for individuals

The law of the European Union is a system of legal norms that govern the processes of European integration and the activities of the EU [6, p. 52]. EU law forms a supranational legal system and legal culture of a pan-European model,

an organised and structured system of legal norms, creating a kind of conglomerate of norms of member states and international norms [7, p. 197].

Ensuring a proper deposit guarantee system for individuals is one of the priority areas in the European Union, legal relations in which are regulated by the law of the European Union (EU acquis), namely:

– Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the resolution of insolvency of credit institutions and investment firms [8];

– Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes [9];

– Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 amending Directive 94/19/EC on deposit guarantee schemes as regards risk coverage and delayed payments [10];

– Directive 94/19/EEC of the European Parliament and of the Council of 30 May 1994 on deposit insurance schemes [11];

– Recommendation 87/63/EEC of the European Commission of 22 December 1986 on the introduction of deposit insurance schemes in the Community [12].

Annex XVII 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, of 16 September 2014, provides for the implementation of Directive 94/19/EEC, which was replaced by Directive 2014/49/EU.

2.2 Improvement of Ukrainian legislation in the field of deposit guarantee for individuals

The development and modernisation of national legislation is a permanent process of its progress, which occurs under the influence of various factors. Harmonisation of legal regulation is one of the ways to improve national legislation, which ensures modernisation of the common legal framework of the policy of states seeking to unite and cooperate in the relevant area [13, p. 2]. Therefore, the formation of a proper system of guaranteeing deposits of individuals and protecting the rights of depositors in Ukrainian legislation should be based on the current development of market conditions, the main international trends in this area, take into account the European experience and be consistent with the EU Directives.

Thus, on April 1, 2022, the Verkhovna Rada of Ukraine adopted the Law of Ukraine “On Amendments to Certain Laws of Ukraine Regarding Ensuring the Stability of the System of Guaranteeing Deposits of Individuals” No. 2180-IX [14], which applies to legal relations regarding the payment of guaranteed deposit compensation amounts to individuals in banks in respect of which, during the period of martial law in

Ukraine and three months from the date of its termination or cancellation, a decision was made to place them in the category of insolvent or to revoke the banking license and liquidate them on the grounds specified in part 2 of Art. 77 of the Law of Ukraine "On Banks and Banking Activity" [15].

In accordance with clause 3 of part 1 of Article 2 of the Law of Ukraine "On the Deposit Guarantee System" of 23 February 2012 [16], a deposit is considered to be funds in cash or non-cash form in the currency of Ukraine or in foreign currency that are attracted by a bank from a depositor (or received for a depositor) under the terms of a bank account agreement, bank deposit (deposit), including accrued interest on such funds. At the same time, funds raised by a bank from the issuance (issue) of a bank savings certificate or a bank deposit certificate are not a deposit. In turn, a depositor is an individual (including an individual entrepreneur) who has entered into or in whose favour a bank account or bank deposit agreement has been concluded, except for an individual (including an individual entrepreneur) who holds only a bank savings certificate (clause 4, part 1, article 2 of the Law of Ukraine "On the Individual Deposit Guarantee System"). However, pursuant to Article 1065 of the Civil Code of Ukraine [17], a savings (deposit) certificate confirms the amount of the deposit made to the bank and the rights of the depositor (certificate holder) to receive the deposit amount and interest set forth in the certificate from the bank that issued it upon expiration of the established term. In view of the existing contradictions, the relevant legislative provisions need to be harmonised. This also applies to the Decree of the President of Ukraine "On Measures to Protect the Rights of Individual Depositors of Commercial Banks of Ukraine" of 10 September 1998 No. 996/98 [18], the provisions of which in the context of defining the concepts of "deposit" and "depositor" contradict the relevant provisions of the Law of Ukraine "On the System of Guaranteeing Individual Deposits".

Adherence to the principle of legal certainty requires the legislator to be clear, understandable, unambiguous in legal provisions, their predictability (predictability), since otherwise it cannot ensure their uniform application, does not exclude unlimited interpretation in law enforcement practice and inevitably leads to arbitrariness (second paragraph of clause 5.4 5.4, para. 5 of the reasoning part of the Decision of the Constitutional Court of Ukraine No. 5-rp/2005 dated 22 September 2005 [19], paragraph nine of subparagraph 4.3, para. 4 of the reasoning part of the Decision of the Constitutional Court of Ukraine No. 1-r/2018 dated 27 February 2018 [20]). Terminology at the legislative level should ensure a uniform interpretation of legislative provisions in the relevant area of legal relations.

The content and scope of the right of individuals to bank deposits is a guarantee to receive their funds from the bank

on the terms and in the manner prescribed by the agreement. At the same time, in the event of a bank being declared insolvent, the depositors' rights are guaranteed by the reimbursement of the deposit amount.

The protection of the rights and legally protected interests of depositors and the creation of financial opportunities for reimbursement of their funds in case of failure of banks to fulfil depositors' claims for repayment are among the main functions of the Deposit Guarantee Fund established by the Decree of the President of Ukraine "On Measures to Protect the Rights of Individual Depositors of Commercial Banks of Ukraine" No. 996/98 dated 10 September 1998.

Currently, the powers of the Deposit Guarantee Fund, the procedure for paying out deposit compensation, and the legal, financial and organisational framework for the functioning of the deposit guarantee system are set out in the Law of Ukraine "On the Deposit Guarantee System", which aims to protect the rights and legitimate interests of bank depositors, strengthen confidence in the Ukrainian banking system, encourage the attraction of funds to it, and ensure an effective procedure for removing insolvent banks from the market and liquidating banks. In addition, the rights and obligations of banks participating in the Deposit Guarantee Fund, including agent banks, in terms of the functioning of the deposit guarantee system are stipulated by the Instruction on the Procedure for the Protection of the Rights and Legally Protected Interests of Depositors by the Deposit Guarantee Fund, approved by the decision of the Executive Directorate of the Deposit Guarantee Fund dated 26 May 2016 No. 825 [21]. This Instruction also approves the Certificate on the Individual Deposit Guarantee System, which is a mandatory document for the depositor to read before entering into an agreement. The bank is also obliged to familiarise the depositor with the Information after the conclusion of the agreement at least once a year in the manner determined by the parties in the agreement. The certificate contains general information on the guarantee system, the maximum amount of compensation, the timeframe for commencing payments, and limitations of guarantees.

An important provision of the Law of Ukraine "On Amendments to Certain Laws of Ukraine on Ensuring the Stability of the Deposit Guarantee System" dated 1 April 2022 No. 2180-IX is that for the duration of martial law in Ukraine and for three months from the date of its termination or cancellation, the Deposit Guarantee Fund reimburses each bank depositor in the full amount of the deposit, including interest accrued as of the end of the day preceding the day of the start of the bank's withdrawal from the market. At the same time, 3 months after the day following the day of termination or cancellation of martial law in Ukraine, the maximum amount of compensation to depositors for all deposits in one bank will be at least UAH 600 thousand, regardless of the number of deposits in the

bank, and may be increased by the decision of the Administrative Board of the Deposit Guarantee Fund. The relevant provisions of the Law of Ukraine "On Amendments to Certain Laws of Ukraine on Ensuring Stability of the Deposit Guarantee System" apply only to banks that are classified as insolvent during the period of martial law in Ukraine and three months after its termination or cancellation.

In this context, it should be noted that the introduction of full coverage of bank deposits by guarantees, the so-called "blanket guarantee", is a global practice. In particular, such a step was taken during the global credit crisis of 2008 in Ireland, Denmark, Iceland and Germany, when the state guaranteed the repayment of the full amount of retail deposits during the crisis period (in some countries – up to 24 months). This possibility is also envisaged by the Core Principles for Effective Deposit Insurance Systems developed by the Basel Committee on Banking Supervision in cooperation with the International Association of Deposit Insurers [22].

In addition, specific ways to improve the efficiency of the deposit insurance system are reflected in Directive 2009/14/EC of the European Parliament and of the Council of 11 March 2009 and Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014. Thus, these directives provide for the procedure of direct liquidation of banks with the need to pay guaranteed compensation to their depositors, which is one of the key standards of bank deposit guarantee in the EU. It is also important to take into account the European experience of extending the guarantee system to all institutions entitled to attract funds from individuals and developing a guarantee system for non-bank financial institutions.

In this context, it should be noted that the Law of Ukraine "On Amendments to Certain Laws of Ukraine Regarding Ensuring the Stability of the Individual Deposit Guarantee System" dated April 1, 2022 strengthens the provision of financial stability of the Individual Deposit Guarantee Fund by including the State Savings Bank of Ukraine Joint Stock Company to the system of guaranteeing deposits of individuals and acquiring the status of a participant of the relevant Fund. At the same time, credit unions as financial institutions whose exclusive activity is the provision of financial services, in particular, attracting contributions (deposits) of credit union members to deposit accounts, the relations of depositors with which are determined by contracts concluded between them, are not included in the system of guaranteeing deposits of individuals. [23, p. 32]. Therefore, taking into account the fact that the financial market in Ukraine is represented not only by banks, but also by non-banking financial institutions, the question arises about the possibility of including depositors of credit unions in the list of persons subject to the Law of Ukraine "On the System of Guaranteeing Deposits of Individuals".

Reimbursement of funds by the Individual Deposit Guarantee Fund takes place in the specified order and sequence no later than 20 working days (for banks whose database of depositors contains information on more than 500,000 accounts – no later than 30 working days) from the day the procedure for withdrawing an insolvent bank begins from the market or from the day of the start of the bank liquidation procedure – in case the National Bank of Ukraine makes a decision to revoke the banking license and liquidate the bank on the grounds specified in Part 2 of Art. 77 of the Law of Ukraine "On Banks and Banking Activities". At the same time, it is important that the reimbursement of funds for a deposit in foreign currency is carried out in the national currency of Ukraine after the transfer of the amount of the deposit at the official exchange rate of the hryvnia to foreign currencies, established by the National Bank of Ukraine at the end of the day preceding the day of the start of the procedure for the withdrawal of the insolvent bank from the market by the Fund and implementation temporary administration in accordance with Art. 36 of the Law of Ukraine "On the System of Guaranteeing Deposits of Individuals". In the event that the National Bank of Ukraine makes a decision to revoke the banking license and liquidate the bank on the grounds specified in Part 2 of Art. 77 of the Law of Ukraine "On Banks and Banking Activities", reimbursement of funds for a deposit in foreign currency is carried out in the national currency of Ukraine after the transfer of the amount of the deposit at the official exchange rate of the hryvnia to the foreign currency, established by the National Bank of Ukraine as of the end of the day preceding the start of the liquidation procedure the bank.

In addition, the current legislation of Ukraine provides a list of conditions under which the Individual Deposit Guarantee Fund does not reimburse depositors. Yes, in accordance with Part 4 of Art. 26 of the Law of Ukraine "On the System of Guaranteeing Deposits of Individuals", the Deposit Guarantee Fund of Individuals does not reimburse funds:

1) transferred to the bank in trust management;

2) for a deposit of less than 10 hryvnias;

3) placed on deposit with the bank by a person who is a person related to the bank or was such a person during the year before the day of the decision by the National Bank of Ukraine to classify such a bank as insolvent;

4) placed on deposit with the bank by a person who provided professional services to the bank as an auditor, appraiser, in the event that one year has not passed from the date of termination of services to the date of adoption by the National Bank of Ukraine of the decision to classify such a bank as insolvent;

5) placed on deposit by the owner of a significant share of the bank;

6) for deposits in the bank, according to which depositors on an individual basis receive interest from the bank un-

der contracts concluded on terms that are not current market conditions, or have other financial privileges from the bank;

7) for a deposit in a bank, if such a deposit is used by the depositor as a means of ensuring the fulfillment of another obligation to this bank, in the full amount of the deposit until the day of fulfillment of the obligations;

8) for deposits in branches of foreign banks;

9) by deposits in bank metals;

10) placed on accounts that are under seizure by court decision;

11) for a deposit, the fulfillment of requirements for which has been suspended in accordance with the Law of Ukraine "On Prevention and Counteraction of Legalization (Laundering) of Criminal Proceeds, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction".

At the same time, legal entities and individuals whose funds are not guaranteed, after the National Bank of Ukraine has adopted a decision to revoke the banking license and liquidate the bank, have the right to notify the Deposit Guarantee Fund of individuals about their claims to the bank. The satisfaction of such requirements is carried out at the expense of the funds received as a result of the liquidation and sale of the bank's property in the order specified in Art. 52 of the Law of Ukraine "On the System of Guaranteeing Deposits of Individuals".

It is also important to note that the Decision of the Executive Directorate of the Fund for Guaranteeing Deposits of Individuals "On the Peculiarities of the Payment of the Guaranteed Amount of Reimbursement during the Period of Martial Law in Ukraine" dated March 24, 2022 No. 201 [24] established that during the period of martial law in Ukraine, the bank the agent ensures, at the request of the depositor, that the guaranteed amount of compensation is credited to the depositor's account opened at the agent bank without the depositor's personal presence at the institution of the agent bank, if the depositor who receives the amount of compensation is at the same time a client of the agent bank and the agent bank has identified him and verification.

In this context, it should be noted that the guarantee of individual deposits by the relevant Fund is carried out by concluding a cooperation agreement on the payment of guaranteed compensation amounts between the Individual Deposit Guarantee Fund and agent banks. According to the agreement on the payment of guaranteed compensation amounts, as noted by H. V. Voitsekhovska, one party (the Deposit Guarantee Fund of Individuals) transfers funds for the realization of the guaranteed amounts of deposits within the time limits specified by law, and the other party (agent bank) within the time limits, determined by law, performs actions regarding the payment of guaranteed sums to the depositor under the bank deposit agreement, the term of which has expired and on the condition of liquidation of the bank [25, p. 155–156].

The detailed regulation of this contractual structure is contained in the Regulation on the procedure for determining agent banks of the Individual Deposit Guarantee Fund, approved by the Decision of the Executive Directorate of the Individual Deposit Guarantee Fund dated July 12, 2012 No. 6. However, this Regulation does not at all regulate issues regarding the legal consequences of non-compliance or improper performance by the parties of this contract, in particular, in terms of late payments and other violations of the terms of the contract, which must be eliminated by imposing civil liability measures in the form of a penalty for each day of delay in the performance of the contract. It is also considered expedient at the level of the subordinate legal acts of the Deposit Guarantee Fund of Individuals to determine the grounds for terminating the cooperation agreement on the payment of guaranteed compensation amounts in the event of its improper execution by the agent bank, which will make it possible to quickly decide with another agent bank and in appropriate terms to arrange payments to depositors.

In the field of guaranteeing deposits of individuals, it should be noted that despite the fact that the Civil Code of Ukraine in an imperative form defines the need to obtain the consent of the creditor when transferring debt, in clause 3.4.5 of the Regulation on the withdrawal of an insolvent bank from the market, approved by the decision of the executive directorate of the Deposit Guarantee Fund of natural persons dated July 5, 2012 No. 2, it is indicated that the debt transfer agreement is concluded without the need to obtain the consent of creditors (depositors). In this case, amendments to already concluded agreements with creditors (depositors) are not required. The receiving bank acquires all the rights and obligations of the debtor to the relevant creditors (depositors) of the insolvent bank in the amount and on the terms that existed at the time of the transfer of these rights and obligations. It is believed that such a contradiction should be eliminated by making changes to this by-law of the Fund and by providing for the obligatory consent of the creditor for such a transfer. Such changes will contribute to ensuring the unity of judicial practice in this area of legal relations and the preservation of established provisions of civil legislation at the level of subordinate regulatory legal acts.

CONCLUSIONS

Introduction at the legislative level by the Law of Ukraine “On Amendments to Certain Laws of Ukraine on Ensuring the Stability of the System of Guaranteeing Deposits of Individuals” dated April 1, 2022 No. 2180-IX of the full refund guarantee for bank deposits during the period of martial law in Ukraine and within three months from the date of its termination or cancellation is an additional mechanism for supporting banks by the state and protecting the interests of depositors in the event of withdraw-

al of insolvent banks from the market. The provisions of this law are generally consistent with the provisions of Directive 2014/49/EU of the European Parliament and the Council of April 16, 2014 regarding deposit guarantee schemes, however, the corresponding deposit guarantee system for individuals is provided exclusively for relations involving banks. In this regard, in the process of further rule-making in the field of guaranteeing deposits of individuals, it is important to study the positive foreign experience of protecting the rights and legitimate interests of depositors, in particular, regarding the possibility of non-state deposit guarantee funds existing alongside the Deposit Guarantee Fund of natural persons. coordination of actions and exchange of information between banks as participants in the deposit guarantee system, optimization of deposit reimbursement terms, removal of restrictions on deposits in bank metals, provision of the opportunity for the depositor to receive reimbursement in the currency of the deposit, limitation of the circle of persons whose deposits are not subject to reimbursement, etc., which will contribute increasing public trust in the banking system and will accelerate the processes of legal adaptation of the normative and legal framework of Ukraine to EU norms and standards in the field of guaranteeing deposits of individuals.

The adaptation of Ukrainian legislation to EU law in the context of European integration processes in Ukraine will definitely contribute to the development of the sphere of guaranteeing deposits of individuals, taking into account European experience and national characteristics. A clear legal framework that meets European standards is extremely necessary to ensure effective regulation of relevant legal relations, strengthening of the banking sector's own institutions, raising the standards of the provision of banking services, ensuring proper protection of depositors' rights, etc. Understanding the importance and complexity of this process, the successful application of approaches and methods to the multifacetedness of the European legal field, as well as taking into account the experience of EU member states in this area, will give the necessary positive result.

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THE UPDATED CIVIL CODE OF UKRAINE AS A BASIS OF EFFECTIVE INTERACTION BETWEEN THE MODERN STATE AND CIVILIAN SOCIETY[1]

The social purpose and social value of law lies in the fact that it is designed to govern relations in society between individuals and certain social groups. Evidently, the role and significance of the adoption and implementation of the Civil Code of Ukraine1 in 2003 should not be underestimated. This Code replaced the outdated Civil Code of the Ukrainian SSR of 1963, designed to be applied to social relations that existed under radically different socio-economic conditions, a different political forma-

[1] Based on the article Pohribnyi, S. O., & Kot, O. O. (2021). Updating the Civil Code of Ukraine as a guarantee for effective interaction between the state and society. *Journal of the National Academy of Legal Sciences of Ukraine*, 28(1), 106–114.

tion. The Civil Code of Ukraine was originally designed to regulate economic relations in the conditions of economic relations built on a free market as opposed to a planned economy.

The Civil Code of Ukraine, in contrast to the Civil Code of the Ukrainian SSR, became the code of private law, which focused its regulatory influence on a human, a private person, with his or her interests, aspirations, desires. In a functioning civil society, the Civil Code of Ukraine has taken a leading place as the most important legal act that ensures and guarantees the full existence of a private person in the Ukrainian state. For undemocratic political regimes, criminal legislation always remains the core, which defines the limits of permissible freedom (unfreedom), the existence and free use of human rights and freedoms; for such a state, there are no insurmountable boundaries in the sphere of a person's private existence, just as there is nothing private in the life of an individual for which any aspirations are not recognized outside the interests of the state and such a totalitarian society.

As history demonstrates, only in an open society dominated by liberal values can human thought develop freely, with conditions appropriate for fruitful creativity and the birth of innovation. It was open societies that demonstrated their advantages over closed non-free societies, which in the long run have always lost out to democratic political regimes. Accordingly, the main task of the Civil Code is to create conditions for the development of a private person, his or her creativity, and the flourishing of their abilities and talents.

The Civil Code of Ukraine, adopted on January 16, 2003 (hereinafter referred to as "the CC of Ukraine"), has become a decisive step that determined the line of development of the entire legal system of Ukraine towards civilized development. The CC of Ukraine has radically changed the paradigm of legal regulation of civil relations. If, prior to its entry into force, the main (if not the only) model of legal regulation of such relations was their external regulation by the state with the admission of only dosed so-called "autonomous" regulation carried out by participants in such relations, then with the entry into force of the CC of Ukraine, the emphasis was placed differently. The interpretation of the Part 2 Article 6 of the CC of Ukraine suggests that the rules of this Code contain precisely dispositive provisions, if the opposite does not follow from the content of the act of civil legislation, as well as if the imperative nature of a certain provision follows from its content or from the essence of relations between the parties. Attracting contractual means to regulate civil relations opened wide opportunities for improving civil law and general boost in the efficiency of the mechanism of legal regulation of civil relations, increased the role of the contract in civil law in the status of a regulator of civil relations, expanded the freedom of contract, included initiative as a driving force for the development of an open society.

Twenty years of functioning and application of the first and main act of codification of Ukrainian civil legislation clearly demonstrated the progressiveness of the CC of Ukraine; on the other hand, the experience of its application allowed identifying certain shortcomings, weaknesses, and gaps in the introduced mechanism of legal regulation of these relations. The global financial crisis that has engulfed Ukraine, the permanent economic crisis in the state, excessive regulation of certain public relations, numerous examples of maintaining in the legislation the possibility of unjustified state interference in private relations set the Ukrainian legislator an urgent task of preparing and conducting another systematic change in civil legislation, the state of which indicates that currently it fails to meet the modern realities and needs. Ukraine also needs to join the processes of unification of private law that have been going on across the European continent for last thirty years and have already ended with the creation of numerous new model laws in the field of private law that meet the requirements for the development of modern economies.

In Ukrainian legal science, such a process of updating the Civil Code of Ukraine has already received an apt name – recodification of civil legislation, which makes provision for its modernization, harmonization with European achievements in the science of private law, so that its condition meets the requirements and needs of today. The updated code should become an engine for the development of Ukraine. It is worth considering that for almost two decades since its adoption, numerous amendments and modifications have been made to the Code, which quite often did not consider either the content or spirit of this act, or the principles of its construction, which was repeatedly proved both in purely scientific and in research to practice studies[1].

It is precisely the lawmakers' awareness of the need for a comprehensive doctrinal approach to amending the Civil Code of Ukraine that should be welcomed instead of making "patchwork" changes, since a long-awaited discussion has commenced at the official level, resulting in the creation of a draft concept for updating the Civil Code of Ukraine at the first stage[2].

Admittedly, since the declaration of its independence, Ukraine has been creating the legislation of an independent country, which has chosen the irreversible path of building a democratic state governed by the rule of law; there is not only a search for effective mechanisms

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for the legal regulation of certain social relations, but also a search for the ideal model according to which the legislator wants to regulate these relations. General comments on the process of updating the Civil Code of Ukraine. The study identified the general shortcomings of the current state of civil legislation.

Insufficiently detailed legal regulation of certain public relations may not always indicate a shortcoming of a legislative act. If the mechanism of legal regulation of these relations works effectively, then there is no need for their more detailed regulation. If the content of a legal provision is understood unambiguously by bona fide participants in civil relations, there is also no need to supplement its content. However, if the provision allows for an ambiguous interpretation (with a conscientious attitude towards determining its actual content), to abuse of the rights and opportunities that it provides, which has found manifestation in ambiguous or inconsistent judicial practice, there is an urgent need to eliminate the incompleteness of such a legal provision. The imperfection of the introduced mechanism of legal regulation of certain public relations indicates that the rule of law is incapable of leading public relations to the ideal state that the legislator had in mind during its introduction and to which its repeated and uniform application should have led[1]. The legislator must justify the need to introduce each new provision with arguments on the need to achieve those goals that do not contradict the considerations of the free functioning of civil transactions, for example, considerations of ensuring the interests of the weaker party, or the need to ensure stability in a particular area of economic relations.

Thus, the experience of the financial crisis of 2008–2009 necessitated the introduction of a legislative restriction on the possibility of obtaining loans in foreign currency by individuals-residents of Ukraine; in addition, credit institutions have been additionally obliged to give preliminary clarification of the conditions for providing credit funds, the interests of the weaker party in credit relations – the borrower – were also considred to a certain extent, etc. The above has forced to limit the possibility for credit institutions to introduce unfair, sometimes enslaving conditions for consumers in loan agreements, which indicate a considerable imbalance in the rights and obligations of its parties. The public movement, directed against the imposition of all currency risks in connection with the devaluation of the national currency of Ukraine to foreign currencies exclusively on consumers of banking services – individuals, also forced the legislator to seek ways to change the existing mechanism of legal regulation in order to factor in the interests of this part of society – as a weak party in the described relations.

Therewith, one should take note here: the right of the legislator to regulate cer-

[1] Kuznietsova, N. S., & Suleimenov, M. K. (Eds.). (2018). *Legal regulation of entrepreneur activity in post-soviet period*. Kharkiv: Pravo.

tain public, private law relations in their content is not arbitrary, but must be conditioned by a certain urgent public need pending to be satisfied. The introduction of legislative regulation of certain private relations is always an intervention of the state in these relations, it is a manifestation of state coercion. In itself, the introduction of regulation of public relations cannot be the purpose of such actions on the part of the state: the task of legislative regulation of private relations is to establish acceptable and understandable boundaries, within which free initiative should have a certain freedom for its implementation.

Only when the model of real social relations that develop in the practice of applying certain legislative prescriptions does not correspond to the ideas of justice and the public good, and there is a certain social or economic tension in society, there is an urgent need for state intervention in such relations in order to change them in accordance with the desired ideal model of the existence of such relations. For example, the use of cars in Ukraine that are not cleared in accordance with the established procedure, imported into the country in circumvention of the introduced customs rules, leads to many unsolvable problems related to determining the person responsible for the negative consequences of operating such a car, etc.

The law should be designed to be applied repeatedly over a long period of time, and should be sufficiently abstract in its content to be effective even in case of subsequent changes in the sphere of regulated economic relations. The law should be stable and designed for the sustainable development of society and the economy; it should be predictable for the market, making provision for the evolutionary, not revolutionary development of the country. The law should prevent attempts to use it in bad faith, making it impossible to abuse the stipulated rights, as well as prevent actions committed solely for the purpose of inflicting harm on another person. Therefore, the civil law should also perform a certain predictive function: not only to eliminate existing legislative shortcomings, but also to strive to prevent the occurrence of such shortcomings in the introduced mechanism of legal regulation of civil relations in the foreseeable future. This obliges the legislator to identify and take into account trends in the development of the economy, society, and the state, directing them towards a certain desired model of a just state where civil society develops freely.

Therewith, the authors of this study are convinced that not all the provisions of the CC of Ukraine require mandatory changes. Thus, it is proposed to be extremely careful about the changes to Section I “Main Provisions” of Book 1 of the CC of Ukraine. In particular, in Article 1 of the CC of Ukraine, the phrase “civil relations” should be moved to the end of this sentence, since civil relations are those relations that meet all the criteria defined in Part 1 of said article. Such public relations should be based on

legal equality, free expression of will and property independence of their participants. Otherwise, there is a deceptive interpretation of the content of this definition, that any personal non-property and property relations are civil. In reality, this is not the case. It is proposed to replace such a feature as "property autonomy", which should be inherent in all civil relations, with a more accurate phrase – "property insulation". Quite often, in business structures, one private legal entity is not property-independent from another person. Thus, according to its statutory documents, a person may bear subsidiary liability for another person, or otherwise be involved in the relationship of liability for its debts. That is, the sign of property independence is not inherent in all participants in civil relations; therefore, the phrase "property independence" as a sign of all civil relations is not sufficiently correct.

However, the sign of each participant in civil relations is exclusively the property insulation of one person from another, since the appurtenance of certain rights and property to a certain person can always be objectively determined with varying accuracy. All participants in civil relations are exercise property insulation from each other, even in the case when one person is the owner of certain property, and the other is merely its user.

Evidently, over all the years of operation of the Civil Code of Ukraine, the Ukrainian legislator has created a considerable array of legislative acts in the field of regulating civil relations. Such rules turned out to be included in numerous legislative acts with their unique structure, logic, and terminology, which sometimes differ quite substantially from the ideas and solutions embodied in the CC of Ukraine. It is necessary to restore the status of the Civil Code of Ukraine as a core act for all public relations with private law content. The CC of Ukraine is the basis for the construction and functioning of private law as a system of legislation. The consistency of provisions and rules determines their interaction and correlation in terms of strength and scope of application. The authors of this study consider it appropriate to supplement the content of the CC of Ukraine with the general provisions of special laws on land lease, consumer rights protection, from the content of the provisions of the Housing Code of the Ukrainian SSR – provisions on the housing rental agreement, from other special laws – rules on consumer lending, acquisition of rights to objects of unfinished construction, including housing constructions, etc.; admittedly, this should apply to rules of a private law nature.

To implement the idea of the Civil Code of Ukraine as a core act for private law, it is necessary to review the mechanism for ensuring the status of the Civil Code of Ukraine as the main act of civil legislation of Ukraine. Evidently, the mechanism laid down in Part 2 Article 4 of the Civil Code of Ukraine turned out to be ineffective: the text of the Civil Code of Ukraine was amended by any

laws without considering the specific features of the mechanism of civil law regulation of such relations. It may be necessary to implement the idea of dividing laws into ordinary and constitutional ones, in order to refer codes as the main acts of various branches of legislation to constitutional laws. However, without appropriate amendments to the Constitution, such an idea is impossible to implement.

An obvious disadvantage of the current civil legislation is the lack of general provisions prohibiting discrimination. In developed democracies, special attention is paid to the implementation of the prohibition of discrimination in all its manifestations at the legislative level. The practice of the ECHR proves that both Ukrainian legislation and the practice of its application do not meet the criteria for prohibiting discrimination. However, the issue of banning all forms of discrimination remains outside the scope of the CC of Ukraine. Evidently, following the Constitution, the CC of Ukraine, as a code of civil society, should define the general principles of anti-discriminatory legislation. Respect for the individual and his or her personality should be based on the equality of all persons before the law and in rights, in the state, and in society.

The current CC of Ukraine does not take into account the specific features of the status of a consumer and an entrepreneur (merchant, i.e., a professional participant in relations), etc. The CC of Ukraine should be designed both for relations in which their participants set the goal of making a profit, and for relations in which participants do not pursue such a goal. Given that the current model of building Ukrainian legislation is not described by the idea of dualism of private law, the Civil Code of Ukraine should certainly contain the provisions of trade law, which are placed in the Trade Code in countries where the concept of dualism of private law is realized (Germany, France, etc.). Dualism of private law is not a modern trend in constructing a system of civil legislation; thus, relatively modern codifications of civil legislation – the civil codes of the Netherlands, the province of Quebec, the Czech Republic, the updated civil code of the Republic of Moldova and others have incorporated special provisions of trade law [9]. The modern example of non-state systematization of civil law – DCFR 0 does not make provision for the implementation of the dualism of private law. Accordingly, the special status of a merchant (entrepreneur) and a consumer should be clearly indicated in the general provisions of the CC of Ukraine.

The basis of modern legal systems of European countries is Roman private law since all of them have undergone its reception to a certain degree. Roman law underlies modern law, it is a part of the current legal doctrine and legal culture, and the education of a future lawyer is impossible without mastering the legal heritage of Ancient Rome. This means that one should not worry about and deny the use of Latin both in the legislation

and in the practice of its use, just as Latin is acceptable in medicine. The use of Latin in the text of the law is capable of eliminating ambiguities in wording, as well as double interpretation. A classic example: the title of Chapter 32 "The Right to Use the Property of Another" used in the Civil Code of Ukraine misleads the law enforcement officer, giving the impression that the rules contained in this subsection are subject to application to all cases of the right to use the property of another (for example, on lease rights), which is erroneous. Only a systematic and doctrinal interpretation of the content of the legal provisions of this chapter gives grounds for concluding that they are designed exclusively for application to easement relations. Accordingly, changing the title of this chapter to "Servitudes" (easements) would make it easier to understand its text, eliminate ambiguities, and eliminate double interpretation.

Therefore, to ensure that the text of the law is concise and corresponds to European terminological traditions, a wider use of Latin legal vocabulary is proposed, such as: gestor – principal, servitude (easement) – servitor (easement holder), superficiality – superficiary, emphyteusis – emphyteuta, etc. Unjustified in general for civil law is the application of such a feature as "economic", applied to any civil law definitions and legal categories. This feature does not carry any semantic load in private law and is superfluous. In particular, it is also unjustified to refer to a company, which is usually understood as an organization created for the commercial purpose of making a profit, and only a simple company, as an exception to the above rule, does not make provision for the creation of a legal entity as a legal form.

As indicated in the draft Concept, a systematic update of the Book One, as well as the CC of Ukraine in general, is possible only if the Economic Code of Ukraine is cancelled. The latter does not correspond to the parameters of acts regulating business relations, which by their nature are primarily private law. Therefore, it is quite reasonable to introduce amendments to the CC of Ukraine, which are conditioned by the abolition of the Economic Code of Ukraine (hereinafter referred to as "the EC of Ukraine"). As for fundamental changes, these are changes in three areas of legal regulation: legal entities, ownership of property by public legal entities and institutions, as well as certain types of contracts. Legal entities are subjects of relations, so the construction "legal entity" makes provision for the insulation of property, which can occur together with or without the association of persons (Article 81 of the CC of Ukraine).

Initially, at the stage of preparing the draft, the CC of Ukraine did not make provision for the possibility of the existence of other legal forms, with the exception of those established in the CC of Ukraine. However, to achieve the so-called "legislative compromise", the list of legal forms of legal entities in Arti-

cle 83 of the Civil Code of Ukraine was defined as open. Therefore, at the stage of updating civil legislation, it is quite logical to return to consolidating the list of legal forms of legal entities in the Civil Code of Ukraine and thus harmonize Ukrainian legislation with European approaches to regulating the institution of a legal entity. Given the rather large number of legal entities that currently operate in legal forms not stipulated by the CC of Ukraine – this refers to enterprises as subjects of law (state and municipal enterprises, so-called "collective property enterprises", private enterprises, enterprises with foreign investments, etc.) and their associations (corporations, consortia, concerns, etc.) – it is advisable to establish a certain transition period to bring the legal forms of legal entities into compliance with the requirements of the CC of Ukraine.

Property transferred to public legal entities and institutions. The EC of Ukraine regulates property relations in a form that was inherent in the administrative-command economy, when property was transferred to a legal entity not in ownership, but in titles that were its peculiar analogue, but with appropriate restrictions. The subject of law, to whom the property was granted on the right of economic management or on the right of operational management, was deprived of the right to freely dispose of it or respond to such property under its obligations. In accordance with the international obligations assumed by Ukraine, national legal regulation should comply with the established international approaches not only to the legal forms of legal entities, but also to property relations. Therefore, the authors of this study believe that it is advisable to extend general approaches to the use of other people's property to the use of property by public legal entities and institutions – first of all, this refers to renting and managing property. The Institute of property management should perform the functions of ensuring the transfer of property by the owner (in particular, the state or the relevant municipality) to legal entities under public law and institutions in order to perform their respective functions.

A completely logical solution is to return a number of contracts that were forcibly excluded from the CC of Ukraine in 2003 to the field of civil law regulation in order to form and fill in the text of the EC of Ukraine. This refers, first of all, to supply contracts, barter, leases, certain provisions on mediation, transportation, contract agreements, contracts in the field of banking, etc.

Supporting the ideas laid down in the draft Concept of updating the Civil Code of Ukraine, it is advisable to develop individual proposals at the stage of preparing the draft law in a particular way. Thus, for the development of paragraph 1.4. of the draft Concept, it should be noted that the urgent abolition of the EC of Ukraine necessitates the exclusion of provisions on the subsidiary application of the EC of Ukraine to the regula-

tion of any relations in the field of economic management from Article 9 of the CC of Ukraine. Thus, all relations that were previously covered by an unknown "sphere of management" are included in the sphere of regulation of the CC of Ukraine. Such relations should be governed by the CC of Ukraine as provisions of direct action, and not subsidiarily, taking into account some of their features. Certain features of legal regulation should be provided for relations involving merchants (entrepreneurs), that is, individuals whose main purpose of activity is to make a profit, both among themselves and with consumers.

It is also necessary to agree with the idea of improving the provisions on compensation for non-pecuniary damage (to 1.7. of the Concept). In this study, it is proposed to limit the scope of possible application of such a method of protection as compensation for non-pecuniary damage, making this remedy not common to all civil relations, but special. During its functioning in the Ukrainian legal system, this institution has acquired an interbranch character, its legal nature and scope of its application have turned out to be completely unclear and contradictory at the current stage of legal development. According to the Law of Ukraine "On the Procedure for Compensation of Damage Caused to a Citizen by Illegal Actions of Bodies Engaged in Intelligence Activities, Pre-Trial Investigation Bodies, Prosecutor's Office and Court"1 – moral damage is actually similar to the tax liability of the state, which depends on the period of stay of an individual under investigation and court; to determine its minimum size, it is not actually necessary to find out the nature and degree of moral suffering of a person, etc. In labour relations – causing non-pecuniary damage to an employee in case of violation of his or her labour rights is virtually presumed. In contractual civil relations, the use of such a method of protection as universal is quite common, which is also unjustified. The current version of Part 1 Article 23 of the Civil Code of Ukraine stipulates that a person has the right to compensation for moral damage caused as a result of violation of any of his or her rights.

Supporting the idea of objectifying the general principles of its compensation, it is necessary to limit the scope of application of compensation for non-pecuniary damage and when preparing relevant amendments to the CC of Ukraine, it is proposed to stipulate that the right to its compensation would arise only in case of a violation of not any civil rights of a person, but only non-property rights of an individual. Accordingly, in case of violation of any other civil rights, as a general rule, the right to compensation for non-pecuniary damage will not arise. An exception should be made for relations involving consumers, in labour relations for the affected employee, in tort relations – in case of harm to the health of the injured person and in case of his or her death (with the mandatory definition of an exclusive list of

persons who have the right to apply for its compensation). Compensation in cash for non-property damage should not replace the obligation to fully compensate for property damage, supplement it with the hidden purpose of compensation for those losses that are difficult to prove, etc.

Developing the idea of the concept of the need to take into account the changes that have occurred in the procedural legislation regarding the right of the court to determine, at the request of the plaintiff, a method of protection that is effective, but not stipulated either by law or contract, the authors of this study consider it appropriate to introduce a new procedure for protecting the jurisdictional nature of civil rights in the legislation. Thus, foreclosure on the subject of a mortgage based on a mortgage clause does not occur in accordance with a court or a notarized procedure, providing protection of the rights and interests of the mortgagee. Chapter 3 of the Book One of the CC of Ukraine stipulates that civil rights and interests shall be subject to protection in one of the following protection procedures: judicial, notarial, administrative, and in self-defence.

The Registrar of Real Rights does not act as a body of state or local self-government (that is, as a subject of power), but as a result of the registration action, a certain right is actually recognized, in particular, for the mortgagee on the subject of mortgage. That is, the method of protection stipulated in Article 16 of the CC of Ukraine is applied in accordance with the procedure established by a mortgage agreement with a mortgage reservation, or an agreement on foreclosure on the mortgage subject in accordance with the Law of Ukraine "On Mortgage". The general provisions on the application of such an unnamed procedure for the protection of civil rights and interests should also be reflected in the relevant chapter of the CC of Ukraine.

Determining the urgent directions for improving civil legislation, its updating should provide the most unambiguous answers to existing requests from law enforcement practice, which are absent from the current legislation and which the relevant judicial practice is forced to seek. Thus, the issue of fair regulation of relations in case of a refusal of a contract participant to perform its obligations in the currency stipulated by the parties in the text of the agreement remains quite relevant. The next pressing issue is the following: the extension of the rules on liability for non-performance of a monetary obligation to any type of delay of the debtor was a reaction of society, the economy and the legal community to the crisis of total non-payments on obligations and the lack of an effective mechanism for executing court decisions. In fact, the rule of Article 625 of the CC of Ukraine is currently applied as a provision on the astreinte. Obviously, the court does not have the right to refuse to grant judicial protection when human rights fairly require it. However, with such a spreading interpretation, the court

eliminates the existing gap in the current legislation, which the legislator is incapable of filling with legislative regulation in a timely manner.

Evasion from performing credit obligations has become a massive reaction of individuals to the lack of an effective and transparent mechanism for bankruptcy of an individual. As a protection against usury on the part of individual credit institutions, borrowers, for their part, resort to abuse of their rights, including abuse of the right to claim, and other procedural rights. Ukraine should strive to overcome the total legal nihilism that has reigned in all spheres of social life in Ukraine.

All of these ideas should be incorporated into the new Ukrainian civil legislation – the legislation of the European country which this year on our strong believe will defeat the russian aggressor and continue its way to the European democratic standards.

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THE PRINCIPLE OF JUSTICE IS THE KEY PRINCIPLE IN THE PAYMENT OF SCIENTISTS

Problem setting. *In the conditions of European integration transformations in Ukraine, work remains the main source of income for the population, and therefore the issue of wages is important for the paradigm of post-industrial development of all economic systems. Currently, the state has, unfortunately, established a policy of low wages, which negatively affects the growth of labor productivity. Therefore, the payment of labor almost does not fulfill its key function – the reproduction of the spent energy of human resources and the motivation of workers for productive work. As of today, in the conditions of active law-making perspectives of the labor legislation of Ukraine in the aspect of their European integration, the issue of developing and implementing effective labor payment systems has matured.*

Target of research *to consider fairness as a key principle in the remneration of a special subject of labor law – scientific workers.*

Analysis of recent researches and publications. *Such scientists as M. Baru, N. Bolotina, V. Burak, Yu. Burnyagina, N. Hetmantseva, K. Dovbysh, V. Zhernakov, T. Kolyada,*

O. Protsevskyi, Ya. Simutina, O. Yaroshenko and oth. Important scientific provisions on which the modern understanding of the category of justice is based are developed in the works of O. Bandura, V. Horbatenko, K. Dovbysh, I. Zhigalkin, V. Kovalchuk, M. Kostecki, P. Rabinovych, H. Chanysheva, O. Yaroshenko etc. Their scientific works have not lost their scientific value until now, however, in modern conditions, the issue of justice, in particular in the field of remuneration, takes on a new meaning and needs to be reconsidered.

Article's main body. *Today, more than ever, there is a need for highly qualified personnel and their professionalization. Therefore, the priority directions of educational and scientific policy should be the development, adoption and implementation of decisions aimed at preserving and developing the personnel potential of education and science, ensuring its vital activity, establishing order and procedures that determine the most effective use of human resources. Important importance in this process is the creation of decent working conditions, decent and fair pay, proper, safe and healthy working conditions. Since the policy of low wages in the educational and scientific spheres leads to workers looking for work in other types of economic activity with a higher level of wages and migration abroad.*

Conclusions and prospects for the development. *One of the main issues that need an urgent solution is the issue of remuneration of scientists. In particular, the remuneration of a scientific worker should provide sufficient material conditions for his effective independent creative activity, increase the prestige of the profession of a scientific worker, stimulate the involvement of talented young people in scientific and scientific and technical activities, and improve the qualifications of scientific workers. All teaching staff should have a decent level of remuneration for their extremely difficult and responsible work. A proposal was made to amend the Law of Ukraine "On Scientific and Scientific-Technical Activities" regarding the provision of decent and fair conditions of remuneration for scientific workers, which will contribute to increasing the prestige of the work of this category of workers, and will also allow to ensure the observance of their labor rights, will contribute to the improvement of their financial situation.*

Key words: *salary, justice, decent working conditions, scientific worker, national legislation, research infrastructure*

Problem setting

In the conditions of European integration transformations in Ukraine, work remains the main source of income for the population, and therefore the issue of wages is important for the paradigm of post-industrial development of all economic systems. Currently, the state has, unfortunately, established a policy of low wages, which negatively affects the growth of labor productivity. Therefore, the payment of labor almost does not fulfill its key function – the reproduction of the spent energy of human resources and the motivation of workers for productive work. As of today, in the conditions of active law-making perspectives of the labor legislation of Ukraine in the aspect of their European integration, the issue of developing and implementing effective labor payment systems, , which should be aimed

at solving the tasks of the development of the domestic economy, ensuring the combination of economic and social interests and goals of individual employees and managers of enterprises. This requires the application of new approaches to the organization of labor remuneration, taking into account the specifics of the activities of enterprises and the accumulated experience of domestic and foreign companies, as well as scientists in matters of labor remuneration [1, c. 1].

Target of research to consider fairness as a key principle in the remuneration of a special subject of labor law – scientific workers.

Analysis of recent researches and publications

Such scientists as M. Baru, N. Bolotina, V. Burak, Yu. Burnyagina, N. Hetmantseva, K. Dovbysh, V. Zhernakov, T. Kolyada, O. Protsevskyi, Ya. Simutina, O. Yaroshenko and oth. Important scientific provisions on which the modern understanding of the category of justice is based are developed in the works of O. Bandura, V. Horbatenko, K. Dovbysh, I. Zhigalkin, V. Kovalchuk, M. Kostecki, P. Rabinovych, H. Chanysheva, O. Yaroshenko etc. Their scientific works have not lost their scientific value until now, however, in modern conditions, the issue of justice, in particular in the field of remuneration, takes on a new meaning and needs to be reconsidered**.**

Article's main body

In Art. 43 of the Constitution of Ukraine [2] stipulates that everyone has the right to a salary not lower than that determined by law (Part 4) and paid in a timely manner (Part 7). The Constitutional Court of Ukraine proceeds from the fact that remuneration for the work performed by an employee is the source of his existence and should provide him with a sufficient, decent standard of living. This places the state's duty to create appropriate working conditions for citizens to exercise their right to it, indicates the optimization of the balance of interests of the parties to labor relations, in particular, through state regulation of labor remuneration [3]. As O. I. Protsevskii rightly pointed out, the right to work, its payment, to proper, safe and healthy working conditions, which according to the Basic Law constitute the legal status of a citizen, are subjective rights. Since these subjective rights exist in an inextricable connection with the legal obligations imposed on the employer, the state and the employee, the legal regulation mechanism includes the entire legal toolkit of the social field, which is labor law [4, c. 67].

In Ukraine, a legislative and legal framework has been practically created for regulating wages in accordance with international labor standards. At the same time, the mechanisms of its state and collective-contractual wage regulation are not yet fully operational. In addition, their functioning is negatively affected by the imperfection of reform-

ing the monetary and tax system, a clear lag in the formation of new business entities, in the creation of a full-fledged system of social partnership, etc. [5]. E. M. Libanova and O. M. Palii include low wages and the payment of wages "in envelopes" as problems related to wages in the context of European integration of the Ukrainian economy. They explain the existence of these problems with such reasons as: low efficiency of the economy; inconsistency and imbalance of socio-economic reforms; underdevelopment of the market environment and public institutions; absence of a system policy of remuneration; replacement of state organizational functions and mechanisms by distributive ones; corruption at all levels of management; lack of effective mechanisms (in particular, insurance) for the protection of employees; low level of legal culture, including lack of law-abidingness in society; unfavorable conditions for conducting business, primarily small and medium; prevalence of the so-called consumerist and dependent moods [6, c. 121].

As A. V. Zakusylo points out, under modern European integration conditions, an effective wage regulation mechanism should provide for the solution of a twofold task, namely, to ensure: (a) optimal results of production and sale of products for the employer, which will make it possible to consolidate market positions and form a positive financial the result after reimbursement of all costs, including labor costs; (b) to the hired worker – timely remuneration and a decent standard of living, which will correspond to the quantitative and qualitative results of his work, as well as the cost of the relevant services of workers on the regional labor market [7].

A significant role in solving the issues under consideration is played by the establishment of effective mechanisms in the wage system, which should ensure social and economic justice in labor relations. Justice as a key condition for decent treatment of an employee implies: a) fair and favorable working conditions; b) fair and satisfactory remuneration for it; c) dignified existence of the employee and his family members; d) the possibility of unification in order to protect one's socio-economic interests [8]. Thus, according to Clause 4.1 of the motivational part of the decision of the Constitutional Court of Ukraine in the case on the appointment of a milder punishment by the court of November 2, 2004, No. 15-рп/2004: "justice is one of the basic principles of law, it is decisive in determining it as a regulator of social relations, one of the universal dimensions of law. Usually, justice is considered as a property of law, expressed, in particular, in the equal legal scale of behavior and in the proportionality of legal responsibility to the offense committed. In the field of law enforcement, justice is manifested, in particular, in the equality of all before the law, the correspondence of crime and punishment, the goals of the legislator and the means chosen to achieve them" [9].

The principle of social justice, being one of the universally recognized values of modern democratic social consciousness, which is recorded in the preamble of the UN International Covenant on Economic, Social and Cultural Rights [10], is aimed at affirming the equality of social rights of every person, canceling unjustified privileges, matching the amount of a person's income with labor costs and capital, the protection of social and economic rights and freedoms of citizens, the protection of individuals, social strata and layers of the population who have fallen into a difficult life situation. According to the ILO Declaration of Basic Principles and Rights in the World of Work (1988) [11] social justice has the greatest significance in ensuring the conditions of general and lasting peace. It provides for the active participation of people in the economic life of society, as well as adequate socio-economic support for those who have not yet had time to become participants in industrial relations (children, teenagers, students); who cannot participate in the production process for objective reasons (disabled persons, pregnant women, mothers with many children, etc.); who left the field of production (or were forced out of it) due to age, loss of working capacity, etc. This is a principle that really permeates all spheres of human activity, because it is, in terms of content, the normative and legal basis for the legitimation of state and political authorities. It is the basis of socio-cultural dynamics and activities of social institutions, the formation and establishment of social ties and relations in society, one of the factors of ideology based on the need for "unequal" relationships between individuals. The implementation of this principle in society means that a fair: distribution of activities is carried out; income distribution; division of labor; distribution of social benefits (rights, opportunities, power); distribution of awards, recognitions; distribution of level and quality of life; distribution of information and cultural values. That is, justice is a universally recognized value of modern democratic society.

The Constitution of Ukraine, having recognized the state as democratic, social and legal, directed its activities to a fair employment policy, decent wages, fair taxation, and social protection. At the same time, the Basic Law does not use the category of "justice", limiting itself only to the norm according to which the budgetary system of Ukraine is built on the basis of a fair and impartial distribution of public wealth between citizens and territorial communities (Part 1 of Article 95). The Code of Labor Laws of Ukraine also does not contain a directly enshrined principle of justice. However, the specified principle is the basis of the implementation of the constitutional right to wages in the Code, in particular in the following articles: guaranteeing the right to wages not lower than the minimum amount established by the state (Article 2 of the Labor Code of Ukraine); guaranteeing remuneration at a level not lower than the average salary

for the previous job in cases of temporary transfer of the employee to another job (Article 33 of the Labor Code of Ukraine); determination of criteria for the amount of wages (Article 94 of the Labor Code of Ukraine); guaranteeing the minimum wage and its indexation (Article 95 of the Labor Code of Ukraine); guaranteeing the possibility of using different payment systems (Articles 96–98 of the Labor Code of Ukraine); guaranteeing payment of part-time employees (Article 100–1 of the Labor Code of Ukraine) and when combining positions (Article 105 of the Labor Code of Ukraine) [12] and others.

Regarding scientific sources on labor law, as noted by O. M. Yaroshenko, "under the current conditions, labor legislation faces a difficult task: to make the legal regulation of labor socially just, adequately reflecting the realities of social life, while preserving the social purpose of labor law, protecting interests as much as possible the employee as the most vulnerable party to the employment contract. This goal can be achieved only if there is a high internal organization of the labor law system, the consistency of the normative and legal material embedded in its foundation, effective combination of the norms of this branch of law with the prescriptions of other branches…" [13, p. 342].

In the legal regulation of wages, according to M. O. Pyzhova, justice should be considered as: 1) value orientation (justice in this case establishes the appropriateness of the reward for the work done, i.e. in this case it is not related to the solution of general social problems, but rather local. At the same time, according to the scientist, the key factor in forming a sense of justice is not the amount of salary, but the subjective assessment of the employee. It is the employees who quite often associate the feeling of justice with the proportionality between personal labor contribution, qualification, final work result and the amount of salary fees); 2) an element of the production situation of the corporate culture of the collective of employees (fairness is an important element of the corporate culture, which is based on work ethics, motivation, a sense of responsibility or indifference to the result of work; attitude to the workplace; quality characteristics of work, bad habits, professional career planning) ; 3) a factor for employee motivation (employees feel more about the fairness of pay, the higher the level of satisfaction with work and wages) [14, p. 158–159]. We believe that the principle of justice is an essential basis of the right to wages, which is manifested in its substantive components and the structure of remuneration.

And today it is one of the urgent issues in the scientific and educational sphere that needs to be solved today in accordance with the Concept of the State target program for the development of research infrastructures in Ukraine for the period until 2026, approved by the order of the Cabinet of Ministers of Ukraine dated April 14, 2021 No. 322 [15] there are decent working conditions

for scientists, including fair remuneration for their work. Since the failure of scientists to fully realize their scientific potential in Ukraine due to insufficient funding leads to the outflow of scientists abroad and to a significant decrease in the competitiveness of scientific research and scientific and technical (experimental) developments, which, as a result, negatively affects the use of scientific potential by enterprises and slows down the development of the national economy and worsens the quality of life of its citizens, makes it impossible to build a knowledge-based society.

Unfortunately, we have to state that even today the level of remuneration of specialists of the highest qualification category in the budgetary sphere, in particular scientific workers, does not meet the criteria of a decent and fair assessment of the level of their education and experience. As G. V. Monastyrska notes, the main problems of remuneration of employees of scientific institutions of the National Academy of Sciences of Ukraine, which need to be solved as a priority, are the following: extremely low level of salaries, and low not only in the world, but also in the domestic dimension; the unsystematic nature of the construction of salary schemes; compression of salary schemes and, as a result, strengthening of the «equalization»; lack of motivation for young people to engage in scientific activities; inequality in pay according to various characteristics: huge differentiation of earnings not only in different scientific institutions, but also within these institutions; irregularity in the application of incentive payments; the absence of a clear connection between the scientist's salary and the results of his work; the lack of transparency of the remuneration system in most scientific institutions, which is the basis for numerous conjectures about the impartiality of the remuneration policy [16, c. 57]. And as a result, scientists are forced to go abroad or leave science altogether and move to other areas of the economy. And if at first highly qualified scientists left Ukraine en masse, now promising young people are leaving the country.

A significant role in solving these problems should be the establishment of effective mechanisms in the system of payment of labor, which should ensure social and economic justice in labor relations. That is, fair and favorable working conditions and fair and satisfactory remuneration for it, as well as a dignified existence of the worker and his family members. Therefore, today the priority directions of scientific policy should be the development, adoption and implementation of decisions aimed at preserving and developing the personnel potential of science, ensuring its vitality, establishing order and procedures that determine the most effective use of human resources. The concept of decent work, one of the main components of which is decent, fair pay for work, should become the basis of the socio-economic policy of Ukraine, one of its main directions.

It should be noted that today, unfortunately, nothing is happening in this direction, even the current Government adopted Resolution No. 1411 dated 20.12.2022, which suspended until December 31, 2023 the effect of the Resolution of the Cabinet of Ministers of Ukraine dated 10.07.2019 No. 822 «On the remuneration of pedagogical, scientific-pedagogical and scientific employees of institutions and institutions of education and science», in particular, the resolution suspends the rule that from January 1, 2023, the minimum salary (salary rate) of a pedagogical employee is 4 amounts of subsistence minimum for able-bodied persons (it should be noted that Resolution No. 822 dated 10.07.2019 provided for raising the salaries of teaching, scientific-pedagogical and scientific workers from January 1, 2020 with gradual increases in subsequent years).

At the same time, according to the conviction of the Minister of Education and Science, Oksen Lisovoy, all teaching staff should have a decent level of remuneration for their extremely difficult and responsible work. “As a citizen, not a minister, I will say that such low salaries are a humiliation. We must proceed from such a position as human dignity. We have to get decent wages. If we want to educate a citizen, then we must make the teacher feel like a worthy person. Therefore, payment of labor is very important,” the head of the Ministry of Education and Culture emphasized [17].

And therefore, we believe that it is necessary to make changes, in particular to the Law of Ukraine “On Scientific and Scientific-Technical Activities” regarding the provision of decent and fair conditions of remuneration for the work of scientific workers, which will contribute to increasing the prestige of the work of this category of workers, and will also allow to ensure compliance with their labor laws rights, will contribute to the improvement of their material situation.

Conclusions and prospects for the development

So, taking into account the above, we note that today there is a need more than ever for highly qualified personnel, for their professionalization, since the results of the activity of any sphere depend on the level of training of its employees, which means – on the state of the educational sphere, on its readiness to meet the needs of real economy, society as a whole and each individual, in particular. Therefore, the priority directions of educational and scientific policy should be the development, adoption and implementation of decisions aimed at preserving and developing the personnel potential of education and science, ensuring its vital activity, establishing order and procedures that determine the most effective use of human resources. Important importance in this process is the creation of decent working conditions, decent and fair pay, proper, safe and healthy working conditions. Since the policy of low wages in the educational and scientific spheres leads to workers looking for work in

other types of economic activity with a higher level of wages and migration abroad.

Although the situation of the country today is quite difficult due to the war, but even in such a difficult time, a correct system of managing the country should be created, where special attention should also be paid to the scientific field, ensuring a fair salary for scientists. In particular, the remuneration of a scientific worker should provide sufficient material conditions for his effective independent creative activity, increase the prestige of the profession of a scientific worker, stimulate the involvement of talented young people in scientific and scientific and technical activities, and improve the qualifications of scientific workers. All teaching staff should have a decent level of remuneration for their extremely difficult and responsible work.

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LEGAL REGULATION OF THE WORK OF SCIENTISTS IN UKRAINE AND THE EUROPEAN UNION IN THE ASPECT OF THE DEVELOPMENT OF RESEARCH INFRASTRUCTURES

The article is devoted to the analysis of the state of legal protection of labor relations of scientists in Ukraine and the European Union. The author reviewed the legal regulation of scientific research activities by scientists in the European Union and Ukraine, determined the levels of legal regulation of labor relations of European researchers with research infrastructures and labor relations of scientists in Ukraine. It is noted about the peculiarities of the work of researchers, which is characterized by creativity and increased intellectual load, which determines the isolation of scientific workers as a special subject of labor law, and leads to the application of the principle of unity and differentiation in Ukrainian labor legislation. The article concludes that the legal regulation of labor relations of scientists with research infrastructures in the European Union is highly detailed at several levels of regulatory support: international, European, national and local. The author concluded that Ukraine also has a multi-level structure of regulatory support for the work of scientists, in which international, national and local elements of legal regulation are distinguished. It is noted that the international level of legal regulation of the work of researchers in the European Union and Ukraine is the same, since world standards in the field of scientific research are mandatory for member states. At the same time, local legal support for the implementation of scientific activity is more developed in the European Union than in Ukraine, since the local rulemaking of Ukrainian scientific institutions is limited by law, local acts cannot change the norms of higher-level acts. In the European Union, research infrastructures can independently regulate relations with employees, in particular, and scientists, without being bound by national legislation, which

is due to the international nature of research infrastructures that are created by several participating states and operate on the territory of several states, respectively.

Keywords: *legal regulation, labor relations of scientists, research infrastructures, European Union.*

Formulation of the problem

The influence of science and innovation on the socio-economic and political development of the state and society is recognized all over the world, and therefore attention is paid to scientists as subjects of scientific and scientific and technical activity.

Standards of scientific research policy and the status of researchers have been developed by international organizations (for example, the Recommendations of the UN General Conference on Education, Science and Culture (UNESCO) [1; 2]), states and their unions have implemented numerous research programs and grants for the implementation of scientific projects (as an example, the framework programs of the European Union (hereinafter – the EU) in the field of science and innovation, the last of which is "Horizon Europe" [3]), organizational and legal forms of scientific activity are defined at the international level (intergovernmental international organizations, legal entities of the national rights with transnational participation on the basis of an international agreement, supranational legal entities, research infrastructures [4]), the principles of legal regulation of the work of scientists are formed in national legislation (Law of Ukraine "On Scientific and Scientific and Technical Activities" dated November 26, 2015 No. 848- VIII [5]).

Despite the numerous international documents adopted in the field of science, the development of European research policies and programs in the European Union, the issue of regulating the labor relations of scientists with research infrastructures in the European Union remains relevant. The relevance of this issue is due to the spread of the phenomenon of research infrastructures in the EU since 2009, when EU Council Regulation No. 723/2009 was adopted, which introduced legal regulation of the creation and operation of research infrastructures in the form of the European Research Infrastructure Consortium [6].

Analysis of recent research and publications

Separate aspects of the legal provision of labor relations of scientists in Ukraine were considered by G. O. Barabash. (peculiarities of the legal regulation of the work of scientists and its improvement [7]), Yushko A. M. (peculiarities of the organization of the work of scientific workers and its payment in the conditions of reforming the legislation on scientific and scientific and technical activity [8]), O. M. Yaroshenko,

N. M. Vapnyarchuk. (ensuring dignified work of scientists, dignified and fair remuneration of scientists [9; 10]). As for the principles of regulating the work of scientists in the European Union, we note the publications of V. P. Kokhan. (the issue of legal support for the mobility of researchers in the EU [11], the peculiarities of the employment of researchers in the EU [12]). As we can see, the scientific literature lacks a study of the labor relations of scientists with research infrastructures, since research infrastructures are a relatively new organizational-legal and economic-social phenomenon that has only recently become the subject of study by researchers.

The purpose of the article is to provide an overview of the legal regulation of scientific research activities by scientists in the European Union and Ukraine, to determine and compare the levels of legal regulation of the labor relations of European researchers with research infrastructures and scientists in Ukraine.

Presenting main material

The work of scientific workers is special in nature, it is a creative activity characterized by increased intellectual load, and therefore does not lend itself to accurate accounting of the time spent [8, p. 100]. We agree with the opinion of B. V. Vapnyarchuk that "the labor activity of scientific workers has its own characteristics, which significantly distinguishes them from other categories of workers (the work of scientific workers is connected with the process of scientific, creative thinking, the result of which is the conduct of scientific research work to established scientific plans), and in order to realize the right to work, one must be a professional" [13, p. 28].

For this reason, based on the principle of unity and differentiation in labor law, scientists are recognized as a special subject of labor law.

The principle of unity and differentiation also manifests itself in the fact that labor relations with scientific workers are regulated as general labor legislation, in particular, the Constitution of Ukraine, the Code of Labor Laws of Ukraine, the Laws of Ukraine "On Remuneration", "On Trade Unions, Their Rights and Guarantees activity", "On collective contracts and agreements" and other laws and subordinate legal acts in the field of labor, as well as special legislation in the field of science, which apply to scientists as subjects of scientific and scientific and technical activity, namely: Law of Ukraine "On scientific and scientific and technical activities", by the resolutions of the Cabinet of Ministers of Ukraine "Regulations on the attestation of scientific workers", "On approval of the Model Regulation on the procedure for conducting a competition for filling vacant scientific positions of a state scientific institution", "On part-time work of employees of state enterprises", institutions and organizations", etc.

So, in the legal regulation of labor relations of scientific workers in Ukraine, the following can be distinguished:

1) international level of legal regulation – acts of the International Labor Organization (hereinafter – ILO) (conventions and recommendations), acts of other international organizations (the UN General Conference on Education, Science and Culture (UNESCO), the United Nations, etc.);

2) the national level of legal regulation – general and special legislation that regulates the work of researchers and its features, which was discussed above;

3) local level of legal regulation – local acts of scientific institutions adopted on the basis of current legislation within their competence (for example, acts of the National Academy of Sciences and acts of branch academies of sciences, their structural divisions).

The legal regulation of the labor relations of scientists with research infrastructures in Europe is also expedient to investigate according to the level of legal support, while the level of legal regulation does not mean the priority of international law or the law of the European Union over national law, but rather the depth of regulation of scientific and scientific and technical activities carried out by researchers , when one level of legal regulation complements another.

So, first of all, let's pay attention to international documents in the scientific and research sphere, which regulate the status of researchers, and international standards in the field of labor, which apply to scientific workers, conditionally they can be attributed to the international level of legal regulation of labor relations of scientists with research infrastructures.

An important document of this level is the UNESCO Recommendation on Science and Scientific Workers (Researchers) dated November 14, 2017 [2], which revised the UNESCO Recommendation "On the Status of Scientific Research Workers" from 1974 [1]. The 2017 UNESCO Recommendation contributes to ensuring the fair and appropriate status of scientific researchers and the formation of adequate national policies in the field of science, technology and innovation, as well as policies aimed at ensuring that society uses knowledge from all scientific fields responsibly. In addition, the document emphasizes the importance of providing scientists with adequate financial and institutional support [2].

According to Clause 24 of the Recommendation, UNESCO member states (including Ukraine, by the way) have the following obligations towards scientists [2]:

1) researchers should be provided with material and moral support, public recognition, which will contribute to the successful implementation of scientific research and development by scientific workers;

2) researchers must be provided with equal working conditions, employment and promotion, certification, professional training and remuneration without any

discrimination based on race, skin color, origin, sex, gender, sexual orientation, age, native language, religion , political or other beliefs, national, ethnic or social origin, economic or social conditions of birth or disability;

3) persons from among vulnerable categories of the population should receive support at the beginning and during the development of a career in the field of research and development.

The Recommendation under consideration also contains provisions that require member states to ensure the employment policy of scientists (paragraph 27), in particular, ensuring promotion and career growth, creating conditions for professional development and retraining, and supporting young scientists at the beginning of their careers. era Important are the provisions of the Recommendation on ensuring the mobility of scientific workers (paragraphs 29, 30) and establishing a mechanism for their social security (paragraphs 32, 33) [2].

An analysis of the provisions of the UNESCO Recommendation on Science and Scientific Workers (Researchers) dated November 14, 2017 shows that this document thoroughly covers aspects of the status of scientific workers related to their scientific activities at all stages of employment relations – from employment to termination of employment activities and social security.

Other international acts related to the regulation of the work of scientific workers are the conventions and recommendations of the International Labor Organization, for example: Convention on the Right to Organize and Conclude Collective Agreements (1949), Convention on Equal Remuneration for Men and Women for Work of Equal Value (1951), Convention on Minimum Social Security Standards (1952), Convention on Discrimination in Employment and Occupation (1958), Recommendation on Invalidity, Old Age and Survivors Benefits (1967), Recommendation on Workers' Representatives (1971), etc. The importance of ILO acts is that they define a system of international standards in the field of labor and social security and contribute to the development of international legislation in the specified spheres of social relations. Conventions and recommendations of the ILO act as minimum standards in the field of labor rights of all workers, and scientists, in particular.

The next level of legal regulation of labor relations of scientists with research infrastructures is the legislation of the European Union. Here it is worth noting two documents that were adopted by the European Commission in one decision – the European Charter for Researchers and the Code of Employment of Scientific Workers of 2005 [14]. These two documents are key elements of the EU policy aimed at the development of researchers' careers.

The European Charter for Researchers establishes principles and requirements that define the roles, responsibilities and rights of researchers, as well as employers and/or sponsors (funding or-

ganizations) of researchers. The Charter applies to all researchers in the European Union at all stages of their career and covers all fields of research in the public and private sectors, regardless of the nature of their appointment or employment, the legal status of their employer or the type of organization or institution in which the work is carried out. It takes into account the multifaceted roles of researchers, who are appointed not only to conduct research and/or carry out development activities, but also to perform supervisory, mentoring, managerial or administrative tasks [15].

The Code of Conduct for Researcher Employment defines the requirements for each stage of researcher employment: hiring; transparency in recruitment; assessment of achievements; career breaks and variations in its chronology; recognition of mobility experience; recognition of qualifications, work experience; Certification training; protection of intellectual property rights; participation of researchers in management bodies; ensuring gender balance, etc. [12, p. 46].

As noted in the scientific literature, the European Charter for Researchers and the Code of Employment of Researchers were adopted by the European Community in order to ensure the same and equal rights of researchers regardless of territorial affiliation. The establishment of a system of uniform requirements for the process of employment and the work of researchers is aimed at eliminating differences in the legal regulation of scientific work at the local, regional, national and sectoral levels so that European research infrastructures can make the most of their scientific potential [12, p. 47].

After the EU legislation, the next level of legal regulation of the labor relations of scientists is the national legislation of the EU member states in the field of labor – the relevant labor codes (France, Germany, Italy), employment laws (Sweden, Latvia, Norway), as well as legislation in the field of education and science

Within the scope of the article, the local regulation of labor relations of scientists is of interest, which is carried out by internal acts of scientific research organizations, universities, in particular large scientific organizations – research infrastructures, therefore we propose to focus on the local level of legal regulation of labor relations of scientific workers.

As already mentioned, research infrastructures can be created and function in various organizational and legal forms, the most common of which in the European Union are international intergovernmental organizations and the European Consortium of Research Infrastructures. Let's consider the local level of legal regulation of labor relations with scientists using the example of the European Organization for Nuclear Research (CERN).

The European Organization for Nuclear Research (CERN) is an international intergovernmental organization founded in 1953, which ensures coop-

eration between European states in nuclear research of a purely scientific and fundamental nature, as well as in research related to them [16].

CERN has developed several local acts aimed at regulating relations – labor, social security and financial – between the organization's personnel and the research infrastructure. In particular, the 2021 edition of the CERN Staff Rules defining and codifying the legal relations between the Organization and staff members, the CERN Regulations, which establish the procedure for applying these Rules [17] are in force.

In accordance with the specified Rules on CERN personnel, within the framework of the research infrastructure, a review of the financial and social conditions of staff members is carried out every five years, followed by a review of wages, social benefits (benefits), and family allowances. This allows CERN to provide decent remuneration for CERN employees, employ and retain the best employees from all member states of the Organization, who have a high level of professional competence and integrity, to fulfill the mission of the Organization [17].

In addition, the 2010 CERN Code of Conduct is an important part of the regulation of personnel and ethical issues arising during the joint implementation of scientific research. The Code was adopted to help all CERN employees understand how to behave, treat and expect others to treat them, and to address issues and encourage employee behavior in a positive and proactive manner. The main values in the Code are honesty, dedication, professionalism, creativity and diversity [18].

Since 2012, the "Diversity and Inclusiveness Program" has been operating within CERN, the tasks of which are: (1) to implement the principles and values of diversity and inclusiveness in the processes, way of working and collegial relations of CERN; (2) ensure the principle of diversity, based on the fact that each person is unique; (3) provide support to individuals and teams whose unique abilities and traits may require workplace adaptations or accommodations to enable them to perform better; (4) create networks and resource groups for the exchange of ideas and the formulation of concrete policy proposals [19].

As can be seen, the labor relations of scientists with research infrastructures at the local level, that is, within these infrastructures, have proper legal regulation, and perhaps the most detailed among other levels of legal protection.

Conclusions

It can be stated that the legal regulation of labor relations of scientists with research infrastructures in the European Union is highly detailed at several levels of regulatory support: international, European, national and local. In Ukraine, there is also a multi-level structure of regulatory support for the work of scientists, in which international, national and local elements of legal regulation are distinguished.

It is worth noting that the international level of legal regulation of the work of researchers in the EU and Ukraine is the same, since world standards in the field of scientific research (UNESCO Recommendations, ILO acts) are mandatory for UNESCO member states and countries that have implemented conventions and recommendations ILO At the same time, local legal support for the implementation of scientific activity is more developed in the EU than in Ukraine, since in Ukraine the local rule-making of scientific institutions is limited by law, local acts cannot change the norms of higher-level acts. In the European Union, research infrastructures can independently regulate relations with employees, in particular, and scientists, without being bound by national legislation, which is due to the international nature of research infrastructures that are created by several participating states and operate on the territory of several states, respectively.

Legal regulation of labor relations of scientists with research infrastructures is a promising issue in scientific research. Further legal analysis of the labor relations of scientists with research infrastructures will allow to deepen the review of the legal regulation of the work of researchers in the European Union and Ukraine, identify possible problems in this area and propose ways to solve them.

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CLIMATE LEGISLATION AND LEGAL RELATIONS: CURRENT STATE AND DEVELOPMENT PROSPECTS WITHIN THE NATIONAL SECURITY FRAMEWORK

Abstract. *The article is devoted to the scientific and theoretical analysis of the current paradigm of development of national climate legislation and legal relations within the Europeanization framework. The subject of the study is the analysis of international legal norms, national legislation and judicial practice in the aspect of adaptation to climate change. The purpose of the article is to provide a comprehensive, integrated study and analysis of the provisions of legal acts from the standpoint of the formation of climate legal relations in the context of ensuring national security. The chosen goal has led to the setting and solution of the following tasks: a) consideration of the theoretical and methodological foundations of the emergence and formation of climate legal relations; b) a study of the current provisions of environmental and legal doctrine with regard to the need for adaptation to climate change; c) outlining the ways to improve and further systematize the national climate legislation in*

the context of European integration and sustainable development. The methodological basis of the study is formed by general scientific and special methods of cognition of legal phenomena: dialectical, historical and legal, formal and logical, systemic and structural, theoretical and prognostic, comparative legal, formal and legal, interpretation of legal provisions, legal modeling, etc. The author examines the features of the formation of climate legal relations which are closely associated with environmental and security legal relations, along with energy-related, agrarian and other legal relations. It is proved that they are gradually formed and distinguished as an independent interdisciplinary institution of environmental, energy, agrarian, and environmental security law, as well as international and EU law, which is likely to become a separate branch of public law in the future. The article emphasizes that the development and implementation of the national climate policy (especially in the context of regulatory and legal support) should be fully based on the fundamental provisions of the EU climate policy. The author considers the issues of judicial protection of climate-related human rights in case of non-fulfillment of policy and programme documents and non-compliance with international obligations by the State. The problems of compensation for climate damage and the impact of climate change on migration processes (climate migration) are outlined. It is argued that modern climate policy should be built at a cross-sectoral level to ensure the preservation of ecosystems, landscape and biological diversity, accelerate the transition to low-carbon energy saving systems, reduce dependence on fossil fuels, expand the use of renewable energy sources, improve energy efficiency, and increase the adaptive potential of natural resources to climate change.

Keywords*: environmental and climate security; systematization of climate legislation; climate-related and environmental rights; protection and restoration of ecosystems; conservation of landscape and biological diversity; environmental and climate law policy; climate law.*

INTRODUCTION

It is generally recognized that one of the conditions for the functioning and progress of a country is creation of an effective and reliable regulatory framework. Considering this, it should be noted that at the current stage of national legislation development, one of the most important tasks of the government and society is to define and consolidate the legal framework of climate legal relations, which are closely related to environmental and security legal relations, along with energy-related, agrarian and other legal relations. It should be emphasized that the development of the national climate policy (especially in the context of its legal assistance, namely, regulatory support) should be fully based on the fundamental provisions of the climate policy of the European Union (EU). Despite the militaristic challenges and threats, a significant number of national security problems (primarily its environmental, radiation, food, energy, and some other components) aggravated by the unleashed full-scale invasion of the Russian occupiers, Ukraine is consistent as to all its international obligations regarding the

creation of a climate-neutral continent. The country strains to fulfill its European integration commitments on climate change adaptation, implementing by clear, systematic steps the climate vision into all the national socio-economic development strategies and programs, i.e., by focusing on and aligning with the requirements of the Paris Agreement, although it realizes that their fulfilement is an extremely complex and lengthy process. The abovesaid is explained by the fact that the current priorities are: to develop and implement sectoral integration of climate policies; to achieve their coherence in all sectors of the Ukrainian economy through adoption of the relevant strategic acts aimed at ensuring progress in all spheres of the economy and society; to give them an appropriate legal form (a doctrine, concept, strategy, etc.); and in future, to form a cross-sectoral climate policy and to adopt a special law on climate change adaptation. The latter should facilitate the elaboration of Ukraine's National Recovery Plan in the field of environmental security, based on a systematic approach to the implementation of the principles of the European Green Deal (hereinafter – EGD).

The efforts of the working group The National Council for the Recovery of Ukraine from the Consequences of the War to focus the draft Recovery Plan on an integrated climate policy, climate change prevention and adaptation, environmental security, etc. also deserve attention [1]. As shown by the analysis of the document, it is the environmental security component that becomes a prerogative in terms of restoring a clean and protected environment and ensuring sustainable development in synchronization with EGD. We believe that in the long run, all this will affect lawmaking in the field of ensuring food, energy, biological, etc. security.

Environmental risks, emissions of carbon dioxide and other greenhouse gases increase daily, and the amount of damage caused to the environment is growing. However, the main thing is that it is difficult to predict how devastating the consequences can be for natural ecosystems, biological and landscape diversity, and therefore, the environmental well-being of the population. Another concern is that the military actions exacerbate the problem of global warming, as new dangerous factors threaten climate security and accelerate its deterioration. This may become a key factor in environmental or climate migration in the future.

No less significant and complex is the issue of climate damage compensation. Therefore, it is on the agenda of the international community, and its solution is considered a priority. In our opinion, it is of highest importance that Ukraine's proposals to establish a Global Platform for Climate and Environmental Damage Assessment have received general support. Yet nevertheless, at the national level, among the areas set out in the Resolution of the Cabinet of Ministers of Ukraine "Procedure for Determining

the Damage and Losses Caused to Ukraine as a Result of the Armed Aggression of the Russian Federation" of March 20, 2022, No. 326 [2], there is no mention of damage to climate resources, nor is there a procedure for its assessment since February 19, 2014. Given that there is a general understanding of the military consequences' endangering not only Ukraine, but also the entire Europe, posing risks to both present and future generations due to bringing closer a global climate crisis, it seems appropriate to fill this gap.

It should also be noted that one of the main conclusions of the AR6 Climate Change 2023 Synthesis Report of the Intergovernmental Panel on Climate Change, published in March 2023, is the need for deep, rapid, sometimes immediate, and sustainable reductions in greenhouse gas emissions in all sectors as soon as this decade [3].

Thus, giving the increase in climate risks as a result of military actions and the impossibility of ranking them, in order to obtain results from the envisaged measures, first of all, it is necessary to find an effective, and most importantly, adapted to today's realities legal mechanism for ensuring both environmental and climate security. We emphasize once again that this is of great importance and should become an urgent task, since, as noted above, the ultimate consequences for natural ecosystems, landscape and biological diversity, and the environmental well-being of the population are difficult to predict, as well as it is impossible to "finally calculate the scope of environmental devastation" or obtain a "complete picture of the damage" caused to the environment, considering their duration, scale, impact on the climate, etc.

LITERATURE REVIEW

The scientific and theoretical basis of the study was formed by the works of Ukrainian scientists, whose research subjects are the general problems of adaptation to climate change and the formation of environmental and climate policy, namely: A. P. Getman [4–6], M. H. Vyniarska [7], V. L. Kachuriner [8], Z. Kozak [9], Ye. M. Kopytsia [10], O. V. Lozo [11], O. S. Melnyk [12], T. Yu. Perha [13], V. P. Polych [14], K. A. Prokhorenko [15], D. L. Feloniuk [16], I. V. Yakoviuk [17], to name but a few. In addition, the work takes into account the achievements of representatives of foreign scientific schools, in particular: N. Jones [18], J. L Reynolds [19], E. Fisher [20], J. Wenta, J. McDonald & J. McGee [21], O. Ammann & A. Boussat [22], B. Mayer [23], M. Bauer Pertille [24], A. Venn [25], and others.

However, given that the researchers' works were devoted entirely to solving relevant scientific problems, the issues of climate change adaptation, the formation of state climate policy in the context of military and post-war reconstruction, the establishment of climate legal relations, and the protection of rights related to climate were considered indirectly.

The aim of the article is to provide a comprehensive, integrated study and analysis of international legal norms and provisions of the national legislation from the perspective of forming climate legal relations in the context of national security and European integration processes.

The chosen goal has led to the formulation and solution of the following tasks: consideration of the theoretical and methodological foundations of climate legal relations; study of the current provisions of environmental and legal doctrine in view of the need for climate change adaptation; outlining the ways to improve and further systematize the national climate legislation in the context of European integration and sustainable development.

MATERIALS AND METHODS

The methodological basis of the study is formed by general scientific and special methods of cognition of legal phenomena: dialectical, historical and legal, formal and logical, systemic and structural, theoretical and prognostic, comparative legal, formal and legal, interpretation of legal norms, legal modeling, etc. The author uses the dialectical method to identify the patterns of formation of climate legal relations and proves their close connection with environmental legal relations and legislation. The historical and legal method is used to characterize the process of formation and further development of national climate policy and climate law. The systemic and structural method made it possible to study the role and importance of the climate component in the development of sectoral policies and selection of specific goals for each of them. The comparative legal method was used to study the features of the EU legislation and the case law of the European Court of Human Rights (hereinafter – ECHR) in the field of protection of rights related to climate. The formal logical method was useful in formulating concepts, presenting the main material, making conclusions and proposals on the subject of the study. The method of legal norms interpretation was used to analyze the content of certain environmental legal categories, to formulate proposals on further systematization of climate change adaptation laws, and to outline the prospects for the formation of climate legislation.

RESULTS AND DISCUSSION

Analysis of the provisions of regulatory legal acts from the standpoint of the formation of national climate legislation and climate legal relations in the national security context

In order to develop the chosen research theme, in the first place, it is advisable to focus on the provisions of the fundamental international legal acts of climate orientation (global level), such as: The United Nations Framework Convention on Climate Change (UNFCCC, 1992); the Kyoto Protocol to the UN Framework Convention (1997); the Paris Agreement (2015) (note that this

was a ‘goodwill agreement’ on simultaneous implementation of measures to reduce greenhouse gas emissions and adaptation to the existing effects of global climate change, a new concept for a gradual abandonment of traditional technologies for the extraction, processing and use of fossil resources, primarily hydrocarbons, in favor of green technologies); EGD (2019), etc. The latter is a roadmap of measures (a set of initiatives) that are constantly adapted to the conditions and challenges of today, and their implementation will help transform the EU economy into an efficient, sustainable and competitive one, improve people’s health and quality of life, etc. It is also worth paying attention to the 8-th Environment Action Program, adopted by Decision (EU) 2022/591 of the European Parliament and of the Council dated April 06, 2022 [26], which entered into force on May 02, 2022 [27]. First and foremost, designed to last up to 2030, it aims to accelerate the transition to a climate-neutral, resource-efficient and renewable economy that returns more to the planet than it uses and recognizes that the well-being and prosperity of humanity depends on the health of the ecosystems in which it lives. To ensure a fair and inclusive green transition, it also envisages the transformation of climate and environmental challenges into all the EU sectors and policies.

We cannot fail to mention that on February 24, 2021, the European Commission adopted a new EU Climate Change Adaptation Strategy, which, among other things, defines how the EU can adapt to the inevitable effects of climate change to become resilient to them by 2050. The Strategy sets out four main goals: to make adaptation smarter, faster, more systematic, and to intensify international action to implement it. Understanding the importance and urgency of this problem, the European Council adopted the European Climate Law proposed by the European Commission in June of the same year; and in July the Commission developed a program to combat climate change by 2050, called “Fit for 55” [28], aiming to reduce greenhouse gas emissions by at least 55 % by 2030. We should emphasize that “Fit for 55” constitutes a legal obligation. Moreover, in addition to the EU Climate Change Adaptation Strategy, it is tightly bound to other EU documents, namely: The Biodiversity Strategy 2030, the Farm to Fork Strategy, the New Forest Strategy 2030, the Hydrogen Strategy, the Renovation Wave for Europe, the New Industrial Strategy, the European Climate Pact, the Climate Target Plan, and others.

This is of particular relevance, as the issue of critical raw materials has now become a considerable part of EGD implementation. Besides, it is directly related to ensuring national security and sovereignty, and thus becomes vital for Ukraine, especially in the context of acquiring the status of an EU candidate. At the same time, it is a complicated issue, since it has to be resolved while resisting aggression from Russia. As a reminder,

back in June 2021, Ukraine and the EU signed a Memorandum of Strategic Partnership in the commodities sector and a corresponding roadmap of measures [29]. This facilitates harmonization of mining policies and legislation, particularly with regard to environmental, social and corporate criteria in all types of activities [30], with EU requirements. However, at present, more than 2,000 Ukrainian mineral deposits, estimated at more than €12 trillion (EUR), are located in the territories temporarily occupied by the RF [31].

It is also worth mentioning the European Critical Raw Materials Act [32], adopted on March 16, 2023 to ensure the EU's access to secure, diversified, affordable and sustainable supplies. The adopted raft of legislation is seen as a balanced strategy for the safe and sustainable supply of critical raw materials for further successful environmental and industrial transition to the green future of the European Union. Along with the above, the EU Zero Emission Industry Act [33; 34] was adopted, aimed at expanding the production of key carbon-neutral or 'zero-emission' technologies in the EU in order to ensure safe, sustainable, and competitive supply chains of clean energy, and to achieve the EU's climate and energy ambitions. It is believed that its adoption will contribute significantly to the decarbonization process. In addition, the Commission proposed (on the same day) to reform the EU electricity market structures to accelerate the use of renewable and non-fossil, affordable energy sources and a gradual phase-out of gas, create a cleaner and more competitive industry, protect consumers from fluctuations in fossil fuel prices, etc. [35]. Being limited by the scope of the article, we have considered only some of the EU's fundamental acts. In summation, we should note that we support the scientific position of V. P. Polych stating that "the European Union has formed a European climate regime". The key point is that it is part of the global climate regime which is based on the principles of the 1992 UN Framework Convention on Climate Change. However, there are differences between them, the most important of which is the presence in the regime established at the EU level of a "supranational component and mechanisms that ensure the effective implementation of climate change regulations at the national (local, regional, subregional), international and supranational levels" [14, p. 11]. Based on the above, we must state that with the acquisition of the EU candidate status, Ukraine faces the task of accelerating the creation of an effective national legal regime for climate change adaptation, given that our country is already a party to particular international agreements concluded with the EU and international universal treaties.

Continuing our coverage of the issue, we would like to emphasize that today it is climate protection, along with the protection of atmospheric air and the ozone layer (given their interconnectedness, as well as the fact that for a long time the

legislative regulation of the relevant relations at the national level was provided mainly within the framework of atmospheric protection laws), that is one of the most important areas of environmental protection activities carried out in global, regional and national dimensions. Thus, at the national level, climate legal relations are regulated primarily by the provisions of political and program acts, strategic planning documents (in particular, concepts, strategies, programs, action plans, etc.) which are correlated with legal measures to ensure environmental safety. Despite this, it is now advisable to accelerate the forming of specific climate legislation, which can be achieved through the development and adoption of special laws, specifically on: the Climate Fund; establishment of a national greenhouse gas emissions trading system; ratification of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer; the principles of effective and environmentally balanced management of natural resources adapted to climate change and biodiversity conservation (e.g. the Draft Law No. 9516 of July20, 2023 "On Amendments to Certain Legislative Acts of Ukraine on Effective Forest Management Based on the Principles of Handling Forestry Close to Nature, Adapted to Climate Change, and Conservation of Biodiversity in Forests"), etc. Additionally, providing the significance of the problem, we are now talking about the development of a national Ukrainian doctrine, which should contain environmental and climate-related legal components (currently no-existent). It would be appropriate to include them in Block II "Ukrainian Security" as the guidelines for the new doctrine [36].

Obviously, for our country, the formation of climate policy and creation of an effective system of environmental protection measures is nothing new. This process has been going on for decades (at least, based on the facts that back in 1996 the UN Framework Convention on Climate Change was ratified [37]; in 1997 the Climate Program of Ukraine was adopted [38]; and 1998 saw the adoption of the following legal acts: "On the basic directions of state policy in the field of environmental protection, use of natural resources and environmental safety" [39]; the Concept of State Climate Change Policy Implementation until 2030 [40]; Environmental Security and Climate Adaptation Strategy until 2030 [41], and the Operational Plan for its implementation in 2022–2024; Low-Carbon Development Strategy of Ukraine until 2050 [42] (adopted by a protocol decision of the Cabinet of Ministers of Ukraine and published on the website of the Secretariat of the United Nations Framework Convention on Climate Change in the same year at https://unfccc.int/process/the-paris-agreement/long-term-strategies), and others). Notably, we deem it appropriate to adopt the relevant Law of Ukraine on the basis of the UN Convention.

Another block of the national regulatory framework comprises legal acts on mitigation of climate change impact and consequences, including the laws of Ukraine: "On National Security of Ukraine", "On Ukraine's Accession to the United Nations Convention to Combat Desertification in Those Countries Suffering from Serious Drought and/or Desertification, Particularly in Africa", "On Ratification 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", "On Ratification of the Paris Agreement", "On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030", "On Approval of the National Target Program for the Development of Water Management and Environmental Rehabilitation of the Dnipro River Basin for the Period up to 2021", and other regulatory acts. In addition, the Fifth session of the Conference of the Parties to the Framework Convention on the Protection and Sustainable Development of the Carpathians (2017) adopted an amendment to the new Article 12bis "Climate Change" of the Carpathian Convention [43], ratified by the Law of Ukraine No. 1039-IX of December 2, 2020 [44], etc.

Special attention should also be paid to the climate commitments enshrined in Chapter 6 "Environment" of Section V "Economic and Sectoral Cooperation", as well as to Annexes XXX and XXXI to the Association Agreement between Ukraine and the European Union (2014) [45], in particular, the development and adoption of comprehensive and integrated national climate legislation within an established timeframe. It should be pointed out that the above is relevant in view of Ukraine's acquisition of the EU candidate status on June 23, 2022. It is necessary to add that, despite the difficult situation, our country is gradually moving in that direction. Thus, the process of initial assessment of the state of implementation of EU acquis in the field of environmental protection has begun [46]. However, this is a difficult task, since 1637 acts must be analyzed article by article. Moreover, it should be taken into account that European law is quite dynamic. In particular, after the signing of the Association Agreement (2014), a number of documents in the environmental and climate-related spheres were adopted, which must be necessarily implemented into the national legislation.

For the sake of completeness and understanding of further steps, let us focus on some policy and program documents (the foundation for climate legislation). First of all, it is worth mentioning the Climate Program of Ukraine (1997) (hereinafter – the Program), which was positioned as a component of the World Climate Program with the aim of integrating Ukrainian climate research into global climate action, designed for 1998–2002. It was envisaged that it would be implemented through a series

of organizational and technical actions and activities, including scientific research, though the issue of legislative support for its protection was not raised. Given the chosen topic, it is important for us to note that the Program considered climate to be "one of the main natural resources on which human living conditions and activities, directions and level of economic development depend". What's more, the document stated that "climate is one of the main factors that shape the natural environment; even minor changes in it against the background of the difficult environmental situation in Ukraine can cause significant socio-economic damages, if no measures are taken to prevent them" [38]. Although we should recognize that the key point in this legal act refers to the "problem of climate fluctuations and changes" which has acquired global significance, while the fluctuations are regarded as a consequence of natural processes and human economic activity [38]. That is to say, the emphasis is on the causal relationship between the impact of natural processes and anthropogenic activities on climate change, but the inverse dependence is unfortunately not even indirectly defined.

We deem it expedient to dwell separately on the enshrined in the Program concept that "climate as a natural resource can be used for the benefit of humanity". This gives grounds to state that the Program referred to: a) the operational aspect of using climate to meet the relevant needs and interests; b) the realization of the relevant rights, satisfaction of the public interest of humanity and future generations. As to the latter, it should be noted that we agree with the scientific approach developed by Marcelo Bauer Pertille regarding climate balance as a supra-individual good [24]. However, as was already noted, the main thing is that legislators define climate through the category of "natural resource". The above is especially relevant given that the UN Human Rights Council recognized access to a clean and healthy environment as a fundamental human right in 2021 [47], which is associated with the protection of citizens' right to an environment safe for life and health, and climate-related rights. On this basis, we consider it appropriate, when characterizing climate as a legal category and an object of legal relations, to take into account its natural properties and characteristics, as well as the degree of their social conditionality and the objective need for legal regulation and/or protection of the relevant social relations. In view of this, we believe that it is necessary to determine the legitimate purpose of legal influence on the relevant climate relations, and therefore to consider the possibility of establishing appropriate legal regimes or mechanisms for legal regulation of social relations in the field of climate protection, use, and garanteeing its safety for humanity, etc.

Having analyzed the legislative provisions, we can find out how the climate is seen in the national environmental law doctrine. First of all, it should be men-

tioned that climate as an object of legal regulation has been studied mainly within the framework of educational and methodological legal literature and was classified by scholars as an object of protection. One of the first comprehensive studies was a scientific work by K. A. Prokhorenko (2013), in which the author proposed to include 'climate' in the system of objects of environmental and legal protection. The researcher formulated an own definition of the climate notion – an object of natural origin which is characterized by the state of the climate system (atmosphere, hydrosphere, biosphere, and geosphere in their interconnection and interaction) and is recognized by the norms of international legal environmental protection as an object which receives hazardous anthropogenic impact in the form of legally defined activities related to greenhouse gas emissions, and thus requires special international and national legal measures aimed at stabilizing the concentration of greenhouse gases in the atmosphere at a level that prevents the climate system from being out of balance, averting deterioration of safety and environmental quality [15, p. 7]. In our opinion, the author's definition of the notion of climate, requires further scientific insight and improvement, given the scientific advances in the field of climate change adaptation, the state of the established (current) legislative framework, and the increasing level of climate hazards and threats to all of humanity and the climate system, i.e. from the standpoint of modern environmental law. We understand that there will be a branching of types (spheres) of climate legal relations, specifically, they will be manifested not only in the environmental sphere, but also in the security sphere, in the use of natural resources and complexes in economic activity, protection of human rights and humanity, etc.

As already mentioned, climate has been a subject of scientific interest for many scientists. A study of scientific opinions shows that intangible natural resources are considered to be natural resources of a special kind that are in a gaseous state or in the form of energy or particle-wave flows, or are seen as another phenomenon of the material world. On this basis, climate resources, along with atmospheric air, airspace, wind energy, solar radiation, radio frequency resources, etc., are classified in the environmental law doctrine as referring to a legal category of "intangible natural resources". In view of this, it is quite understandable that presently there are mainly cross-sectoral (although subsectors or branches of law may be formed over time) legal institutions for their protection and/or use, and the process of their formation and development is still going on.

Protection of climate-related rights and climate litigation. Review of court practice

Thus, we can state that the appropriate regulatory framework currently exists. This raises legitimate questions as

to the possibility of violating climate human rights in the event of failure to implement policy and program documents, non-compliance with international obligations by the state, and the jurisdictional issues in these cases. The experience of foreign scholars who have thoroughly studied the protection of climate rights and climate processes comes very useful [18; 23; 25; 48]. First of all, we should focus on the protection of climate-related rights, in particular human rights, which, in our opinion, are closely associated with environmental rights, namely, the right to a safe environment for life and health, guaranteed to every citizen by the Constitution of Ukraine (Art. 50). This correlates with the fact that the UN Human Rights Council, as already noted, recognized access to a clean and healthy environment as a fundamental human right in 2021.

For example, in February 2020, a group of German youth challenged the German Federal Climate Protection Act (Bundesklimaschutzgesetz, or KSG) in the Federal Constitutional Court, arguing that the KSG's goal of reducing greenhouse gas emissions by 55% by 2030, compared to the 1990 levels, was insufficient [49]. The complainants argued that KSG had thus violated their human rights protected by the Basic Law (German Constitution). It should be emphasized that the lawsuit stated that the "fundamental right to a civilized future" was violated because the Law did not provide for sufficient measures to reduce greenhouse gas emissions and combat climate change. The Federal Constitutional Court ruled out part of KSG as incompatible with fundamental rights because it did not set sufficient provisions for reducing emissions after 2030. In our opinion, it is crucial that the Court found that Article 20a of the Basic Law (the obligation to protect the natural basis of life as responsibility towards future generations) not only obliges the legislature to protect the climate aiming to achieve climate neutrality, but "also refers to how the environmental burden is distributed among different generations". In addition, for the first time in its jurisprudence, the Federal Constitutional Court stated that "the fundamental rights as intertemporal guarantees of freedom that provide protection against the burden of reducing greenhouse gas emissions, set out in Article 20a of the Basic Law, were unilaterally postponed to the future". It is also noted that the KSG emission provisions in question constitute "a prior impact similar to obstacles". However, what is important for us in terms of the topic of this paper is that the Court found that the legislature had disproportionately distributed the budget between the current and future generations, having written that "a generation should not be allowed to consume large parts of the CO_2 budget, while making relatively insignificant efforts to reduce emissions, if this results in future generations' bearing the burden of drastic emission reductions and their lives' suffering a serious loss of freedom". The Court stressed that

the fact that "no state can solve the problems of climate change on its own <…> does not remove the national obligations to take climate action". Considering that, the Court ordered the legislature to formulate clear provisions on the goals of reducing emissions by at least 65% of the 1990 levels by the end of 2022.

It is also worth mentioning the positive experience of legal protection of climate-related rights by a British non-governmental organization Legal Action Network, the activities of the Dutch Urgenda Foundation, as well as the first obligation imposed by the Dutch Court on the private company Shell (2021) to reduce CO_2 emissions by 45% (compared to 2019) by end of 2030. The lawsuit was submitted in April 2019 by Milieudefensie, the Dutch branch of the international organization Friends of the Earth. Notably, more than 17,000 Danes joined it as civil plaintiffs [50]. Incidentally, in March of this year (2023), ECHR started considering the first climate lawsuit in the case of *Association of Senior Women for Climate Protection and Others v. Switzerland*, No. 53600/20 [51] regarding the detrimental impact on human life and health of extreme heat caused by climate change. The lawsuit cites the "harmful impact of climate change on human life and health", and also claims that "the negative effects of climate change directly lead to violations of a number of fundamental rights and freedoms enshrined in the Convention". Apart from that, there are two other cases: *Carême v. France*, No. 7189/2 [52], *Duarte Agostinho and Others v. Portugal and 32 Other States*, No. 39371/20 [53]. The above confirms that climate-related rights are quite reasonably being introduced into international human rights standards, taking into account the provisions of the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, and the case law of ECHR, which will contribute to their enforcement and protection. However, when conducting further scientific research, it is advisable to pay attention to the issue of public participation in the fight against anthropogenic climate change. This point is supported by the conclusion of O. Ammann and A. Boussat that "in addition to scientific uncertainty about the effects of climate change, another difficulty is that the recommendations of climate experts may conflict with the priorities of citizens, interest groups and political institutions". The authors emphasize that the EU and its institutions have long been criticized for the "deficit of democracy" and the inability to involve all subjects of civil society on an equal footing in the European law-making process [22].

The climate component of the national political and strategic documents

Let us return to the consideration of political and strategic documents. Once again, it should be noted that climate policy was primarily developed within the framework of environmental and legal policy, along with energy policy

and others. This is confirmed by the adoption in 1998 of the Principal Directions of State Policy of Ukraine in Environmental Protection, Use of Natural Resources and Ensuring Environmental Safety, approved by Resolution of the Verkhovna Rada of Ukraine of May 3, 1998 No. 188/98-P [39], that is, almost a year after the adoption of the Climate Program of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine No. 650 dated June 28, 1997. However, the Resolution of the Verkhovna Rada of Ukraine of March 05, 1998 No. 188/98-P mentions the climate only four times, particularly in the context of: a) creation and functioning of the State Environmental Monitoring System to facilitate the implementation of the state environmental policy, which provides for the development of international cooperation in the protection and prevention of anthropogenic climate change and the ozone layer of the atmosphere; b) balanced use and restoration of natural resources in relation to irrigated lands subject to flooding, secondary salinization, water erosion, destruction of the natural structure of soils, etc. (thus, the legislator focuses on taking into account changes in the microclimate of irrigated areas, ensuring appropriate yields without land degradation); c) taking into account natural and climatic conditions when developing models of soil protection and reclamation landuse; d) identification of the fundamental trends in the development of forest management strategy (there are two of them: first, the growing need for wood raw materials in the face of a significant forest deficit; second, a sharp increase in the climate-regulating role of forests along with the protective, sanitary, recreational, tourist and aesthetic role in the environmental crisis conditions). In the latter case, the issue of antinomianism of economic and environmental interests arises again, since in today's conditions, the priority vectors of state policy, regardless of its industry/sectoral focus, are still the dominance of environmental interests, ensuring environmental safety, and achieving climate neutrality. It should be noted that this regulatory act did not address the issue of climate legislation development either, even when planning to systematize (in the form of codification and incorporation) environmental legislation in the remit of adopting priority and promising laws and legal acts.

Further formation of environmental policy is associated with the adoption of Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Concept of the National Environmental Policy of Ukraine for the Period up to 2020" of October 17, 2007 No. 880-r [54], the Laws of Ukraine "On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2020" (2010) [55], and "On the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the Period up to 2030" (2019) [56]. Being limited by the scope of this article, we have

to summarize the conceptual provisions of the first two legal acts in terms of reflecting and addressing climate issues. The analysis of their provisions shows that the main tasks of the national environmental policy are basically defined through the prism of: a) strengthening international commitments to implement joint projects in compliance with the requirements of the Kyoto Protocol to the UN Framework Convention on Climate Change, developing and implementing a system for trading national surplus greenhouse gas emission allowances; b) development and phased implementation of the national plan of measures to mitigate the consequences of climate change and prevent anthropogenic impact on it; and c) prevention of global climate change in order to protect the natural environment and ensure environmental safety, etc. However, the prospects for the formation of an effective legal framework for climate change adaptation have not been determined yet again. Moreover, it should be recalled that in different time periods, it was referred to as "climate change prevention", "climate change control", "climate change counteraction", "climate change mitigation", "climate change adaptation", etc.

Based on this, the law "On the Basic Principles (Strategy) of State Environmental Policy of Ukraine until 2030" [56] enshrines the preservation of a state of the climate system that will prevent an increase in risks to human health and well-being, as well as the preservation and restoration of natural ecosystems as one of the principles of the state environmental policy. Today, the national legislator has classified climate change as one of the primary causes of environmental problems and emergencies in Ukraine, and prevention of and adaptation to it are included into the scope of tasks to ensure the integration of environmental policy into the decision-making process for the socio-economic development of the state. The Strategy also lists among its expected results the formation of a legal framework and creation of conditions for the implementation of state policy in the field of climate change.

On a related note, the following climate-oriented political and program acts have now been adopted and are in effect: The Concept for the Implementation of the State Policy in the Field of Climate Change for the Period up to 2030 [40]; the Strategy for Environmental Security and Adaptation to Climate Change for the Period up to 2030 [41], and the Operational Plan for its Implementation in 2022–2024; the Strategy for Low-Carbon Development of Ukraine until 2050 (adopted by a protocol decision of the Cabinet of Ministers of Ukraine, 2018) [42]. Thus, the formation of an independent climate direction of national policy has begun, which is closely linked to the fundamental vision of the national security policy in the environmental and energy sectors.

We would also like to add that many new or updated national development strategies proclaim the achievement of

climate neutrality as one of their priority missions [58]. In particular, this was specified in the National Economic Strategy for the period up to 2030, as well as in the Energy Strategy of Ukraine for the period up to 2035 [59] (the order was invalidated by the order of the Cabinet of Ministers of Ukraine No. 373-r of April 21, 2023), and the current Energy Strategy of Ukraine for the period up to 2050 (new) [60]. As it follows from the documents, the development of the irrigation system and a comprehensive approach to reducing greenhouse gas emissions and adapting to climate change should help accomplish that mission. Along with the above, it is proposed to expand the use of "climate-smart" agriculture and forestry in order to reduce greenhouse gas emissions and adapt to climate change, to foster sustainable management of natural resources, preserve and increase biodiversity, etc. However, as practice proves, the declaration of a goal does not mean its achievement, and effective legal mechanisms for ensuring climate neutrality still need to be developed. We have to admit that a significant number of sectoral policies, strategies, and plans are still not coordinated with climate planning documents, and there are no plans for climate change adaptation, etc. In this situation, it is appropriate to talk about accelerating the development of sectoral policy strategies, with attention primarily focused on the legal form of strategic planning acts, their compliance with EU requirements and current ambitious goals. In view of the above, we should now focus on the prospects for the development of multi-vector climate legislation in the following areas: introduction of a national greenhouse gas emissions trading system; approval of an integrated plan for climate change and energy development up to 2030; development and implementation of the Framework Strategy for Adaptation to Climate Change in Ukraine until 2030; development of sectoral climate policies and setting specific goals for each of them; creation of the National Climate Fund; introduction of "green bonds" to attract investments in eco-modernization and projects of environmental focus, etc. It is believed that this will undoubtedly affect the formation of new types of climate legal relations.

It should be added that the primary task today is still to bring the conceptual and categorical apparatus in line with European requirements. At the level of national legislation, there are still no legal definitions of the terms "climate", "climate protection", "mitigation of the consequences of climate change", "adaptation to climate change", etc. It is worth noting that the UN Framework Convention on Climate Change (1992) enshrines the definition of the concept of "climate system" as a set of the atmosphere, hydrosphere, biosphere, geosphere and their interaction. At the same time, "climate change" is considered to be directly or indirectly caused by human activities that generate changes in the composition of the global atmosphere

and are superimposed on natural climate variations observed over comparable periods of time, and 'adverse effects of climate change' means changes in the physical environment or biota brought about by climate change that have a severe adverse effect on the composition, regenerative capacity or productivity of natural and regulating ecosystems, or on the functioning of socio-economic systems, or on human health and well-being [61].

Given th above-mentioned, it seems appropriate to include the issue of climate change in the scope of the Law of Ukraine "On Environmental Protection" (1991). Thus, the Law of Ukraine of March 20, 2023 No. 2973-IX, which comes into force six months after the date of abolition or termination of martial law introduced by the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" of February 24, 2022 No. 64/2022, approved by the Law of Ukraine "On Approval of the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" " of February 24, 2022 No. 2102-IX, climate change is included in the list of factors whose impact leads to "negative changes in the environment" along with the loss, depletion or destruction of certain natural complexes and resources due to excessive environmental pollution, the destructive effects of natural forces and other factors that limit or exclude the possibility of human life and economic activity in these conditions [62]. We would add that the Law of Ukraine "On Environmental Protection" (1991), which has been in force for a long time, lists "climatic conditions" among the natural healing factors that determine the territories of resort and health and wellness zones, along with mineral springs and other conditions favorable for the treatment and rehabilitation of people (Art. 62), which allow classifying them as such zones.

However, the problem is that there is still no special legal act that would regulate legal relations on climate change or adaptation to it. However, we must state that the process of creating an institutional and functional legal mechanism to ensure climate change adaptation at the national and sectoral levels is currently underway, in particular, the climate component has been added to the competence of the relevant authorities. Yet, unfortunately, this is still lacking at the regional and local levels, for instance, in the bylaws regulating the powers of ministries and other bodies regarding adaptation to climate change (e.g., Resolutions of the Cabinet of Ministers of Ukraine "Some issues of the Ministry of Environmental Protection and Natural Resources (2020)" of June 25, 2020 No. 614 [63], "Regulation on the Ministry of Agrarian Policy and Food of Ukraine" of February 17, 2021 No. 124 [64], etc.). However, the Law of Ukraine "On Environmental Protection" was amended by the Law of Ukraine No. 2973-IX of March 20, 2023 [62] regarding the competence of the central executive body responsible for the formation of the state

policy in the field of environmental protection and use of natural resources (part 1 of clause "j" of Article 20, but, as noted above, they will come into force six months after the date of cancellation or termination of martial law).

Based on our analysis, we can state that national legislation is characterized by the lack of a systematic and comprehensive approach to the issues of regulating climate change adaptation. Despite their global nature, they have not been enshrined in the Basic Law, although, in our opinion, this would help strengthen and guarantee political and legal support from the state and bring them to the level of such highest social values as ensuring environmental safety and maintaining ecological balance, which is comparable to the constitutional provision of the state's ecological function (Articles 16, 50, etc.), as well as guaranteeing the rights of owners, because the use of property may not harm the rights, freedoms and dignity of citizens, the interests of society, or worsen the ecological situation and natural qualities of the land (part 7 of Art. 41), etc. No less significant are the changes made to subpara "k" and "q" of Art. 3 of the Law of Ukraine "On Environmental Protection" (although, due to objective reasons, namely martial law, they will "start working" six months after its cancellation or termination), according to which the list of the basic principles of environmental protection was supplemented as follows: "taking into account climate change, when addressing environmental protection and the use of natural resources, along with the degree of anthropogenic alteration of territories, the combination of factors that negatively affect the environmental situation; mitigation of climate change consequences and adaptation to climate change" [62], which helps consolidate the fundamental provisions in forming climate legislation.

CONCLUSIONS

In summation, we would like to note that climate legal relations are gradually being formed and distinguished as an independent interdisciplinary institute of both environmental, energy, agrarian, and environmental security law, and the global and EU law, as well as a relevant institute of legislation. Hopefully in the future climate legislation will be systematized. We are also convinced that an independent branch of public law – climate law – is likely to form. This conclusion is prompted by the fact that legislative support (the institution of legislation) already exists at both the national and supranational levels, which are characterized by internal differentiation.

According to the results of the study, the national climate legislation emerged and developed within the framework of environmental protection (some scholars emphasize exclusively its environmental component), in particular, atmospheric and ozone protection legislation. However, along with the above-mentioned, it has its origins, is closely related and correlated with security legislation (in the

spheres of environmental, energy, food, etc. security).

It is proved that the provisions of climate legislation are based on the international obligations of our state and are supported by the provisions of the political and program documents adopted on their basis for the strategic development of our country. In particular, the fundamental principles are reflected in the political and program acts of sectoral climate policies for power industry, production, transport, housing and utilities, agriculture, and other sectors. This is fully consistent with the fact that, in accordance with EU requirements, climate policy should be integrated into sectoral policies, along with their ecologization. Taking into account the above, it is emphasized that modern climate policy should be built at the cross-sectoral level to ensure the preservation of ecosystems, landscape and biological diversity, accelerate the transition to low-carbon energy saving systems, reduce the dependence on fossil fuels, promote the use of renewable energy sources, improve energy efficiency, and increase the adaptive capacity of natural resources to climate change. We consider it expedient to introduce and teach the relevant course (in particular, "Climate Law", "Legislative Framework for Adaptation to Climate Change", etc.) in law schools, emphasizing that scholars have provided convincing justifications for its appropriateness for the educational process [65].

Additionally, it is argued that achieving climate neutrality and ensuring environmental security should be considered as interdependent visions of the national domestic and foreign policy in the current conditions and post-war recovery. Further formation of climate policy will contribute to: optimization of the functional and organizational foundations of administrative institutions; streamlining their competence and powers on the basis of ensuring the achievement of climate neutrality and sustainable development; compliance with the requirements of climate and environmental safety, environmental imperatives; prevention of environmental risks, etc. It is apparent that the object of further scientific research is protection of humanity's climate rights, which, in our opinion, should be recognized by all states as a "fundamental right to a civilized future". However, it appears that there is still a lack of an agreed Concept (and a corresponding Action plan) for systematizing the national climate legislation in the context of its Europeanization, which, in turn, is an urgent need for further development and restoration of the state in the face of armed aggression by the Russian Federation in economic, social, environmental, and security aspects.

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FORMATION OF LEGAL SUPPORT OF CLIMATE-PROTECTIVE FARMING IN UKRAINE: PROBLEMS UNDER MARTIAL PERIOD

The article investigates both theoretical issues of the formation of global climate protection policy as well as the formation of climate protection legislation in the agrarian sphere of Ukraine. It is proven that agriculture should respond to adverse climatic changes by adapting agriculture to such changes and taking measures to counteract the negative impact of agricultural production on the state of the climate. Accordingly, the indicated areas of interaction between agriculture and climate should be the basis for the formation of legal support for climate-protective agriculture. It is also proven that Russian aggression against Ukraine increased the negative impact of climate change on the agricultural sector and determined the expediency of using large areas of agricultural land degraded because of military operations for production of raw materials to meet the needs of "green" energy. Proposals are being formulated to introduce a system of legal norms into the Land Code of Ukraine, which should determine the special legal regime of energetic farming lands.

Key words: *climate, war, agriculture, land, law, "green" energy, energetic farming*

Entry

One of the consequences of intensive production and other nature-consuming activities of mankind in the twentieth and twenty-first centuries is a significant deterioration of the climate as a key characteristic of the environment. This endangers the existence of biological organisms on our planet. In search of ways to counter global climate threats, scientists formulated the concept of «climate security» as a strategic goal to unite efforts to counteract the onset of climate cataclysms. Being a universal theoretical and applied postulate, the concept of «climate security»

has become a common guideline for all types of human life, which has begun to take climate change seriously, at least at the present stage of the development of the earth's civilization. Therefore, an important tool in achieving the goals of climate security has become law and legislation as its applied means of influencing human behavior in all spheres of life.

The priority in the formation of legal support for climate protection belongs to international law, which most fully reflects the common interests of the earth's civilization. 2004 Kyoto Protocol to the United Nations Framework Convention on Climate Change [1] became the first international agreement to limit greenhouse gas emissions into the atmosphere. Its purpose was to stabilize the concentration of greenhouse gases in the atmosphere at a level that would prevent an increase in dangerous anthropogenic impact on the planet's climate system. As a follow-up to the Kyoto Protocol in 2015, The Paris Climate Agreement has been concluded [2], which gave impetus to a fundamentally new stage in the development of global climate policy – the development by governments of the world of a plan for the energy transition from traditional («dirty») to climate-friendly energy policy. In December 2019, the European Union introduced a more specific and ambitious energy transition program – the European Green Deal [3], implementation of which should make Europe climate neutral by 2050. According to Y. Demchenkov, in 2020 an energy event took place in the EU, the importance of which is difficult to overestimate. For the first time, the amount of energy obtained from renewable sources exceeded that produced from fossil fuels: 38% versus 37% [4]. Finally, in 2021, the United States also introduced its Green Deal. President Biden signed a decree on the development of «green» energy (Green New Deal), which, based on attracting investments in the development of green energy in the amount of $ 2 trillion, should ensure the achievement of 100% of the produced «clean» (climate-friendly) electricity in this country by 2035 [5].

Ukraine, acting in unison with the EU and the United States, has also developed an ambitious plan for the climate transformation of its own energy system, which should increase the share of renewable energy sources (RES) in the country's energy balance to 25% by 2035. Initially, the implementation of this plan was successful. At the beginning of 2022, the total capacity of renewable energy sources in Ukraine amounted to 9.5 GW, and the volume of investments in this sector was estimated at about $12 billion. However, Russian aggression against Ukraine has caused very significant damage to renewable energy facilities: as of June 2022, 90% of wind energy capacity and 30% of solar energy capacity in Ukraine have been decommissioned [6].

Russia, playing a key role in providing European countries with fossil fuels (oil, gas, coal) and threatening to stop

their supplies, has embarked on the path of using such energy carriers as an energy weapon against Ukraine and the EU countries. Under such conditions, the issue of abandoning coal and gas has gone beyond the problem of climate security and has become a factor in the energy security of the European continent. The EU's response to this challenge was the adoption of an energy reform plan by the European Commission in May 2022 – REPowerEU [7], which propose to accelerate the transition of the EU energy system from fossil fuels to use of clean («green») energy sources. An important role in the implementation of the REPowerEU plan is given to the «greening» of agriculture as one of the sources of climate deterioration.

Statement of the problem

The transformation of the qualitative parameters of the climate under the influence of anthropogenic activity significantly changes not only the nature of agricultural production, but also the scope of law as a regulator of agrarian relations. Unfortunately, russian aggression against Ukraine has exacerbated the negative climate impacts on the agricultural sector. In the context of climate change, society is faced with the task of harmonizing the interaction of agricultural production and its climatic environment by improving the legal regulation of the use and protection of land and other natural resources used in agriculture. Therefore, it can be predicted that because of such harmonization, new legal institutions of agriculture will be formed, which will help ensure the introduction of climate protective technologies in the agricultural sector and will allow to maintain the quality characteristics of the climate in parameters that are safe for humans and other biological organisms.

The aim of the study is to formulate theoretical foundations and applied recommendations for the formation of climate-saving agricultural production, considering the existing and possible negative impacts of hostilities on the state of lands and other natural resources as the main means of farming in modern conditions.

Article's main body

At its core, modern agricultural production, despite its industrialization and modern technologies, continues to be a form of nature consuming, where not only land, water, flora and fauna and other natural resources, but also the climatic factor is used very intensively. This necessitates the restructuring of agricultural production as a sphere of nature consuming to adapt it to new climatic realities.

It should be noted that the acuteness of the climatic factor dictates the need to make changes to the key traditional directions of agricultural policy in many countries of the world, especially to legal regulation of state support for agriculture. Farmers in developed countries have begun to respond to climate change

by expanding their innovation activities. For example, in the United States, in recent years, there has been an increase in the number of successful patent applications for the introduction of drought-tolerant crops. However, on the way to expanding the use of innovative technologies by farmers was the US policy in terms of state support for agricultural insurance. As it turned out, statistically, the relationship between climate change and innovations designed to combat this change is weakened by about 23 percent because of government support for agricultural insurance [8]. After all, insurance of the risks of agricultural production with the possibility of farmers receiving compensation for losses incurred due to adverse climatic disasters, at the expense of insurance companies, does not stimulate them to more intensive use of innovative technologies of agricultural production. Therefore, understanding the response of agricultural producers to weather conditions is important in the process of developing agro-policy measures aimed at reducing the risks associated with climate changes [9]. In addition, the practice of some countries shows that the lack of rains and decrease in agricultural production can lead to civil conflicts [10]. Thus, the strategy of legal support for the climate security of the agricultural sector should include two areas: adaptation of agriculture to intense climate change and counteraction to their occurrence.

In Ukraine, the issue of adaptation to negative consequences and combating climate change has also become one of the most important in many strategic documents of the state. Thus, the Basic Principles (Strategy) of the State Environmental Policy of Ukraine for the period up to 2030, approved by the Law of Ukraine of February 28, 2019 No. 2697-VIII [11], states that at the beginning of the 21st century, the world community recognized that climate change is one of the main problems of world development with potentially serious threats to the global economy and international security due to increased direct and indirect risks associated with energy security, food and drinking water supply, stable ecosystems, risks to human health and life.

However, in our opinion, the Basic Principles (Strategy) of the State Environmental Policy of Ukraine until 2030 do not fully reflect the environmental and climatic problems caused by domestic agriculture. And this is even though agriculture is one of the largest polluters of the atmosphere due to the significant amount of greenhouse gases that are generated as a result of intensive tillage and livestock [12].

Also agriculture as a factor of negative impact on the climate is not directly recognized in the Concept for the Implementation of State Policy in the Field of Climate Change for the period up to 2030 approved by the Cabinet of Ministers of Ukraine [13] and in the Action Plan for the implementation of this Concept [14]. Thus, the said Concept sets a general task «to promote the creation and constant

updating of models for forecasting greenhouse gas emissions under various scenarios of the development of the state's economy and its separate sectors», which probably included the agricultural sector. In addition, the Concept and the Action Plan for its implementation set a general task to increase the volume of greenhouse gas absorption through the implementation of measures in the field of forestry and land use, as well as determine the same vague expected result of its implementation – «to increase the volume of greenhouse gas absorption through the implementation of measures in forestry and land use» without specifying this result as a percentage or other indicators.

A more targeted climate protection program in the agricultural sector is, in our opinion, the Strategy for Environmental Safety and Adaptation to Climate Change for the period up to 2030, approved by the Cabinet of Ministers of Ukraine dated October 20, 2021 No. 1363-р [15]. And although this Strategy considers climate change as a positive factor in the development of agricultural production, for the first time in the legislation of Ukraine it quite fully and clearly defines climatic danger for the development of agriculture. Thus, this document attributes to the negative consequences of climate change in Ukraine an increase in the frequency and intensity of extreme weather events, a decrease in soil fertility, a decrease in crop productivity, the need to develop and introduce new varieties of plants that are more resistant to drought and high temperatures, and the expansion of irrigation.

There is an urgent need to solve the problem of land degradation and desertification, restore anthropogenically altered ecosystems, improve the structure of agricultural lands and areas of economic activity to form a balanced ratio between different agricultural land and ensure environmental safety and balance of the territory. It is also noted that due to the impact of climate change, livestock in Ukraine will decline due to a decrease in the productivity of many livestock breeds, spread of diseases, a decrease of land suitable for grazing, and a lack of water to meet the need for watering animals.

At the same time, despite a complete «inventory» of climate hazards for agricultural development, the authors of the Strategy for Environmental Security and Adaptation to Climate Change for the period up to 2030 could not identify ways to avoid such hazards. In the strategy, the tasks of avoiding such hazards include ensuring the development of organic agriculture, the use of lean land cultivation practices with the preservation and improvement of soil organic, as well as the formation of action plans for adaptation to climate change in the areas of agriculture and soils.

Therefore, the Irrigation and Drainage Strategy in Ukraine for the period up to 2030, which was approved by the Order of the Cabinet of Ministers of Ukraine dated August 14, 2019 No. 688-р, de-

serves a positive assessment [16]. According to this Strategy, the key tools for minimizing the impact of climate on the processes of socio-economic development of regions include the restoration of irrigation and drainage as a means of combating the growing «hotness» of the climate.

The Strategy states that 5485.3 thousand hectares are registered in Ukraine. hectares of reclaimed land, including 2178.3 thousand hectares of irrigated and 3307 thousand hectares of drained land with appropriate reclamation infrastructure. But in fact, only about 500 thousand hectares are irrigated. And bilateral water regulation was carried out on an area of about 250 thousand hectares, which is less than 20 percent of the available irrigation area and less than 10 percent of the available drainage area. And this is even though the water management and reclamation infrastructure built in the Soviet period (availability of water resources, capacity of main and distribution canals, number and productivity of pumping stations for various purposes, etc.) are sufficient for the intake and supply of water for irrigation of at least 1.5–1.8 million hectares, drainage of excess water in the spring from the territory of more than 3 million hectares and water regulation on an area of more than 1 million hectares. Accordingly, the state of reclamation agriculture in terms of the level of use of the available capacities of the engineering infrastructure of irrigation and drainage is described in the Strategy as a crisis with the threat of deterioration.

In this regard, the Strategy defines several principles for overcoming the crisis in land reclamation agriculture, which, in our opinion, should be considered as principles for the development of its legal support. These include: recognition of the important role of irrigation and drainage in ensuring sustainable agriculture and rural development; the main objects of irrigation and drainage infrastructure are to be in state ownership; separation of the water resources management function from the function of water commercial management and service delivery; voluntary association of farmers in water users' organizations – self-financed self-governing non-profit organizations that provide irrigation and drainage services to their members; carrying out the activities of the organization of water users within their defined service area and the part of the reclamation system assigned to them.

It should be noted that, unlike many previously approved state program documents, which contain measures of economic and environmental recovery, but which have not been implemented, the Irrigation and Drainage Strategy in Ukraine for the period up to 2030 is implemented in legislative and law enforcement practices. On February 17, 2022, Verkhovna Rada of Ukraine adopted the Law of Ukraine «On Water User Organizations and Stimulation of Hydrotechnical Land Reclamation» [17]. The Law is based on the practice of solving the problem of optimization of land reclamation agriculture, which is wide-

spread in many countries, the key development of which is the transfer of functions of management of reclamation infrastructure of a lower level to water user organizations (hereinafter referred to as WUOs), which unite owners (users) of land plots, the hydraulic reclamation of which is provided by such infrastructure. At the same time, WUOs are recognized as an independent type of legal entities acting based on a special law and, most often, are established as legal entities of public law. The public status of WUOs is manifested primarily in the specifics of its activities, namely in granting WUOs the right to use infrastructure free of charge, the right to access land and water, including land of third parties, for the purpose of maintenance of irrigation systems, the right to approve water use rules mandatory for members, the right to tax benefits, etc. At the same time, membership in WUOs does not give the land user the right to a share in his property. This subordinates the legal regime of WUO property to the needs of meeting public interests in the development of land reclamation.

At the same time, the world practice of organizing reclamation agriculture has confirmed the ineffectiveness of legal models based on the transfer of reclamation infrastructure objects to WUOs for lease, concession, etc. Because such legal models envisage, firstly, payment for use, which increases the cost of hydraulic reclamation services for owners of irrigated and drained lands, and, secondly, holding a competition for the selection of a user of hydraulic infrastructure, which is inexpedient in the absence of an entity other than water users that has an interest in ensuring effective irrigation/drainage of the land plots used.

The above shows that in Ukraine the main direction of the country's legal system's response to climate change has become the adaptation of agriculture to new climatic conditions. At the same time, the agrarian legislation of Ukraine has not properly developed the legal support for counteracting the onset of climate changes unfavorable for the agricultural sector. However, we believe that the development of law as a means of preserving a climate environment favorable for agricultural production should be based on the concept of climate-friendly agriculture, which covers both adaptation to climate change and counteracting its occurrence. It seems that the Russian-Ukrainian war has actualized the need to pay attention of scientists and legislators to the problem of legal support for countering the onset of new climatic threats to agriculture.

Unfortunately, with the beginning of russian aggression, Ukraine has faced new threats to agriculture – military ones, which exacerbate existing climate threats. Thus, war has caused the disruption of the soil cover of Ukraine on a significant scale. According to the estimates of the Ukrainian Nature Conservation Group NGO, as a result of war, 34% of the territory of Ukraine already has or is at risk of systemic disturbance of the surface layer of soils or their contamina-

tion (mines, oil products, unexploded ordnance, etc.) [18].

At the same time, the degree of soil disturbance because of military actions can be radically different. Experience of other countries shows that as a result of war fields can remain dangerously contaminated with ammunition for a long period – 100 years or more. Especially illustrative in this regard are the lands of countries where two world wars took place. For example, in 2011, in Belgium, almost 100 years after the end of the First World War, scientists conducted a study of soils near the city of Ypres – a key point of the Western Front of this war – and found that the content of heavy metals in them still exceeds the norm. Such lands have been recognized as unsuitable for agricultural use so far [19]. In France, in 2015, the authorities ordered local farmers to destroy the grown products, which turned out to be contaminated with elements from old ammunition – the remnants of world wars [20]. In general, only after the First World War, the sown area in Europe decreased by 22.6% [21].

The Russian-Ukrainian war is much more intense both in the nature of military actions and in the consequences for the environment and, in particular, the soil cover. In general, the assessment of the nature of damage to the soil cover because of the war gives grounds to distinguish two main degrees of soil disturbance: significant, which requires long-term restoration, and temporary, which can be eliminated within a relatively short period of time.

Unfortunately, the restoration of the soil cover also requires a lot of costs as well as organizational and legal support. Therefore, in order to overcome the consequences of military actions, it is advisable to develop a national program for the restoration of soil cover, which would provide for the biological reclamation of agricultural land disturbed by the war within a relatively short time – 3–10 years through traditional agricultural reclamation – alkalinization, etc., as well as the use of agricultural land degraded as a result of hostilities for other needs for a long time, which can cover more than one decade.

It should be noted that russian aggression against Ukraine has harmed not only our country, but also caused several global crises, namely: food crisis (disruption of food security to varying degrees, including famine in a number of African and other countries), humanitarian crisis (displacement of millions of refugees from Ukraine to other countries), legal crisis (violation of the international legal order formed after World War II) and energy crisis.

The global energy crisis has affected the lives of much of the population of planet Earth with two economic consequences. The first of these is the sharp increase in the price of energy produced from fossil fuels (oil, gas, etc.). And the second one is a continuation of the first, since the increase in fossil fuel prices has led to an increase in the economic profitability of growing energy crops (willow, poplar, miscanthus, candlegrass) and

agricultural plants, in particular, corn for use as a raw material for the production of heat and electricity and biomethane («green» energy). With high prices for traditional energy sources that are produced from fossil fuels, the production of energy carriers from energy crops (wood, agricultural plants, etc.) has become very profitable [22].

Growing energy crops requires certain areas of land. The question arises on which lands energy crops can be grown to meet the needs for «green» energy. Since 70 percent of the territory of Ukraine is agricultural land, we can first turn our attention to these lands. However, the cultivation of energy and other crops to produce clean energy is not a sub-sector of agriculture, as it does not aim to produce food for humans or animal feed. Therefore, the Land Code of Ukraine prohibits the use of agricultural land for non-agricultural needs.

At the same time, there are about 5 million hectares of degraded, technogenically polluted land and simply unproductive agricultural land in Ukraine. All these lands are not used in agricultural production, although a significant part of them belongs to the category of agricultural land. In addition, several million hectares should be added to this agricultural land that have been severely degraded as a result of war and have become unsuitable for growing safe food and feed for a long time. In our opinion, energy farming on such lands should be carried out.

Thus, the prospect of developing energy agriculture is very attractive for Ukraine. A new forecast by oil and gas giant BP (British Petroleum) has shown that the Russian-Ukrainian war will accelerate the global green transition [23]. That is why President of Ukraine Volodymyr Zelenskyy, at a meeting with the heads of big business, which took place in early September 2022 as part of the opening of the New York Stock Exchange, made a statement that Ukraine is able to replace «dirty», climate-damaging russian energy resources by «green» energy and ready to become a «green» energy hub for Europe [24].

Ukraine's energy initiative has been positively assessed in the EU. Therefore, within the framework of the EU-Ukraine summit held in Kyiv on February 3, 2023, Prime Minister of Ukraine Denys Shmyhal and President of the European Commission Ursula von der Leyen signed a Memorandum on Strategic Partnership in the field of Renewable Gases, namely Hydrogen and Biomethane [25]. Obviously, Ukraine's fulfillment of the role of a leading supplier of «green» energy resources will require the adoption by the Cabinet of Ministers of Ukraine of a new document instead of the Energy Strategy of Ukraine for the period up to 2035 «Safety, Energy Efficiency, Competitiveness» [26], which, in our opinion, can be the Strategy for the Development of Bioenergy of Ukraine until 2050 – the year of expected achievement of climate neutrality by EU member states in accordance with the program

«European Green» course». In our opinion, one of the main objectives of the Bioenergy Development Strategy of Ukraine until 2050 should be the implementation of climate protection reform in the legal system of Ukraine, which would provide for the reorientation of many areas of Ukrainian legislation to achieve climate protection goals. Such industries include energy, environmental, natural resource and agricultural legislation.

It should be noted that energy legislation has the greatest achievements in ensuring bioenergy transformation. Thus, on October 21, 2021, the Law of Ukraine «On Amendments to Certain Laws of Ukraine on the Development of Biomethane Production» was adopted [27]. On July 22, 2022, the Cabinet of Ministers of Ukraine approved the Procedure for the functioning of the biomethane register [28], which allows for the full implementation of the Law of Ukraine «On Alternative Fuels» of 2000 [29]. In addition, the National Energy and Utilities Regulatory Commission amended the codes of gas transmission (GTS) and gas distribution (GDS) systems, in which it clarified the requirements for biomethane for supply to gas networks [30]. At the same time, environmental, natural resource and agrarian legislation are at the initial stage of solving the problem of Ukraine's transition to the production and export of «green» energy carriers.

The implementation of the problem of ensuring the country's energy security in the face of climate threats and military consequences should, in our opinion, become the dominant of the legislative process in the field of land law of our country in the near future period of our history. It should be noted that the land legislation of Ukraine does not contain legal mechanisms for the use of agricultural land to meet the needs of «green» energy. Therefore, the development of bioenergy based on the use of agricultural land and other lands degraded as a result of military actions requires significant changes in the legal framework for the distribution of land in the country to meet the complex of needs in land. We believe that to create an effective system of legal support for «energy farming», it is expedient to supplement the two basic principles of modern land law of Ukraine – the principle of food security and the principle of environmental security – by new one – the principle of bioenergy security. This principle will be the scientific and legal basis for the use of a certain part of the country's land for the needs of «green» energy. To do this, the principle must be implemented in the legal regulation of land relations.

The main means of land law of Ukraine, which is used to allocate a certain part of the country's land for use to meet certain public needs, is the definition in the law of the legal regime of such lands in general and land plots that are included in the category of lands in particular. As stated in Art. 18 of the Land Code of Ukraine, the lands of Ukraine are divided into categories that have

a special legal regime according to their main purpose for land use. And according to Part 3 of Art. 19 of the Code, a land plot, which belongs to the relevant category of land according to the main purpose, refers to a certain type of designated purpose according to the procedure determined by the Land Code of Ukraine, which characterizes a specific direction of its use and its legal regime. Thus, the legal regime of the category of land is the legal basis for determining the legal regime of land plots included in the relevant category of land. At the same time, lands of the land category can be divided into separate subcategories of land, for which a special legal regime is also established. For example, such a category of land as land for industry, transport, electronic communications, energy, defense, and other purposes consists of separate subcategories of land – land for industry, transport, electronic communications, energy, and defense.

In this regard, the question arises as to which lands should be attributed the lands used exclusively to meet the needs of «green» energy in raw materials. On the one hand, energy farming lands are intended to meet energy needs, which makes them related to the subcategory of energy land as an integral part of the category of industrial, transport, electronic communications, energy, defense, and other land. At the same time, all lands of this category of land for their main purpose are used as an operational basis – for the placement of relevant buildings and structures, while energy farming lands for their main purpose can be used as a means of production that ensures the cultivation of energy crops. Therefore, there are fundamental differences between energy lands and energy farming lands, which make it impossible to combine them either into one subcategory of energy land, and into the abovementioned category of land as its separate subcategory.

On the other hand, energy farming lands should ensure the cultivation of energy crops, that is, they will be used as a means of agricultural production, which gives grounds for classifying such land as agricultural land. However, there are fundamental differences between energy farming land and agricultural land as well. They are designed to meet various social needs: the former should provide «green» energy with raw materials for the production of climate-friendly energy resources, and the latter should ensure the country's food security.

Considering the peculiarities of the purpose of use of energy farming lands, we believe that the legal regime of these lands cannot be organically implemented into the legal regime of agricultural land or the legal regime of industrial, transport, electronic communications, energy, defense and other land. Therefore, we propose to supplement the system of 9 categories of land (agricultural land, residential and public development land, etc.) enshrined in the Land Code of Ukraine with another one – the category of energy farming land. Now 4–5 million hectares of severely degraded and un-

suitable land for agricultural production can be allocated to this new category.

In our opinion, to ensure the proper use and protection of energy farming lands in terms of providing green energy capacities with climate-friendly raw materials for the production of relevant energy carriers, it is advisable to determine their special legal regime. To this end, the Land Code of Ukraine should be added by a system of legal norms that should define the concept and types of energy farming land, the procedure for transferring agricultural and other lands to energy farming lands, the powers of the authorities to provide them for ownership and use, the list of subjects of rights to land plots provided for the needs of energy agriculture, the procedure for locating «green» energy enterprises or their individual production enterprises on such lands capacities, as well as peculiarities of legal protection of energy farming lands. In addition, it seems expedient to fill the Law of Ukraine «On Land Protection» of 2003 with climate protection norms that regulate relations regarding the production of energy resources, which would detailed the relevant provisions of the Land Code of Ukraine.

At the same time, it should be noted that agricultural land which are transferred to the ownership or use of agricultural producers for food production can also be used to solve the problems of «green» energy. Such lands, along with the production of food and raw materials, can become a source of raw materials for «green» energy, which is considered a by-product of agriculture: wheat straw, corn stalks, sunflower husks, waste from animal farms, fish economy, as well as waste from the food and processing industry, in particular, sugar factories (pulp, cake) [31]. To create legal requirements for the production of raw materials for green energy by agricultural enterprises, on October 19, 2022, the Verkhovna Rada of Ukraine made additions to Art. 22 of the Land Code of Ukraine, which gave agricultural enterprises the right to place biomethane production facilities on non-agricultural plots of agricultural land. Such facilities relate to components of complexes for the production, processing and storage of agricultural products [32]. We believe that it is expedient to grant agricultural enterprises the right to sell on market the biomethane produced by them. So such agricultural enterprises become full-fledged participants in the entire chain of legal relations regarding the production of energy raw materials, their processing and sale of the finished «green» energy product.

Conclusions

Thus, the implementation of these proposals for the development of legal doctrine and improvement of legal support for energy agriculture will contribute to strengthening the legal protection of the climate from the negative impact of two factors: the production of energy resources using fossil fuels (oil, gas, coal) and carbon

dioxide emissions into the atmosphere from the soil cover, since the cultivation of perennial tree and other plantations for the needs of green energy will be accompanied by binding of this gas by soil substances (organisms) and will prevent their emissions into the atmosphere. In our opinion, the proposed amendments to the land legislation of Ukraine will not lead to the loss of Ukraine's status as the leading agrarian state in the world but will contribute to the acquisition by Ukraine of the status of the leading state in Europe, whose agriculture produces climate-protective energy resources and provide them domestic consumers as well to EU countries.

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FEATURES OF AGRARIAN AND LEGAL COMPONENTS OF MODERN FOOD SECURITY

Abstract. *The article deals with the issues of agrarian and legal components of modern food security. It is emphasized that food security is a complex category, and therefore it should be studied using the knowledge of both jurisprudence and other sciences, in particular economics. The author establishes an undeniable interconnection between national and global food security. This is due to the fact that the world is in a single globalized agricultural chain, which allows growing, processing and distributing agricultural products between different countries. It is emphasized that food security is aimed at realizing the human right to adequate food. At the same time, the realization of any right means the operation of a certain mechanism consisting of a set of actions and processes aimed at achieving the desired result. In the phenomenon of food security, one can identify the existence of public and private legal interests which have one vector – maintenance of an adequate standard of living. The author substantiates the expansion of the range of food security principles which should be considered as follows: independence, accessibility, quality, adequacy, self-sufficiency, reasonableness, good faith, justice. It is established that under martial law the legal regime of food security should differ from the usual food security regime, in particular, it is additionally necessary to support agricultural producers, to guarantee certain specific measures (demining, de-mining, etc.). The authors identify the fundamental agrarian and legal components of food security in wartime: administration of the State's food security system; legal support for food security; provision of the population with quality and affordable food; logistics support for agri-*

business; logistics support for agricultural production; regulation of the balance of exports and imports of agricultural products; updating and continuation of the formation of the State food reserve; international support for food security in Ukraine. The authors identify and characterize the vulnerabilities of agrarian and legal components of food security under martial law. It is established that the logistical support of food security in wartime is divided into the following stages: 1) 24.02. – 17.07.2022 – the critical state of agrarian logistics, which was limited and suspended as a result of the outbreak of hostilities; 2) 17.07.2022–18.07.2023 – agrarian logistics in the context of the "grain deal"; 3) from July 18, 2023 – the search for new logistics routes.

Keywords: *food security, agricultural products, agribusiness, material and technical support, agricultural land, logistics.*

INTRODUCTION

The food security of any country means the availability of sufficient, safe and nutritious food for its population. It is an integral part of national security. Its fundamental principles are laid down in the Basic Law of Ukraine, which proclaims that the highest social value is a person, his or her life and health (Article 3); everyone has the right to an adequate standard of living for himself or herself and his or her family, including adequate food, clothing, and housing (Article 48) [1]. The above constitutional provisions indicate that food security is not only an economic concept, but also a fundamental, complex legal category that ensures the human right to physical existence. That is why there is an ongoing scientific debate about defining its legal nature, identifying and updating its components. At the same time, this category is and remains always urgent for scientific research, since food security is directly related to human beings and their ability to exist. The need for a deep scientific understanding of it has become especially acute during the large-scale aggression of the Russian Federation.

Since February 24, 2022, Ukraine has been in a state of active hostilities, and part of the population has been evacuated to safer regions of Ukraine and abroad, primarily to EU countries. It should be noted that the majority of Ukrainians decided to stay in their native land, which posed the government with the task of ensuring the physical safety of people's lives, providing them with housing, food, medical care, etc. Therefore, a special order of the Cabinet of Ministers of Ukraine "On Approval of the Action Plan for Ensuring Food Security under Martial Law" of April 29, 2022, No. 327-p was urgently adopted [2]. The rapid legal regulation of social relations, which were rapidly forming under extraordinary conditions, became an important factor in ensuring food security, as well as a manifestation of one of its agrarian and legal components.

Separately, Ukrainian society and the state actively discussed the possibilities

of ensuring food security in the most effective way. For example, on July 21, 2022, the Ministry of Communities and Territories Development of Ukraine and the USAID GOVERLA Project organized a meeting on community food security during the war and adopted a plan to ensure food security in times of war. This plan provides for the launch of monitoring of the state of food security and agricultural infrastructure in general; support for food producers; targeted assistance to socially vulnerable categories of the population; and centralized control over food prices [3]. It should be emphasized that modern food security is a phenomenon that requires constant study, analysis, rethinking of approaches to its provision, and support with the participation of both state and local governments, as well as representatives of agribusiness, individual communities and citizens. The situation around food security under martial law has demonstrated the consolidation of the state, agribusiness and society.

The international community has also provided assistance in addressing food security issues in the face of current challenges. A striking example is the "grain deal" (Initiative for the Safe Transportation of Grain and Foodstuffs from Ukrainian Ports/Black Sea Grain Initiative), concluded in Istanbul on July 22, 2022. Its implementation began on August 1, 2022, and more than 30 million tons of crops were exported abroad [4]. Despite the positive experience of this logistics agricultural corridor, in July 2023, it was insidiously terminated by the aggressor country, which also destroyed some of the agricultural products that were in the ports of Ukraine. In particular, after the Black Sea Grain Initiative was terminated, 60 thousand tons of grain were destroyed [5]. This had a negative impact on the food security of many countries in Asia and Africa, even on prices in Europe, not to mention the enormous losses of domestic agribusiness. It is known that, for example, grain supplies from Ukraine help maintain global food security, in particular, to overcome hunger on the African continent. This situation once again confirms that the countries of the world are part of a single globalized agricultural chain that allows for the production, processing and distribution of agricultural products between different countries. This should be taken into account when studying the components of food security.

As a result of the dynamics of social relations, the global economy, and climate change, the components of food security are also being updated on the planet. At the same time, its fundamental components remain invariably mandatory: logistics (availability of agricultural land, special technical equipment, seeds, plant protection products, infrastructure facilities, etc.); logistics (transportation, storage, free sale, export of agricultural products); support (state (domestic), international (external)); humanitarian support. It is these agrarian and legal components of food security

that require a comprehensive study in the dynamics – taking into account the impact of martial law, innovative development, international support, climate change, etc. In addition, it is necessary to identify and comprehend their transformations and additions.

The purpose of the article is to define the agrarian and legal components of modern food security. It is possible to achieve this goal from the standpoint and based on the results of the following tasks: to characterize the status and features of modern food security; to identify its agrarian and legal components and their transformation as a result of war; to reveal the role of logistical, technical, and other support for food security and to emphasize their importance with arguments; and to provide recommendations for sustainable development of agrarian and legal components of food security.

Studying and substantiating the agrarian and legal components of modern food security is of theoretical and practical importance. Scientific comprehension of this category provides an opportunity to obtain new results regarding food security, which has been the subject of research by O. V. Gafurova, O. I. Goichuk, H. A. Hryhorieva, V. M. Yermolenko, T. O. Kovalenko, T. V. Kurman, O. M. Tuieva, and others. Critical changes in the state of food supply as a result of the war necessitate the identification of qualitatively new characteristics in the structure of food security. Such knowledge will provide an opportunity to more fully develop and update strategic directions for the development of relations in the field of food security, agricultural policy and legal regulation of agricultural relations in general. The above indicates the relevance and timeliness of the topic of the article.

1. LITERATURE REVIEW

Food security will become a fundamental definition of agrarian law, which has a direct connection with other categories, in particular, agribusiness and land relations. The complexity, multifacetedness and significance of food security for human rights as a special phenomenon causes constant scientific interest, which not only does not fade away, but, on the contrary, intensifies, in particular, due to the extraordinary circumstances caused by the aggressive actions of the Russian Federation in Ukraine. Thus, one of the leading experts in the development of this topic, T. Kurman, in her article “Agribusiness and Food Security: Problems of Legal Support under Martial Law”, rightly drew attention to the importance of ensuring food security, which, according to the researcher, is one of the main tasks of every modern civilized state, and therefore, an important place is devoted to the issues of legal support for food security in the concepts of national security of most advanced countries [6, p. 124]. Assessing the potential of food security, economist M. P. Sychevsky notes that Ukraine has all the opportunities not only to ensure food security in the do-

mestic market, but also is able to have a significant impact on its strengthening at the global level [7, p. 15]. According to T. Kharitonova and H. Hryhorieva, we should expect the consequences of the war for food security, in particular, the deepening of domestic agro-ecological problems: soil degradation, expansion of desertification zones, reduction of suitable water resources available for agricultural irrigation, etc [8, p. 288]. Based on the analysis of recent scientific publications on the subject, it can be argued that scientists are constantly updating, supplementing and deepening knowledge about food security as an independent phenomenon. At the same time, it should be noted that, among other things, researchers have not been able to comprehensively outline changes in the agrarian and legal components of food security as a whole, i.e. as a single legal phenomenon. Thus, this important aspect requires scientific elaboration and coverage.

2. MATERIALS AND METHODS

Scientific study of agrarian and legal components of modern food security is possible through the use of a system of general scientific and special methods of cognition. One of the basic methods of cognition of agrarian and legal phenomena is the dialectical method. Its use made it possible to find opposite and common trends in the object under study, and also to identify individual and common components in the legal nature of food security. The hermeneutic method was used to identify the specific features of the legal acts adopted to overcome the food crisis in active hostilities. The axiological method provided an opportunity to emphasize the importance of food security for ensuring the natural existence of man and his rights. In addition, it allowed us to emphasize the vital value of food security for both Ukraine and the world. The axiological approach to the agrarian and legal components of food security made it possible to prove their undeniable importance and indispensability both for the functioning of the agricultural chain (narrow approach) and their importance in a single application for the sustainable development of food security (broad approach). At the same time, it should be emphasized that this methodological approach is one of the fundamental ones in the methodology of agricultural research, as it reveals the vital importance of agricultural products and the role of agribusiness in supporting both the existence of a single person and society as a whole.

As a result of the unstable development of relations in the field of food security under martial law, it became necessary to use the synergistic method of scientific cognition. It was used to identify changes in the construction of agrarian and legal components of food security as a process that was organized during hostilities. The statistical method was used to characterize the state of food security and to identify the consequences of the war for agricultural production,

which made it possible to form the author's own assessment of the situation around the country's food supply, the risks of the material and technical base, and the logistics of agribusiness during martial law. The methods of analysis and synthesis, which revealed the links between them, allowed us to identify and outline the features of each of the components of food security. The interdisciplinary approach is one of the main modern methods of studying agrarian and legal phenomena, as it allows us to consider agrarian phenomena that are the subject of research in various sciences, including economics, sociology, and political science. Food security as a complex category should be studied using knowledge not only of jurisprudence but also of other sciences, and therefore the above approach was used to identify the characteristic features of the components of food security and to reveal the essence of each of them.

The formal legal method has become an effective tool for clarifying the state of legal support for food security relations, changes in legislation to support food security components, and the dynamics of legislative response to threats to food supply. The use of the technical and legal method made it possible to formulate recommendations for further improvement of agricultural legislation.

A number of materials were used for a comprehensive and objective study of the agrarian and legal components of food security. The basis of the work was the scientific literature in the field of law and economics. The food security assessment was carried out on the basis of statistical data available in various sources. Publications in the media were used to identify the state of public relations regarding food security. Regulatory and legal acts, in particular those regulating relations in the field of agribusiness and food supply, were studied in detail. The normative basis of the study is the Constitution of Ukraine, legislative and subordinate legal acts of agrarian legislation. The doctrinal basis of the work is based on the research of Ukrainian and foreign legal scholars in the field of agrarian law, which is devoted to the peculiarities of legal support for food security.

3. RESULTS AND DISCUSSION

3.1. The state and features of modern food security

On February 22, 2023, the First Deputy Minister of Agrarian Policy and Food of Ukraine, during a seminar within the framework of a project of the International Labor Organization (ILO) and the OECD, noted that Ukraine currently does not face the same food security risks as the world, as the crisis became noticeable at the beginning of the Russian invasion, when food prices rose, and in some African countries, the problem of physical access to food arose. Therefore, consolidation of the international community is needed to ensure the recovery and sustainable development of the Ukrainian agro-industrial complex [9]. At the same time, economists emphasized that in 2015–2019,

global food security was improving, as evidenced by the decrease in the number of hungry people, especially in the Asian region (negative dynamics was observed only in the African region). At the same time, as a result of the military aggression against Ukraine, difficulties arose with Ukrainian agricultural exports, which led to record food prices, worsening the access of the poor to food [10, p. 39]. This is also emphasized by the Food and Agriculture Organization of the United Nations (FAO) in 2023. Thus, the FAO emphasizes that between 690 and 783 million people in the world faced hunger in 2022. This is 122 million more people than before the COVID-19 pandemic. In 2022, about 3.8 million fewer people suffered from hunger than in 2021. This was the result of recovery from the pandemic, but unfortunately, this slight progress was disrupted by rising food and energy prices due to the war in Ukraine [11, p. vii]. The researchers also prove that the effect of the food crisis is not only on the population directly affected by the military conflict. The food security of people living in completely different countries or territories is also significantly reduced due to the forced mass movements of large numbers of people, disruption of production processes, transport and logistics corridors, etc. The above data once again emphasize that food security in the world and in individual countries is mutually and sometimes interdependently linked. Modern studies of food security cannot ignore such components as exports and imports of agricultural products, as well as national and international support for agribusiness of individual states, since globalization processes permeate all social relations in the world, including agrarian legal relations.

Food security, as defined by the FAO, is a system that provides the entire population with food in accordance with physiological needs and norms, through its own production and the necessary level of imports of agricultural products for which there are no internal conditions [12, p. 15]. It is worth noting that this definition identifies such components of food security as the material and technical base of agricultural production, export/import of agricultural products, related logistics, and includes such a concept as “food norms to support the vital activity of society”.

The national legislation stipulates that “food security is the protection of human vital interests, which is expressed in the state’s guarantee of unimpeded economic access to food for the purpose of maintaining normal life activities” (clause 2.13, article 2 of the Law of Ukraine “On State Support of Agriculture of Ukraine”) [13]. It is worth noting that the above definition of food security was developed in 2004 and, unlike other legislative terms, has not been updated since then. However, for almost two decades, the country has seen the formation and sustainable development of agribusiness, the opening of the agricultural land market, the formation of

new agricultural logistics corridors, the change in the structure of exports and imports of agricultural products, and the outbreak of war and food crisis. Therefore, it is obvious that such factors, which certainly affect the content of any of the components, should be taken into account, as well as the FAO's constantly updated approaches to food security. Thus, this Organization annually publishes statistics and a food security strategy depending on the emergence of new circumstances, threats, climate change, etc. Therefore, we believe that the definition of "food security" enshrined in national legislation needs to be clarified and improved, and therefore, we will turn to the analysis of scientific approaches to its understanding and interpretation.

The economic literature on food security has developed the following positions. Thus, L. V. Kuchechuk points out that food security is a global stable condition for the development of the world food market, under which the entire population of the planet has access to adequate nutrition, provided by both the agro-food complex of the country of residence and imported food [10, p. 35]. This approach seems to be too broad, but we can agree that food security is ensured by the agro-industrial complex, although it is more correct to say – by agribusiness. According to A. D. Mostova, food security should be interpreted as the location of food production and the formation of state food reserves in accordance with the strategic advantages of the country and foreign economic policy, which will provide guaranteed access to food for the population of the country in quantity and quality in accordance with scientifically sound medical standards [14, p. 90]. In this definition, the author aptly emphasized that food security is directly related to the formation of state food reserves, strategies for the development of imports and exports of agricultural products. M. M. Babych distinguishes four conceptual approaches to the disclosure of the concept of "food security": as a system state, as a level of access, as a mechanism of provision and by hierarchical division. At the same time, food security is a socio-economic and environmental state of development that ensures constant physical, economic and social access of people to safe and nutritious food through the use of adequate mechanisms at different hierarchical levels [15, p. 43]. Analyzing this provision, we can once again emphasize that food security is a complex phenomenon that aims to ensure people's access to safe and nutritious food. This access can be achieved only under the conditions of sustainable functioning of agribusiness, state support, and a balanced policy of export and import of agricultural products.

Lawyers also provide definitions of food security. We cannot ignore the characterization of food security proposed by V. Urkevych, who notes that food security is considered as the protection of human vital interests, which is expressed in the state's guarantee of unimpeded

economic access to food in order to maintain its normal life activities [16, p. 59]. In this definition, the scientist singled out such an important feature of food security as the availability of state guarantees of unimpeded economic access to food. The availability of mechanisms to guarantee the realization of the human right to access to food is the factor that distinguishes the economic understanding of food security from its legal interpretation. T. O. Kovalenko also emphasizes that ensuring food security is an indispensable condition for the realization of one of the fundamental human rights – the right to adequate food, which is a component of the right to an adequate standard of living [17, p. 33]. Thus, food security is directly related to ensuring the human right to adequate food. At the same time, it should be emphasized that the realization of any right is carried out through a certain mechanism, i.e. a set of actions and processes aimed at achieving the desired result. In the phenomenon of food security, one can identify the existence of public and private interests, processes that have one vector – maintaining an adequate standard of living.

The state plays an important role in maintaining food security, which becomes especially important in extraordinary, force majeure circumstances when there is a real threat to food supply and the normal food supply of the population is disrupted. Thus, under martial law, the legal regime of food security should be adapted to the unfavorable circumstances and negative consequences resulting from hostilities. In particular, it is necessary to provide additional support to agricultural producers, guarantee certain specific measures (e.g., demining of agricultural land), and to carry out active international cooperation on the logistics of agricultural products, etc. Given the differences, it is quite logical to distinguish between the ordinary legal regime of food security and the emergency legal regime of food security.

Summarizing the above, we can offer the following definition: food security is a mechanism for ensuring the guaranteed human right to adequate food, including availability and sufficiency of food, access to it without any discrimination, which functions due to the systemic support of national agricultural producers, a balanced policy of export and import of agricultural products, timely formation of state food reserves, and international agricultural cooperation.

3.2. Agrarian and legal components of food security and their transformation as a result of war

As already noted, food security is a complex agrarian and legal category in terms of its content. Researchers-economists point out that the main qualitative characteristics of food security are as follows: independence, accessibility, quality, adequacy, self-sufficiency [18, p. 265]. Considering this provision, it is appropriate to note that it primarily identifies the criteria for assessing food security, which were de-

fined in the State Target Program for the Development of Ukrainian Rural Areas for the period up to 2015, approved by the Resolution of the Cabinet of Ministers of Ukraine of September 19, 2007, No. 1158 [19]. Taking into account the development of agrarian and legal relations, it is advisable to define these criteria as the principles of food security. At the same time, their range should be expanded by adding justice, good faith, and reasonableness, which are established by Article 3 of the Civil Code of Ukraine [20]. The possibility of applying these principles to food security is due to the fact that it is aimed at satisfying both broad public and private interests. In particular, a person – a citizen of the country and a consumer – is at the center of the food security problem [21, p. 43]. The presence of a private human interest in the legal definition indicates its private law orientation. As a result, food security has a complex legal nature, which allows for the application of comprehensive legal regulation to food security relations. Thus, the main principles of food security are independence, accessibility, quality, adequacy, self-sufficiency, reasonableness, good faith, and justice.

Components of food security are a controversial issue in agrarian law, as there is no clear definition of this category in the legislation, and despite its importance, it remains open. The State Targeted Program for the Development of Ukrainian Rural Areas for the period up to 2015 states that the basis of the agricultural market is the production of agricultural products by domestic producers, which mainly forms the food security of the state (section III, subsection 1, part 1) [19]. It follows from the above that food security is based on the sustainable functioning of national agrarian entrepreneurship. It is known that agrarian entrepreneurship is realized in the form of agribusiness and is an activity regulated by the norms of agrarian legislation that arises in connection with the production, processing, storage, transportation and sale of agricultural products and raw materials, as well as the logistical and scientific support of these processes, with the aim of making a profit by the subjects of this activity, meeting the needs of consumers in agricultural products, ensuring the food security of the state, rural development, etc. Supporting agribusiness under martial law is one of the most important tasks in the field of food security. It is in this area that public and private interests are combined, even in preserving national and economic security and providing food to the population.

However, this is not enough to create sustainable food security, and the availability of food reserves formed under the legislation on the state material reserve should be added to this. The issue of food reserves was defined in the Strategy for Reforming the State Material Reserve System until 2025, approved by the Cabinet of Ministers of Ukraine on August 19, 2022, No. 771-p. It stated that the state of the state reserve stocks was

negatively affected by numerous cases of failure to ensure their safety by responsible custodians and inefficient management of the state reserve stocks, especially of the food group of goods. As of the beginning of 2022, the state reserve with an excessive shelf life includes material assets of the food group (stocks of canned meat, dairy and fish, sunflower oil, sugar) and medical supplies [23]. The above had a negative impact on the state of food supply during the war, in particular, there were cases of humanitarian food packages containing food that had expired. Therefore, given the extraordinary circumstances, it is necessary to monitor the remains of the food group of the state material reserve and significantly update it. At the same time, it is appropriate to turn to international partners for appropriate assistance, to form a state order for the purchase of the state food reserve from national agricultural producers.

Support for food security is also included in the Action Plan for Ensuring Food Security under Martial Law, approved by the Cabinet of Ministers of Ukraine on April 29, 2022, No. 327-p [24]. This document defines the following areas of food security under martial law: 1) administration of the state food security system (monitoring the state of food security, ensuring uninterrupted production of agricultural products and food); 2) providing the population of territorial communities with food products (meeting the urgent needs of the state to provide the population of territorial communities in regions where active hostilities are ongoing with long-term storage food products, forming an extensive network of storage of raw materials and food resources reserves, creating opportunities for self-sufficiency in food products for territorial communities and households); 3) regulation of foreign economic activity (ensuring the full functioning of agricultural enterprises, in particular by meeting the need for imported components, regulating the filling of the domestic market with domestic products and meeting export demand).

The analysis of the above allows us to distinguish the following agrarian and legal components of food security typical of martial law: administration of the state food security system; legal support for food security; provision of the population with quality and affordable food in times of war; logistical support of agribusiness; logistical support of agricultural production; regulation of the balance of exports and imports of agricultural products; updating and continuation of the formation of the state food reserve; international support for food security in Ukraine.

In turn, these components can be further subdivided, depending on the nature of the means of ensuring food security, into the following elements:

1) public and legal – state management of relations in the field of food security: administration of the state food security system; legal support of food security; renewal and continuation of the formation of the state food reserve;

2) humanitarian – providing the population with quality, affordable food, international humanitarian food aid;

3) material and technical, basic – availability of agricultural land, appropriate agricultural machinery, seeds, fertilizers, and infrastructure facilities;

4) logistics – ensuring transportation, storage, free sale, export/import of agricultural products;

5) auxiliary – support of agribusiness entities: state (domestic), international (external).

Each of these elements has a functional significance and an appropriate place in the structure of the food security mechanism. For example, with regard to state support, the opinion of Yulia Bakai is correct, as she emphasizes that under martial law it is important, since the food security of not only Ukraine but also the world as a whole depends on the activities and productivity of the agro-industrial complex. To this end, the researcher proposes to take the following important measures: reducing the tax burden, preferential lending, increasing sown areas, providing state guarantees, reserving conscripts, allowing the operation of agricultural machinery without registration, etc. [25, p. 281]. T. V. Kurman draws attention to the need to form a holistic and effective mechanism for legal support of agrarian relations in the field of financial support for agribusiness, to identify problems and gaps in the regulation of these relations and to develop ways to overcome them, since financial support is one of the most important means of supporting agribusiness entities under martial law and will remain important in the post-war period [26, p. 287].

Undoubtedly, the legal support of agrarian relations, which the scientist is talking about, fully extends to the public law component of food security in terms of regulating relations in this area. It should be emphasized that under martial law, one can observe an increased dynamics of legal regulation of agrarian relations, in particular in the area of food security. This is quite natural, as relations in the context of military aggression have acquired a complex transformational paradigm that required prompt resolution in order to maintain national security. This is a clear manifestation of the interconnectedness of measures to support both general national and food security.

3.3. Vulnerability of agrarian and legal components of food security under martial law

Researchers of agrarian law in modern scientific studies emphasize that the state of food security directly depends on the efficiency of its agricultural sector, in particular, on the efficiency of agricultural activities by national agribusiness entities under martial law [6, p. 124]. It is known that agricultural activities are possible only with proper logistical support. Agribusiness necessarily implies the availability of organizational (agrarian management) and logistical support (agricultural machinery, fuels and lubricants,

seeds, fertilizers, etc.) [27, p. 102]. It is on the logistical support of commodity producers, first of all, with agricultural machinery, spare parts for it and fuel and lubricants, that their functioning and organization of agricultural production depend [28, p. 149]. The material and technical support of agricultural production is a complex system with a corresponding division into subsystems, in particular in the area of availability of agricultural land, agricultural machinery, biological resources, fertilizers, machinery maintenance systems, etc. As indicated in economic literature, the functioning and interconnection of the elements of the system of material and technical support of agriculture is manifested under the influence of horizontal links of the industry with other sectors of the national economy, factors of involvement of materialized labor of industry. Vertical relations in agriculture are ensured by the interaction of interconnected links of material production, biotechnological systems, and live labor with the components of the material and technical base, the actual productive forces that ensure its simple or expanded reproduction [29, p. 7]. Summarizing, it can be argued that agricultural production, as the core of the country's food security, has dependent relations with other social relations, so the disruption of normal relations during the war led to the emergence of new relations in the field of logistics of agribusiness and their complications.

One of the most pressing problems in ensuring food security is the efficient use of agricultural land. Thus, according to the Ministry of Agrarian Policy and Food of Ukraine, Ukraine does not use about 25% of its agricultural land due to hostilities, mining or temporary occupation of territories [30]. In the summer of 2023, the demining of agricultural land began under the program of the FAO, the World Food Program (WFP), and the Swiss Mine Action Fund (FSD) in Mykolaiv, Kharkiv, and Kherson regions. Despite the demining work, tragic incidents continue to occur. For example, on July 16, 2023, a tractor exploded on an anti-tank mine in the Kharkiv region during agricultural work, and the tractor driver was injured. At the same time, local authorities regularly report cases of civilians being blown up by explosive devices, particularly in the de-occupied Kherson and Kharkiv regions [31]. The above indicates complications in the production of agricultural products under martial law. This situation creates additional risks in the work of farmers, and therefore there is a shortage of labor in the agricultural sector, which is also worsening due to the mobilization and migration of the population. According to the NBU, as of July 2023, the total number of migrants at the end of 2023 will remain almost the same as at the end of 2022. The adaptation of migrants, potential complications with energy supply during the 2023/2024 heating season, and the persistence of high security risks will deter their return

next year [32]. We should also mention the extremely urgent issue of the destruction of agricultural land that is no longer used as the main means of production in agriculture. The international community has hardly ever encountered such cases. This happened on June 6, 2023, as a result of the explosion of the Kakhovka hydroelectric power plant in the Kherson region, where about 1300 hectares of agricultural land were confirmed to have been flooded. The direct and indirect losses of the Ukrainian agricultural sector from the explosion of the Kakhovka HPP could exceed $10 billion [33]. The problem is that Ukrainian agricultural land is currently in a vulnerable state. We should agree with the point of view of T. Lisova, who proposes to conduct a full survey of the state of land of all categories, paying special attention to the state of the latter in the de-occupied territories and those territories that have fallen into the zone of active hostilities [34, p. 110]. In our opinion, there is also an urgent need for a separate state program to restore agricultural land and create safe working conditions in agriculture under martial law and in the post-war period.

Thus, the following factors complicate and deteriorate the logistics of food security: 1) the vulnerability of agricultural land in times of war (mining, occupation, damage and destruction of agricultural land); 2) the availability of insufficient labor in rural areas (labor outflow, risks when working on agricultural land).

Another problematic area of logistical support for food security is the insufficient amount of fertilizers needed to grow crops. It is worth noting that the use of fertilizers is significantly reduced. This situation has arisen as a result of an increase in their cost and the refusal to supply fertilizers from the aggressor country.

An important step in solving the problem of fertilizer supply under martial law in Ukraine was the USAID AGRO Program to provide free mineral fertilizers to Ukrainian agricultural producers for the fall sowing campaign, which was presented by the US Government in July 2023. With the support of the Ministry of Agrarian Policy and Food of Ukraine, registration for the assistance has already begun in the State Agrarian Register. Agricultural producers who: cultivate from 5 to 500 hectares in any region of Ukraine (except for the temporarily occupied territories), grow grain or oilseeds, are registered as legal entities or individual entrepreneurs, including family farms, can receive assistance [35]. It follows from the above that the process of providing Ukrainian agricultural producers with the necessary fertilizers is significantly complicated. It is believed that the complex problem of supply and provision of mineral fertilizers can be solved with the help of balanced and timely state and international support.

Under martial law, the Ukrainian government has simplified the requirements for the import and movement of

agricultural products of plant origin, including seeds, according to the Resolution "Some issues of phytosanitary measures and procedures under martial law" of April 1, 2022, No. 398, approved by the Cabinet of Ministers of Ukraine [36]. Thus, the principle of extraterritoriality was introduced to exercise the powers of the territorial bodies of the State Service of Ukraine for Food Safety and Consumer Protection, and the obligation to transport imported regulated objects through the territory of Ukraine, including those accompanied by a quarantine certificate, was abolished. The above indicates the existence of state support for the provision of seeds to agricultural producers under martial law. Another Resolution of the Cabinet of Ministers of Ukraine "On Amendments to the Procedure for Departmental Registration and Deregistration of Tractors, Self-Propelled Chassis, Self-Propelled Agricultural, Road Construction and Reclamation Machines, Agricultural Machinery, and Other Mechanisms" introduced a simplified procedure for temporary registration of machines during martial law or a state of emergency, which will provide for: reduction of the list of documents for registration of machines to the minimum required; inspection of machines during registration will be carried out by state inspectors, if possible; acceptance of applications for registration of machines by the main departments of the State Service of Ukraine for Food Safety and Consumer Protection, on the principle of extraterritoriality [37]. It is believed that the introduced principle of extraterritoriality of the will have a positive impact on overcoming the vulnerability of the components of agribusiness.

The situation with such an important factor and component of food security as agribusiness logistics, where the issue of "timely logistics support for agricultural exports" is at the forefront [38, p. 632]. Logistics relations have changed significantly as a result of the aggressor country's withdrawal from the grain agreement. The agreement was signed in July 2022 with the mediation of Turkey and the UN for a period of 120 days. At that time, according to the Ukrainian authorities, 22 million tons of grain were blocked in Ukraine. According to the UN, the grain agreement allowed Ukraine to export 32.9 million tons of agricultural products, including 17 million tons of corn, 9 million tons of wheat, and almost 2 million tons of sunflower meal and sunflower oil [39]. On July 18, 2023, this agreement ceased to exist. In view of the above, it can be argued that the logistics support of food security in war is divided into the following stages: 1) 24.02. – 17.07. 2022 – critical state of agricultural logistics, which was limited and stopped due to the outbreak of war; 2) 17.07.2022–18.07.2023 – agricultural logistics in the context of the "grain deal"; 3) from July 18, 2023 – search for new logistics routes. Thus, the logistics support of food security is again in a vulnerable state, and there-

fore requires the development of a new development strategy.

To summarize, we can identify the vulnerable agrarian and legal components of food security and the factors that increase their vulnerability under martial law: 1) agricultural land – mining, occupation, damage and destruction of agricultural land; 2) rural labor – shortage of labor due to its outflow, risks when working on agricultural land); 3) fertilizer supply – complications due to disruption of supply channels, reduction of financial capacity of agricultural producers due to material losses; 4) problems with the import and movement of agricultural products of plant origin – complicated phytosanitary control; 5) provision of agricultural machinery and its maintenance – the threat of repeated damage or destruction as a result of hostilities; 6) difficulties in logistics of agricultural products movement – due to the danger of transportation routes under martial law.

CONCLUSIONS

Based on the study of the current agrarian and legal components of food security, the following conclusions can be drawn.

Social relations in the field of food security which have undergone changes as a result of war require rethinking, including the very concept of "food security". The author proposes her own definition of this category as an agrarian and legal mechanism for ensuring the guaranteed human right to adequate food, which includes availability, sufficiency of food and access to it without any discrimination, and which functions through systemic support of the national agricultural producer, a balanced policy of export and import of agricultural products, timely formation of state food stocks, and international agricultural cooperation. It is proved that the fundamental principles of food security are independence, accessibility, quality, adequacy, self-sufficiency, reasonableness, good faith, and justice.

The differences in the implementation of food security under martial law and the peculiarities of its legal support allow us to propose to distinguish between the ordinary and emergency legal regime of food security. The latter legal regime of food security is characterized by the dynamics of legal regulation of food security relations, international humanitarian assistance, and identification and prevention of vulnerability of food security components.

It is noted that agrarian and legal components of food security are a controversial scientific definition which requires further scientific research. The author distinguishes the following agrarian and legal components of food security: 1) public and legal components of food security in the field of public administration of relations (administration of the State's food security system; legal support for food security; updating and continuing the formation of the State food reserve); 2) humanitarian components of food security (provision of the

population with quality, affordable food, international humanitarian food aid); 3) material and technical support of agricultural producers (availability of agricultural land, appropriate agricultural machinery, seeds, fertilizers, functioning of infrastructure facilities); 4) logistics support (transportation, storage, free sale, export/import of agricultural products); 5) support of agribusiness entities: state (domestic) and international (external).

It is established that the agrarian and legal components of food security in the context of military aggression acquire such a feature as vulnerability, i.e., they become vulnerable. To summarize, we can distinguish the following agrarian and legal components of food security and indicate the factors that increase their vulnerability under martial law. Thus, the following are vulnerable: 1) agricultural land – mining, occupation, damage and destruction of agricultural land; 2) rural labor – creation of a labor shortage due to its outflow, risks while working on agricultural land; 3) supply of fertilizers – their insufficiency due to disruption of supply channels, reduction of financial capacity of agricultural producers due to material losses; 4) import and movement of agricultural products of plant origin – complicated phytosanitary control; 5) supply of agricultural machinery and its maintenance – threat of repeated damage or destruction as a result of hostilities of the aggressor; 6) logistical support for the movement of agricultural products – due to the destruction of transportation routes and their danger during military operations.

RECOMMENDATIONS

The conducted scientific study and analysis of the issues of agrarian and legal components of food security allows us to offer the following theoretical and practical recommendations. The concept of "food security" enshrined in national legislation needs to be rethought and improved, since it was defined in 2004 and has not been updated to reflect the development of modern food security relations. To overcome the vulnerabilities of the agrarian and legal components of food security in the context of war, strategies and programs should be adopted to restore agricultural land, create safe working conditions in rural areas, and ensure logistical support for food security.

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REGULARITIES OF CRIMINALISTICS

Abstract. *The present stage of the development of criminalistics is characterized by an active formation of its general theory, defining the objective-subjective ground of research in this field of knowledge. The relevance of the problem being studied in the article is due to the necessity of elaborating the current scientific conception of the subject matter of criminalistics, distinguishing the range of regularity being studied. The purpose of the investigation is the analysis of modern scientific approaches to understanding regularities as constituent elements of the subject matter of criminalistics research. General scientific and special research methods such as dialectical, historical, formal-logical, systemic-structural, legal forecasting, and systemic and semantic analysis were used to achieve this goal. It is noted that the current state of criminalistics is characterized by the presence and co-existence of several concepts focused on the study of its subject matter, which include traditional-pragmatic, theoretical-evidential, informational-cognitive and criminalistic. It is established that the given concepts are a part of the general body of objectified knowledge about criminalistics. They complement each other and create objective prerequisites for the prospective development of a single and integral methodological base. It is emphasized that defining the subject matter of criminalistics through the circle of regularities currently being studied is dominant in the theory of criminalistics. Given the above, it is proposed to observe the subject matter of criminalistics as a system of interrelated regularities of three levels: regularities of the crime mechanism; regularities of occurrence of information about the mechanism of crime and its representation in appropriate sources of information; regularities of reception, researching, qualifying and using information about the mechanism of the crime and its consequences in proving. It has been proven that the expansion of the object-subject field of criminalistics today is not reasonable, and attempts to «blur» the subject matter of criminalistics have no prospects and are false, as they generate unnecessary discussions and divert the attention of scientists from the intellectual implementation of the main goal and tasks of the criminalistics. It is concluded that criminalistics can be defined as a complete system of scientific knowledge that describes and explains the regularities of the crime mechanism, and the occurrence of information about it, as well as obtaining, researching, evaluating, and using this*

information with the help of means, techniques, and methods developed based on the analysis of the specified regularities and recommendations for the implementation of investigative and cognitive activities of authorized subjects regarding proving in criminal proceeding.

Keywords: *object, subject matter, regularities, mechanism, method, tools, means, traces of a crime, criminal activity.*

INTRODUCTION

The contemporary state of criminalistic science is characterized by the presence and coexistence of various concepts focused on studying its subject matter. These include:

a) the traditional-pragmatic concept, which defines criminalistics as a science of techniques, methods, and strategies for the detection, investigation, and prevention of criminal offenses;

b) the theoretical-evidentiary concept, emerging from the intensive development of theoretical and methodological foundations in criminalistics, allowing the subject matter of this field to be viewed through the lens of its inherent regularities and principles;

c) the informational-cognitive concept, which represents a synthesis and further refinement of the theoretical-evidentiary approach;

d) the trace evidence concept, according to which criminalistics examines traces (both ideational and materially-fixed), their formation mechanisms, detection, recording, extraction, analysis, and utilization [1, p. 30].

These concepts, forming a collective body of objective knowledge about criminalistics, complement each other and create fundamental prerequisites for developing a unified and comprehensive methodological base. Such a base should not be seen as an end in itself but as a task serving the interests of the development of criminalistic science. The multitude of these concepts reflects the relative "youth" of criminalistic science itself and the possibilities for various approaches in defining its subject matter, representing the complex dialectic of the development of both the science and its object of study.

It should be noted that the concept of defining the subject matter of criminalistics through the regularities it studies (or should study) is currently dominant in criminalistic theory [2, p. 7–8; 3, p. 45–46]. However, there is variability in the understanding of a "pattern." For example, M. O. Selivanov views criminalistics as a science of the "regularities of the emergence of judicial evidence" [4, p. 104], V. Ia. Koldin and M. P. Iablokov – as the "regularities of criminal behavior" [5, p. 7], while A. F. Volobuiev believes criminalistics studies the "regularities of the mechanism of committing crimes, laws of evidence collection" [6, p. 19]. N. I. Klymenko defines it as the science of the "regularities of criminalistic cognition" [7, p. 13]. In the understanding of V. Ie. Konoukhov and

V. Iu. Shepitko, criminalistics is a science of the "regularities of criminal activity" [8, p. 18; 9, p. 6].

Significant contributions to defining the subject matter of criminalistics and elucidating the regularities of its studies have been made by scholars such as R. S. Belkin, O. M. Vasiliev, A. I. Vinberg, T. S. Volchetska, V. H. Honcharenko, O. O. Eisman, O. O. Exarchopoulo, H. O. Zorin, V. V. Klochkov, V. Ia. Koldin, V. O. Konovalova, V. Ie. Kornoukhov, O. M. Korshunova, Iu. I. Krasnobaiev, I. F. Krylov, I. M. Luzgin, H. A. Matusovskyi, V. O. Obraztsov, O. B. Sierova, M. O. Selivanov, O. V. Chelysheva, V. Iu. Shepitko, M. P. Iablokov, and others. Their attempts to more or less precisely define the subject matter of criminalistic research and outline the regularities of its studies indicate the degree of development of this science and its attainment of a certain level of maturity. However, many issues within this field remain unresolved, and criminalistic scientists' diverse and uncoordinated views regarding its subject matter and underlying regularities negatively impact its development and the formation of a proper methodological base. This underscores the need for further independent research in this area.

1. MATERIALS AND METHODS

The issues discussed pertain to the scientific problems of the general theory of criminalistics related to defining its object-subject sphere, delineating the boundaries of scientific inquiry in this domain of knowledge, forming conceptual approaches to constructing a separate doctrine on the subject matter of criminalistics, and identifying the patterns and regularities it studies.

The foundation for this article is based on the monographic research of R. S. Belkin [10, 11], M. V. Danshyn [12], H. O. Zorin [13], H. A. Matusovskyi [14], and V. V. Iusupov [15]. Regrettably, it must be acknowledged that domestic criminalistic science lacks sufficient research on these problems mentioned above.

To address these issues, the study utilizes a combination of general scientific and specialized methods of scientific cognition. Specifically, the application of dialectical and historical methods of cognition enabled the exploration of the evolution of scientific views on the subject matter of criminalistics, identifying the main directions of scientific inquiry in this field and distinguishing the factors that determine this process. Semantic analysis was employed to clarify the meaning of the concept of "regularities," their levels, characteristic features, and sphere of implementation. The comparative method allowed for the analysis of approaches to defining the object-subject sphere of research in criminalistics recently proposed in criminalistic literature, possibilities for creating separate doctrines on the object and subject matter of criminalistics, clarifying the functions of these scientific categories, distinguishing their features, considering

the expansion of directions for scientific inquiry, and analyzing factors influencing the development of scientific knowledge.

The use of formal-logical and systemic-structural methods led to the conclusion that the regularities comprising the subject matter of study in criminalistics form a complex, multi-level, and dynamic system, which includes: the regularities of the mechanism of criminal offense; the regularities of the emergence of information about the mechanism of criminal offense and its reflection in relevant information sources; the regularities of obtaining, studying, evaluating, and using information about the mechanism of criminal offense and its consequences in evidence.

The method of systemic analysis facilitated the synthesis of accumulated theoretical knowledge regarding the understanding of the concept of "regularities" in the context of studying the subject matter of criminalistics. The method of legal forecasting enabled the identification of probable directions for the further development of scientific views on distinguishing the regularities that constitute the subject matter of study and are incorporated into the scientific cognition of criminalistics.

2. RESULTS AND DISCUSSION

The idea of considering criminalistics as a science of the regularities governing the emergence, collection, evaluation, and utilization of evidence, and the methods and means of criminalistic investigation and prevention of criminal offenses based on the cognition of these regularities, originates from R. S. Belkin and Iu. I. Krasnobaiev [16, p. 90–94]. Specifically, Iu. I. Krasnobaiev regarded the subject matter of criminalistics as the "regularities of formation and functioning of the method of preparing, refining, and concealing a crime, the emergence of traces of criminal activity, criminalistic investigation, and the development of these regularities as a science" [17, p. 26]. In his later works, R. S. Belkin viewed criminalistics as the science of "the regularities of the mechanism of a crime, the emergence of information about the crime and its participants, the regularities of collecting, studying, evaluating, and using evidence, and the special methods and means of criminalistic investigation and crime prevention based on the cognition of these regularities" [18, p. 42].

This proposal to consider the subject matter of criminalistics through the lens of the regularities of objective reality studied by this science sparked a lively debate among scholars. Alongside proponents who saw this interpretation as an innovative approach to defining criminalistics, some opponents presented contrary arguments. For example, A. I. Vinberg believed that the regularities of objective reality studied by criminalistics form part of the content of this science, not its subject matter definition, as this would conflate the concept of the subject matter of science with its content. Furthermore, he argued that the regu-

larities governing the emergence of evidence also pertain to the content of criminal procedural science and thus cannot be exclusively included in the subject matter of criminalistics [19, p. 10]. In response to these objections, R. S. Belkin uniquely argued, "Can the definition of the subject matter of criminalistics omit the regularities of objective reality? It seems necessary to answer this question negatively" [18, p. 93]. "The existence of a specific science as an independent field of knowledge," Belkin noted, "is justified only if its subject matter of study involves certain objective regularities of reality. Identifying these regularities as the subject matter of cognition constitutes an essential part of the definition of any scientific essence. Therefore, it is believed that the definition of the subject matter of criminalistics must primarily include a reference to the study of objective regularities of reality by this science" [18, p. 82–83].

While generally agreeing that criminalistics studies a specific set of regularities of objective reality, scholars differ in defining the structure of the subject of cognition in this field. For instance, R. S. Belkin identified three groups of regularities as components of the subject matter of criminalistics. The first group includes regularities that arise in the process of committing a crime and are prerequisites for the formation of traces: 1) repeatability, i.e., the presence of the same signs and causes leading to identical effects; 2) the connection between action and result; 3) the lawful disappearance of trace evidence. The second group contains three types of relationships: 1) the connection between the method of action and the traces of the crime; 2) the link between the method of committing the crime and the identity of the criminal; and 3) the dependence of the method on specific circumstances. The third group consists of the regularities of the emergence and course of phenomena related to the crime, characterized by the subjective actions of the crime's participants, primarily the criminal, the victim, and witnesses. These actions include: 1) the concealment of preparation and choice of means for committing the crime; 2) a survey of the crime scene – the preparatory activities of the criminal, which are, of course, conducted secretly; 3) sudden departure, change of appearance, change of residence or employment; 4) unconventional behavior [18, p. 33–41].

According to A. M. Kustov, the subject matter of criminalistics coexists with three components: 1) the regularities of the mechanism of a crime; 2) the regularities of the emergence (formation) of information about the crime event and its participants; 3) the regularities of the activities of law enforcement agencies in detecting, disclosing, and investigating a criminal event [20, p. 169].

S. V. Lavrukhiv identifies ten regularities studied by criminalistics: 1) criminalistic aspects of the "criminal behavior" system elements; 2) events, processes, and phenomena accompanying a crime; 3) the victim's behavior at the

moment of the crime; 4) the natural and social environment of the crime; 5) the process and regularities of the development of the investigated event; 6) the process and regularities of mutual reflection of the investigated event and the surrounding environment; 7) the regularities of environmental determination of the investigated event's mechanism; 8) the process and regularities of changes in the traces of the event in the surrounding environment; 9) the process and regularities of applying means, techniques, and methods of criminalistics during the detection, disclosure, and prevention of crimes; 10) the process and regularities of collecting, studying, evaluating, and using information about the investigated event in proving legally significant circumstances in a criminal case [21, p. 4].

V. V. Iusupov emphasizes that the structure of the subject matter of criminalistics is complex and multi-level. It encompasses the study of two general components: the regularities of criminal activity and the activity of detecting, investigating, preventing crimes, and their judicial review. Illegal activity regularities reproduce the interconnection and interdependence among such structural elements as the goal, object, subject, means, result, and mechanism expressed in the surrounding environment in material and ideal traces. The activity of detecting, investigating, and preventing crimes and their judicial review is determined by the mechanism of trace formation in the process of committing crimes, the laws of cognition of these processes, and the collection, study, evaluation, and use of evidential information [15, p. 221].

Thus, the analysis of the views presented in the literature provides grounds to consider, in the most general form, the subject matter of criminalistics as a system of interrelated regularities of three subsequent levels: 1) the regularities of the mechanism of criminal offense; 2) the regularities of the emergence of information about the mechanism of criminal offense and its reflection in relevant information sources; 3) the regularities of obtaining, studying, evaluating, and using information about the mechanism of criminal offense and its consequences in evidence.

The first level should include the regularities of the formation and existence of individual components of the mechanism of criminal offense and the laws of the emergence and existence of connections between them. The second level reveals the regularities of the mechanism of trace formation, i.e., where, when, under what circumstances, and as a result of which actions or processes traces of a criminal offense (material and ideal) emerge, how long they are preserved, and how they change (disappear) due to unavoidable circumstances. It should be noted that the regularities of the mechanism of a criminal offense have an internal structural nature. In contrast, the regularities of the emergence of information about the mechanism of a criminal offense are externally struc-

tural. These regularities reflect the connections and relationships that link the mechanism of a criminal offense (its various elements) to the surrounding environment. Suppose internal structural regularities primarily determine the process of forming aspects of the mechanism of a criminal offense. In that case, external structural regularities determine the connections and relationships that arise between the mechanism of a criminal offense and the surrounding situation, which condition the peculiarities of the process of emergence of information about the criminal offense [22, p. 31–32]. Therefore, the proposals to consider these two groups of regularities as a single element of the subject matter of criminalistics appear to be contentious [23, p. 57]. The third level concerns the regularities of searching and identifying carriers of criminally significant information about the mechanism of a criminal offense and its consequences, extracting sources of this information and recording the information itself following current procedural legislation, studying the sources and the information itself, and reconstructing the mechanism of the investigated criminal event through its model, and so on.

The regularities of the mechanism of a criminal offense can include:

a) The connections and dependencies between the criminal's personality and their behavior. A criminal's behavior, like any individual, is a unity of their internal and external aspects. Criminalistics primarily focuses on the latter because the nature of a criminal's actions and the traces left at the crime scene facilitate the collection and evaluation of evidential information and the formulation of hypotheses about the perpetrator's identity. However, a description of the criminalistic characteristics of a criminal event that does not consider its psychological mechanisms, such as the consciously volitional regulators determining the choice of the object of attack, method, circumstances, and other conditions of its commission, cannot be deemed sufficiently comprehensive. For instance, correctly identifying the motive enables determining a group of persons interested in committing the criminal offense, among whom the criminal should be sought (based on the principle of "*cui bono*"). In all cases, the manner of committing the criminal offense must be analyzed from the perspective of its connection with its motive (and purpose). In some cases, dependencies manifest: from information about the criminally punishable event (and its traces) to establishing the motive for its commission and from the motive to identifying the suspect. Unfortunately, it must be noted that these dependencies still lack adequate empirical confirmation, negatively affecting the content of investigative methodologies for certain types of crimes. In this regard, proposals regarding including this issue in criminalistic research deserve special attention [24, p. 52–60].

In summary, the actions committed in a criminal offense and the guilty par-

ty's behavior before and after realizing the criminal intent form a significant system. The functioning of this system manifests in certain objectively interconnected actual events, phenomena, and facts. The elements of this system arise and are activated by the will of the guilty party. At the same time, the motivating factors for the activity of the guilty person are determined by certain factors, which, reflected in the subject's consciousness, determine the nature of their behavior before, during, and after the commission of the offense, the place, time, method, and means of achieving their goal;

b) The connections and dependencies between the criminal's behavior and the victim's personality (criminalistic victimology). The victimological approach in investigating criminal offenses is based on the premise that the starting point for collecting information about a person who may commit a criminal offense is the victim's personality and behavior. Criminalistic victimology, as a separate criminalistic theory, posits that the victim is not only a reflective object bearing traces of the realization of criminal intent but also a reflecting object, contributing specific changes to the surrounding environment and generating evidential information through their actions. Such information is significant not only for preventing criminal offenses but also for the proper construction of methodologies for their detection and investigation, as only an accurate reproduction of the situation and circumstances of the event, the behavior of the criminal and the victim, and the nature of their mutual relations facilitate the rapid detection, apprehension, and exposure of the guilty party [25, p. 25–26; 26, p. 21].

c) The connections and dependencies between the nature of criminal activity and its elements on the conditions in which the offender is situated. Specific objectives of the offender's activity correspond to particular objects of attack, and to these objects correspond specific methods of committing the criminal offense, etc. For instance, in a kidnapping case, the location of the criminal offense includes not only the place where the person was abducted but also all the places where they were subsequently held and where the ransom was transferred. This regularity considers the possibility or impossibility of committing a criminal offense in a certain way at a specific place and time. It facilitates the construction of a model of the criminally punishable act, creates prerequisites for predicting new methods of preparing, committing, and concealing criminal offenses, and enables understanding unknown elements of the system through known ones;

d) The connections and dependencies between the criminal's chosen method of committing a criminal offense (including the preferred instruments and means) and the offender's personality. To influence the object and achieve their goal, the subject of a criminal offense employs various techniques, means, and instruments. These

actions are usually not chaotic but purposeful and under the control of the offender's consciousness. Sometimes, they manifest semi-automatically, based on the person's established habits and skills. The choice of methods, means, and instruments depends on a range of objective and subjective factors: personal characteristics of the offender (gender, age, criminal record, the presence or absence of criminal experience), the object of attack (victim's vulnerability, lack of property security), motives, location, time, and circumstances of the attack [27]. The method of a criminal offense as a complex model includes elements such as preparation (creating favorable conditions, seeking accomplices, manufacturing instruments for the offense, surveilling the target, etc.), commission (causing injuries or death, breaking into a building, violating traffic rules, failing to adhere to technological processes in production, etc.), and concealment (destroying or falsifying evidence, staging various scenarios, dismembering the victim, arson of the target, bribing or intimidating the victim or witnesses, preparing false alibis, pressuring law enforcement officials, etc.). Methods are implemented through a series of operations and techniques that require the subject to have specific knowledge, skills, and organizational abilities. The repetitiveness of methods in committing criminal offenses is linked to the repetition of objective and subjective factors that define them. Generalizing investigative practice allows for the identification of typical methods of achieving certain types of criminal offenses [28, p. 53–74];

e) The connections and dependencies between the subject's chosen method of a criminal offense and the traces of its application. Every criminally punishable act, regardless of who, when, where, how, and with what motive it was committed, inevitably manifests in the surrounding environment in the form of specific traces, which can later become evidence in a criminal proceeding. This reflects the criminal offense's system, its elements and connections, and all actions and deeds associated with it by the guilty person, the victim, and other persons preceding, accompanying, and following the criminal offense. The practical application of methods and instruments is conditioned by objective and subjective factors, primarily the situation and the object of attack. Hence, the characteristic feature of traces as a result of the reflective process is the repeatability of trace formation, i.e., the nature of the emergence and localization of the traces of the criminal offense. Therefore, there is a connection between the method of committing criminal offenses and the traces of using this method (the regularity of trace emergence). As V. Iu. Shepitko notes, "In the process of a criminal act, the use of a certain method by the criminal means leaving a characteristic (typical) complex of traces (a specific reflection of what happened)" [29, p. 770–771]. Such regularities allow for reconstructing the method of committing a criminal offense based on the trac-

es found through modeling. Conversely, knowing the possible typical methods of committing various criminal acts and predicting the likely locations (localization) of the traces of their reflections is possible.

f) The connections and dependencies between the criminal's personality and the object of their attack. The object of criminal attack refers to tangible items in the material world targeted for appropriation, destruction, deterioration, or damage by criminal intent. Since the object of a criminal attack is always a specific item, it is always a material (tangible) characteristic of the crime. In cases where the object of the criminal attack is directly mentioned in the legislation, it is considered a mandatory characteristic of the criminal offense composition [30, p. 643–644]. Certain correlational connections exist between the object of the criminal attack and other elements of the mechanism of the criminal offense, particularly with the criminal's method and personality. For example, in the mechanism of theft, two forms of connections between the thief and the object of the criminal attack can be distinguished: 1) direct (a storekeeper – material values; a cashier – monetary funds); 2) indirect (a director – monetary funds). Establishing the object of the criminal attack allows for the formulation of working hypotheses regarding the identity of the criminal within a specific proceeding;

g) The connections and dependencies among accomplices or participants in criminal groups. Article 28 of the Criminal Code of Ukraine outlines the following forms of complicity: 1) commission of a crime by a group of persons; 2) commission of a crime by a group of persons with prior conspiracy; 3) commission of a crime by an organized group; 4) commission of a crime by a criminal organization. These forms of complicity are distinguished based on the stability of subjective connections (subjective characteristics) among the participants of criminal groups [31, p. 95]. For instance, the first form of complicity implies that the criminal act involves two or more executors without prior conspiracy among them. In contrast, the second form already entails the necessity of prior conspiracy, i.e., to collaborate, and this agreement must be reached before implementing the criminal plan. The most dangerous are organized groups and criminal organizations. These groups are characterized by stability, organization, role differentiation, hierarchy, the presence of leadership bodies, etc. Due to their developed functional structure, these groups can employ complex methods of crimes involving prolonged preparation, various technical means, transport, sophisticated methods to conceal traces of the crime, and the results of criminal activity.

The regularities of the emergence of information about the mechanism of criminal offense and its reflection in relevant information sources (the mechanism of trace formation) can include:

a) The regularities of reflectivity, repeatability, and stability of criminal activity (behavior) elements in the material world. These regularities determine the structural commonality of illegal activity, the repeatability, and the constancy of forms of reflection of its components in the surrounding environment. They are objective for constructing typical models of criminal offense and programming investigation. It aids in diagnosing a particular type of criminal offense, facilitates the constructive function of investigative methodology, criminalistic tactics, and techniques, and allows the investigator to predict unknown elements of the system of illegal activity. Indeed, the aspects of the system of a criminal offense are interconnected in such a way that the particular objectives of the perpetrator correspond to specific objects in the real world, and these objects correspond to particular methods of attack, etc. These system elements are reflected not only in the environment but also in each other, allowing the unknown aspects of the system to be recognized through the known ones. For instance, information about the object and method of theft provides grounds to conclude about the participants and the role of each, and from information about the scale of the action, one can reason about the types and sources of theft;

b) The connections and dependencies between the level of perception of the criminal event by the criminal, eyewitness, victim, and the nature of the testimonies provided. The process of forming testimonies – perception, memorization, and reproduction – is influenced by various subjective (thresholds of sensation, apperception, focus of attention, temperament, emotional state, types of memory, intellect, etc.) and objective (external conditions and circumstances of perception, characteristics of the observed object, etc.) factors. For example, the reflection in a person's memory (ideal traces [32]) gradually fades over time, meaning there is a process of forgetting previously perceived and recorded information. Knowledge of the regularities of the process of forming testimonies (ideal traces) allows for the identification of typical errors in the analysis of a specific investigative and judicial situation, the process of investigation or court proceedings, and the differentiation between an honest mistake and the intentional provision of false information [33; 34].

The regularities of obtaining, studying, evaluating, and using information about the mechanism of criminal offense and its consequences in evidence can include:

a) Connections and dependencies between the content and scope of evidential information and the available criminalistic means and methods for detecting, recording, extracting, and preserving the sources of this information. The primary service function of criminalistics is to develop modern technical means, tactical techniques, and methodical recommendations for the disclosure, investigation, and prevention of criminal mani-

festations. The development of new and improvement of existing criminalistic means, techniques, methods, and recommendations can be effectively carried out only based on in-depth theoretical research, using the achievements of science and technology from various fields of human knowledge, generalizing and analyzing criminalistic investigative practice, including international, regarding the acquisition of information about new methods of committing criminal offenses, the needs for new means and methods of investigation, and the reliability and prospects of those previously recommended for implementation. The lag in combating crime from the emergence of new methods of criminal attacks has negative social, economic, and legal consequences for society. Hence, the development of criminalistic recommendations should be proactive based on constructed criminalistic forecasting;

b) Connections and dependencies between the behavior and activities of participants in criminal justice (professional and non-professional) and investigative situations that arise. The investigative situations that have developed at a particular stage of the investigation are influenced by the selection of a position and determination of a line of behavior of professional and non-professional participants in criminal justice. These include conflict-free (favorable) and conflictual (unfavorable) situations. The former facilitates normal, constructive relations between participants in criminal proceedings and stimulates the effective collection of evidential information, establishing the objective truth in the case. The latter, conversely, introduces confrontation, mistrust in interpersonal relationships, and an element of nervousness in the investigator's activity, negatively impacting the quality of their work. Therefore, it is perhaps no coincidence that subjects of criminal offenses and other interested parties try to destabilize relationships between participants in the criminal process, create a conflictual situation, deriving certain benefits from this;

c) Connections and dependencies between the effectiveness of the investigation organization and the level of knowledge, professional experience, and properties of the investigator. The volume of collected evidential information and quality directly depends on the level of expertise, professional experience, personal properties of the investigator, and their ability to solve cognitive, constructive, communicative, and certification tasks that arise during the pre-trial investigation. Modern investigators must skillfully apply advanced information technologies, typified programs for investigating specific types of crimes, developed action algorithms in various situations, model and predict the behavior of participants in criminal proceedings, correctly determine priority directions of investigation, relying on strategic formulas such as: "from the picture of the criminal offense – to the perpetrator," "from events preceding the criminal attack – to the perpetrator," "from events

that occurred after the commission of the criminal offense – to the perpetrator," "from the victim's personality – to the perpetrator's personality," etc. Undoubtedly, the success of the investigation also depends on the high level of the investigator's work capacity, their honesty, developed sense of justice, personal responsibility for decisions made, the ability to switch from one type of activity to another quickly, flexibility of thinking, and the ability to return to the initial data and start the analysis anew.

g) Connections and dependencies between the nature of post-criminal behavior [35] and the volume of obtained evidential information. The promptness of disclosure and investigation of a criminal offense and the effectiveness of collecting evidential information is influenced by the nature of the post-criminal behavior of persons involved in the criminal event. Positive and neutral behavior facilitates or at least does not hinder the investigator in establishing the truth in criminal proceedings. Indirect evidential behavior, such as unmotivated, sudden departure from a permanent residence, showing increased interest in the act of investigation and its preliminary results, returning, sometimes repeatedly, to the scene, etc., distracts the investigator, forcing them to spend extra time checking emerging circumstances. In turn, negative post-criminal behavior, which manifests in the form of resistance to the investigation (destruction of traces, tools, means, bodies, pressure on the investigator, bribery or intimidation of the victim, witnesses, etc.), significantly complicates and in some cases prevents the collection of evidence and its objective assessment.

The proposed system is not exhaustive but only demonstrates the specificity of the emergence and functioning of variously directed regularities and also presupposes the existence of connections within each of the identified levels and between the laws of different levels, showcasing criminalistic determinism, i.e., the dependence of criminalistic means and methods of working with information about criminal activity (behavior) on the nature of the criminal event and its consequences. In other words, the regularities of the first level are considered essential regarding the group of regularities of the second and third levels, and their connection is of a correlational nature and can be expressed in quantitative indicators. Expanding and deepening the level of cognition of these regularities, first and foremost, is one of the objectively existing prerequisites for the further development of the science of criminalistics, enhancing its contribution to improving criminalistic investigative activities. Conversely, the preemptive development of elements of criminal activity compared to the processes of development, unification, and implementation in the practice of investigative bodies of methods, means, and methods of their disclosure, investigation, and prevention should be considered as one of the critical problems to be solved, including through

criminalistic forecasting. Precisely predictive judgments can provide an answer regarding the necessity of introducing into the theory and practice of combating crime such criminalistic innovations that would minimize or eliminate the disproportion between the level and nature of the manifestation of elements of criminal activity and the means of countering them.

Furthermore, the laws above manifest situationally depending on specific criminal and investigative situations, individual properties and characteristics of the objects of study, and the ambiguity of the interrelations between them. Here, situations, as complex and multidimensional formations, are simultaneously dynamic structures that evolve constantly. This is why, as R. S. Belkin asserted, any objective regularity manifests as a tendency, i.e., it makes its way through random deviations from it when, due to various objective and subjective moments, evidence remains undiscovered, despite the objectively existing possibility of its detection in all cases [36, p. 73].

In recent years, there has been a tendency among some scholars to 'blur' the subject matter of criminalistics by significantly expanding the range of regularities being studied. For instance, T. S. Volchetskaia defines criminalistics as a science of the regularities of the mechanism of a legal fact, the emergence of information regarding a legally significant situation and its participants, and the specifics of collecting, studying, evaluating, and using evidence [37, p. 44]. V. H. Honcharenko considered that "criminalistics is an interdisciplinary legal applied science about the regularities of the emergence of evidential information about a crime or any phenomenon in society that requires legal regulation through proof, and about the system of technical means, tactical techniques, and methodologies for collecting, studying, and using this information for the most effective solution of tasks in operational-search work, investigation, judicial review, and establishing facts of legal significance" [38, p. 13]. Similarly, V. S. Kuzmichov also argued that "criminalistics is an interdisciplinary legal applied science about the regularities of the emergence of information about any legal phenomenon in society, which needs to be found, collected, studied, and used (using technical means, tactical techniques, and methodologies) with the purpose of effectively solving tasks of legal significance" [39, p. 61–62]. A. V. Ishchenko understands criminalistics as a system of knowledge about the regularities of formation (emergence), detection (establishment), recording, extraction, study, evaluation, and use of information suitable for checking or establishing any facts, events, phenomena, and also about the development based on the recognized regularities of techniques, methods, methodologies, technologies, tools, materials, devices, and their complexes and other means of optimal work with such information [40, p. 18]. A. M. Kustov states that criminalistics

has acquired a new quality and transformed into a system of universal science. It stands on the threshold of a historical expansion of the boundaries of its subject matter and an increase in the number of objects of scientific cognition [41, p. 156]. S. A. Ialyshev shares a similar view [42, pp. 52–56]. Some scholars have even proposed the "concept" of the existence of a mega-science of "criminalistic cognition," which is a particular superstructure over criminalistics, and the significance of the latter has been reduced to only a supporting function [43, p. 34–37; 44].

In light of the above, the remarks of V. Iu. Shepitko seem appropriate, stating that "the means, techniques, and methods of criminalistics are successfully used in other areas (operational-search, judicial, prosecutorial, expert, legal activities) or allow establishing facts that lie outside criminal legal phenomena (using criminalistic knowledge in civil, arbitral (commercial), or administrative proceedings). The need for criminalistics, the use of its data in various fields, and certain processes of integration and differentiation of scientific knowledge could not lead to a significant change in the subject matter of criminalistics, which remains a science of the regularities of criminal activity and its reflection in information sources" [45, p. 43; 46, p. 27–36]. O. O. Exarchopoulo also emphasizes that the scientific enthusiasms of individual scientists, arising for various reasons, can, of course, extend beyond the purely criminal sphere, but this, it seems, is still not a reason for expanding the subject matter area of the science of criminalistics [47, p. 37]. The scholar notes that with the emergence of new consumers of scientific knowledge, the subject matter and boundaries of criminalistics do not change – only the sphere of their application changes, expanding [48, p. 32].

Indeed, in recent years, the scope of application of criminalistic knowledge has significantly expanded and is now not limited solely to criminal proceedings but extends to other types of human practice that require the application of relevant criminalistic understanding [49, p. 4–14]. However, the scope of application of specific criminalistic knowledge (means, techniques, recommendations) and the subject matter of research of the science of criminalistics are different matters; they should not be equated, nor should it be asserted on this basis that criminalistics investigates the regularities of the emergence of information about any legal phenomenon in society. "For each science," noted V. V. Kosolapov, "its subject matter research is limited by the action of those objective regularities that are reflected in the content of the scientific discipline" [50, p. 50]. Therefore, the development of any science needs to transition from studying phenomena to studying the essence of its subject matter to studying the respective regularities [36, p. 240]. This confirms that the object of criminalistics is refined and defined by its subject matter.

CONCLUSIONS

Consequently, the subject matter of criminalistics should be considered as a system of interrelated regularities on three levels: 1) the regularities of the mechanism of criminal offense; 2) the regularities of the emergence of information about the mechanism of criminal offense and its reflection in relevant information sources; 3) the regularities of obtaining, studying, evaluating, and using information about the mechanism of criminal offense and its consequences in evidence. Expanding the object-subject-matter sphere of criminalistics [51, p. 219–224; 52, p. 4–13] is currently seen as not reasonable [53, p. 15–19; 54, p. 46–49] and attempts to "blur" the subject matter of criminalistics are unproductive and erroneous, leading to unnecessary discussions and diverting scholars' attention from intellectually supporting the realization of the primary purpose and tasks of the science of criminalistics. As noted in the specialized literature, the subject matter of science is what it studies in the object, the laws that interest it, and establishing the borders within which the object is investigated. Therefore, in criminalistics as a science, there should be a specific subject matter of research that corresponds to its object, and only then, with a clear understanding of its boundaries, can concrete goals be set for criminalistics and socially significant results be expected from it [55, p. 327].

Given the above, criminalistics can be defined as a comprehensive system of scientific knowledge that describes and explains the regularities of the mechanism of a criminal offense, the emergence of information about it, and the obtaining, studying, evaluating, and using this information through the means, techniques, methods, and recommendations developed based on the analysis of these regularities for carrying out investigative and cognitive activities by authorized subjects in proving criminal proceedings.

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CRIMINALISTICS BETWEEN THEORY, PRACTICE AND TRAINING IN UKRAINE

Abstract. *The paper focuses on the current state of criminalistics as a science and academic discipline in Ukraine. The paper gives particular attention to the goals, content, methods, tools and organizational forms of teaching, it is substantiated that all these elements are interrelated, complement each other and form a totality, which represents a system of criminalistic didactics. The results of a survey of 195 4th year students of Yaroslav Mudryi National Law University who have taken a training course in criminalistics are presented. The paper provides illustrative data about the teaching of criminalistics, as well as forms, methods, teaching aids of the relevant institutional discipline. The modern*

trends of criminalistics are demonstrated; the emphasis is laid on the fact that any changes in the discipline of criminalistics are reflected in its system. The paper considers the content of the concept of criminalistic strategy, the goals and objectives of criminalistic strategy, both in the science of criminalistics and in the practical activities of law enforcement agencies.

Key words: *criminalistics, criminalistic didactics, system of criminalistic didactics, innovative teaching methods, criminalistic strategy.*

1. INTRODUCTION

The emergence of criminalistics is traditionally associated with the creation of a separate "scientific discipline", "specialized training" or "auxiliary science" for investigators, gendarmerie and police[1]. At one time, H. Gross emphasized that "penal law is not a science in itself, and the most valuable of the provisions… ultimately have a single purpose, namely to be put into practice… These provisions are meaningless if the judge cannot apply this abstraction to the realities of life…, if he is not at all familiar with the countless provisions, the totality of which represents criminalistics".

Criminalistics is a science, the emergence of which is due to the introduction of the achievements of natural and technical sciences in the practice of combating crime. The formation of scientific knowledge that contributes to combating crime is associated with various processes: the internal integration of criminalistics and the integration of particular areas (scientific disciplines), namely forensic toxicology, forensic pharmacology, forensic psychology, forensic psychiatry, forensic medicine, forensic accounting, forensic science, etc. The constant improvement of criminalistics through the use of knowledge of different sciences creates conditions for the initiation of new research. In parallel with the activation of scientific research, the authors likewise consider it necessary to concentrate on forensic didactics.

The purpose of this paper is to investigate criminalistics both as a science and educational discipline, to specify the main problems in theory, teaching and practice and the ways to solve them on the basis of the research conducted as well as to offer solutions. The integral link between theory, teaching and practice is demonstrated.

This paper is likewise a response to the scientific paper by Slovenian criminalists[2], which deals with the state and development of criminalistics in their country. To achieve the stated objectives of the paper, materials that cover the generalization of the state and development of criminalistics in Ukraine as well as the peculiarities of students' learning

[1] Gross, H. (2002). Handbook for investigative judges as a system of criminalistics. 1908. Moscow: LexEst.

[2] Frangež, D., Lindav, B. (2019). Kriminalistika med teorijo in prakso v Sloveniji. Revija za kriminalistiko in kriminologijo. Ljubljana 70, 141–161.

process in higher law schools based on the survey of concerned parties were prepared for publication in this regard.

At present, there are more than a thousand educational institutions of different levels of accreditation and forms of ownership in Ukraine, including 15 classical universities with law faculties. At the same time, an important function in the structure of universities and faculties is performed by the departments of criminalistics or departments of criminal law specialization.

In view of the above, we believe that for today in Ukraine, significant attention should be focused on the problems of criminalistic didactics. Currently, the issues that were raised at the beginning of the XX century have arisen again: who should teach criminalistics, whom it should be taught to, when and how to teach it[1].

The methodological basis of this academic paper is the dialectical method of scientific cognition, which reflects the relationship between theory and practice, as well as the conceptual provisions of criminalistic science. General scientific and special methods were also applicable in this work: the structured system method was used to consider the individual elements of the system of criminalistic didactics, criminalistic system; the functional method was applied to analyze the dynamics of criminalistic science development; specific sociological (questionnaire) method was applied to interview 4th year students of Yaroslav Mudryi National Law University; statistical methods (grouping, summary, analysis of quantitative indicators) were applied to summarize the results of surveys carried out among students. A total of 195 students were interviewed using a questionnaire specially designed for the purpose. The questionnaire consisted of two blocks of questions. The first block of questions was dedicated to the teaching of the university course "Criminalitstics" and its specialized courses of study. The second block of questions was dedicated to the forms, methods, and tools of criminalistic didactics. Respondents were students of various faculties and institutes of Yaroslav Mudryi National Law University, namely the Institute of Public Prosecution and, the Justice Faculty, the Faculty of Economics and International Law. The survey was conducted after the students had mastered the course of criminalistics.

The questions formulated by H. Manns, at the beginning of the XX century, were interpreted by the authors with regard to modern conditions. When providing answers to the questions detailed below, the authors used: personal experience in teaching the disciplines of the criminal law cycle, namely, criminal law, criminalistics, legal psychology, practical training in criminalistics, the psychology of investigative and judicial activity and others, the results of the questionnaire survey of the students of Yaroslav Mudryi National Law University who studied criminalistics during the academic year.

[1] Manns, H. (2011). Criminalistics as a Practical Discipline and Subject of Teaching. A First Printed Criminalist, 3, 92–97.

2. HOW SHOULD CRIMINALISTICS BE TAUGHT?

The answer to this question is provided through the prism of the elements of didactic system.

Traditionally, any didactic system consists of such interrelated elements as goals, content, methods, tools and organizational forms of learning[1]. The system of criminalistic didactics is no exception and consists of all the above elements, which are inextricably linked.

The first element of the system of forensic didactics is considered to be the purpose of training. This element reveals the nature of the problem and addresses the question: "What should be taught?" The learning objectives are characterized by a certain hierarchical structure. This means that depending on the magnitude of challenges, the level of commonality and specificity of the problem, the same goal can be formulated differently[2]. For example, the students' development of the most effective techniques, methods, and means of combating crime is one of the goals of mastering criminalistics as an institutional discipline. The purpose of studying such a branch of criminalistics as criminal investigation technique is to master the scientific and technical means, criminalistic techniques and methodologies aimed at improving the efficiency of criminal investigations. The purpose of studying such branch of criminal investigation technique as trasology is learning the patterns of materially-fixed traces occurrence, techniques, methodologies and scientific and technical means of their detection, recording, extraction and research.

The learning objectives of the academic course "Criminalistics" are to provide students with knowledge about criminalistics as a scientific and academic discipline, the development of knowledge about the key challenges of general theory of criminalistics, the content of individual branches of criminal investigation technique, general provisions of criminalistic tactics and its individual elements, tactical features of carrying out individual (search) actions and the specifics of investigation of separate types of offences as well as the basic skills required for the proper application of scientific and technical means, detection, recording, seizure and preservation of evidence, use of tactics for conducting certain investigative (search) actions, application of methodical guidelines for investigating certain types of crimes[3].

The second element of the system of criminalistic didactics is the teaching content. This system's element addresses the question: "What to study?" The teaching content is reflected in the curricula and programs of a discipline. The criminalistics syllabus at Yaroslav Mudryi National Law University is designed to

[1] Malafiuk, I. (2009). Didactics. Kyiv: Kondor.

[2] Malafiuk, I. (2009). Didactics. Kyiv: Kondor.

[3] Materials for practical training and self-study in the educational discipline "Criminalitstics" (2019). Kharkiv: Pravo.

cover the content of the discipline as fully as possible and present it in a logical sequence, namely from basic concepts and theoretical provisions to modern methodologies, tools, techniques, and therefore consists of four sections: "Theoretical Foundations of Criminalistics", "Criminalistic Technique", "Criminalistic Tactics", "Criminalistic Methodology". Each section has a thematic content in a concentrated and generalized form, which reflects the content of the course "Criminalistics". The first section "Theoretical Foundations of Criminalistics" includes themes such as "The Subject, System, Methods and Tasks of Criminalistics. History of Criminalistics", "Criminalistic Identification". The second section of criminalistics "Criminalistic Equipment" covers the following themes: "General Provisions of Criminalistic Technology", "Criminalistic Photography and Videorecording", "Trasology", "Forensic Ballistics", "Forensic Examination of Documents", "Forensic Examination of Writing", "Identification of Human Appearance", "Criminal Registration". The third section of the course "Criminalistics" "Criminalistic Tactics" focuses on such topics as, "General Provisions of Criminalistic Tactics", "Organization and Planning of Investigation", "Investigative Review", "Interrogation", "Inspection", "Identification Parade", "Investigative Experiment", "Involvement of Experts. Conducting Forensic Examinations". The fourth section "Criminalistic Methodology" covers the following topics: "General Provisions of Criminalistic Methodology", "Investigation of Murders", "Investigation of Misappropriation, Embezzlement of Property or Seizure thereof by Abuse of Office (theft)", "Investigation of Theft, Robbery and Armed Robbery", "Fraud Investigation", "Investigation of Corruption-Related Offences", "Investigation of Criminal Violations of Road Safety Rules", "Investigation of Acts of Arson and Other Crimes Related to Fires", "Investigation of Crimes against the Environment", "Investigation of Crimes Committed by Organized Criminal Groups"[1].

The third system's element includes the teaching methods. This element reveals the essence of how to achieve the training objectives, and addresses the following question: "How to teach?" Each of the teaching methods has the following structure: the training objective, the psychological pattern of learning, methods of teacher performance, methods of student performance, potential for achieving a specific goal[2]. Guided by the specified structure of methods, they can be classified on the following grounds:

1) depending on the sources of information, the following teaching methods can be distinguished: verbal, visual, and practical. The verbal method is characterized by the fact that the student acquires information for mastering by verbal means. This method is classically widely used in lectures, workshops,

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[1] Program of the academic course "Criminalistics" (2012). Kharkiv: Pravo.

[2] Malafiuk, I. (2009). Didactics. Kyiv: Kondor.

meetings of the students' scientific group in criminalistics. The visual method for teaching "Criminalistics" at Yaroslav Mudryi National Law University is implemented by demonstrating the following teaching aids: educational films, such as "On-Site Inspection of the Scene of Action", "Identification Parade"; up-to-date scientific and technical means, both separately and in a complex, in the form of universal and more narrowly focused forensic kits and sets ("Molecule" for working with micro-objects at the scene of action, "Search" for identifying objects, traces, substances, as well as living persons, corpses or parts thereof); software products (computer photo-robot RAIPS – portrait, "Automated Investigator's Workplace"), etc. The practical method of teaching is characterized by the fact that the student by performing practical tasks receives information that is further analyzed, and the relevant conclusions are drawn, which ultimately contributes to the knowledge acquisition. It is most expedient to use this method during practical studies and laboratory-based work, by doing problem-solving tasks, planning both individual investigative (search) actions and investigating specific crimes. Quite often this method is used by the teachers of the department to conduct business games, creating students' skills to use forensic tools, techniques, methods in conducting investigative (search) actions. According to the results of the survey, 32% of respondents corresponded to the ratio of teaching methods in percentage terms on the first donut chart and 34% of respondents corresponded to the ratio of methods on the second donut chart.

The ratio of teaching methods in percentage terms

Fig. 1

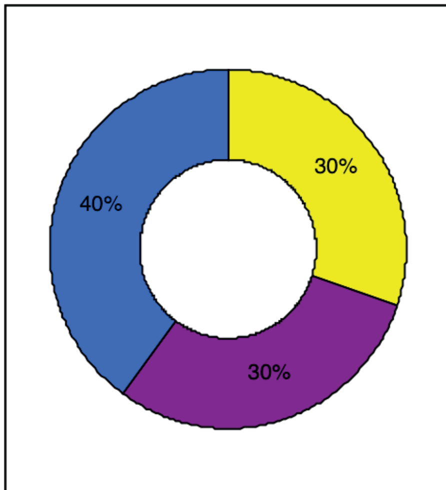
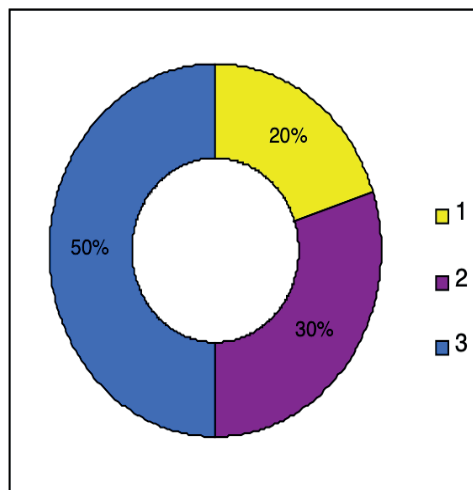


Fig. 2



1 – verbal method, 2 – visual method, 3 – practical method

2) depending on the nature (the degree of students' independence and creativity) of trainees' activities, the following methods can be distinguished: explanatory-illustrative, reproductive, problem statement, partially search and research ones[1]. The salient aspect of explanatory-illustrative method is that students gain knowledge through lectures, from educational or methodical literature, through the screen textbook in the "ready" form. When using the reproductive method, the trainees' activities are algorithmic in nature, i.e. performed according to instructions, regulations, and rules in the same contexts similar to the sample provided. It is reasonable to use this method in laboratory-based work. Since this form of training is provided with an appropriate task, in which criminalistic techniques, methods, and tools are used, a certain materialized result is obtained. Thus, when students of Yaroslav Mudryi National Law University do laboratory work # 6 in the discipline "Criminalistics" "Dactyloscopy of Living Persons" at the beginning of class the teacher tests the students' knowledge of the types of papillary patterns and the rules of deriving the main part of the dactyloscopic formula, as well as explains the methods of carrying out dactyloscopy with availability of technical means. Then each student of the study group performs fingerprinting, fills in the fingerprint card, and derives the main part of the fingerprint formula independently. At the end of class, students submit laboratory work to the teacher for review. The problem-based teaching method is characterized by the fact that, using a variety of sources and tools, the teacher, before delivering the material, brings forth a problem, formulates a cognitive task, and then, revealing a system of evidence, comparing views, different approaches, shows the way of solving the assigned task. The use of the method when teaching criminalistics makes it possible to develop in students certain abilities to analytical thinking, the formation of their own, substantiated position, the ability to maintain the latter, to conduct a scientific debate. The separate-search method consists in the organization of active search for solutions to cognitive tasks put forward during training under the teacher's guidance. This method is relatively well used in practical training in solving domain-specific tasks proposed by the instructor. The solution of the offered tasks is geared towards getting theoretical knowledge of the subject as well as acquisition of certain practical skills of working with traces, building skills on tactics of conducting separate investigative (search) actions and recording of results, construction and verification of investigative versions, elaborating investigation plans, records, orders, (decisions) and other procedural acts[2]. The essence of the research meth-

[1] Stolyarenko L., Bulanova-Toporkova M., Dukhavneva A. Pedagogics и Psychology of Higher Education (2002). Rostov: Feniks.

[2] Criminalistics: Situational Models and Tasks. (2012). Edited by O. Bayev, V. Shepitko. Kharkiv: Apostille. 3.

od of teaching consists in that after analyzing the material, setting the problem, students independently study the literary sources, conduct observations and perform various research works. This method is appropriate to be used to assist students in writing reports. Scientific reports should be an independent, creative coverage of relevant issues relating to criminalistics, based on the use of current legislation, analysis of monographs, academic papers, investigative and judicial practice. The results of this work are: (1) the expression of the student writers' opinion on the issue to be addressed; (2) providing conclusions on the results of personally conducted criminalistic practice generalization in the chosen research area; (3) proposals for solving theoretical and practical issues.

The fourth system's element, which highlights the features of pedagogical tools and addresses the following questions: "What means should be used to teach?", "What to teach?", is represented by teaching aids. This system's element is not accidentally constructed after the teaching methods, since it is used in conjunction with them. The generally accepted modern typology divides teaching aids into types that must be used as a tool for teachers and trainees (students) to achieve the goal of studying the discipline "Criminalistics", namely the acquisition of knowledge and skills. These types include: (1) printed – textbooks, lecture courses, study guides, research and practice manuals, learning material for hands-on training and independent work in the academic discipline "Criminalistics", the investigator's reference books, encyclopedias, etc.; (2) electronic educational resources – electronic textbooks, manuals, online educational resources; (3) audiovisual – slides, slide films, educational films; (4) visual flat – posters, illustrations, magnetic boards; (5) demonstrative – models, mock-ups, software products, natural objects (for example, modern scientific and technical means for detection, documentation, removal and investigation of traces on the scene of action; bullets, shell casings with traces of firearms; documents with traces of physical forgery); (6) teaching instruments, accessories and materials – microscope, ultraviolet lamp, compass, scale ruler, measuring tape, caliper, slide, printing ink, fingerprint card, etc. The use of this type of teaching aids depends on mastering a particular theme and task set by the instructor in the practical class. For example, in the practical class "Human Footprints" students of Yaroslav Mudryi National Law University learn the rules of inspecting the shoe prints and the technique of making molded plaster casts. Then they proceed to the laboratory work, in accordance with the task assigned by the instructor, namely to identify on-site (training ground) the three-dimensional footprint; to inspect and measure it; to carry out large-scale footprint photography; draw up a fragment of the protocol (describe the footprint) and make a plaster cast of the three-dimensional footprint. To perform this task, students are provided with such teaching

aids, accessories and materials as a digital camera, a scale ruler, plaster, a bowl and materials for making a mold. According to survey results, when answering the question "Is it necessary to use the following types of teaching aids when mastering criminalistics", students answered "Yes": as regards the printed media – 86%; electronic – visual resources – 90%; audiovisual – 92%; visual flat – 79%; demonstrative – 100%; educational supplies – 100%. The students further provided the following answers to the question "Which types of teaching means should be used in various forms of training?": 1) in lectures: audiovisual – mandatory (must be used) – 25%, preferably – 58%, may not be used – 17%; visual flat – mandatory – 21%, preferably – 66%, may not be used – 13%; demonstrative – mandatory – 45%; preferably – 51%; may not be used – 4%; 2) in practical classes: audiovisual – mandatory – 34%, preferably – 56%, may not be used – 10%; visual flat – mandatory – 45%, preferably – 45%, may not be used – 10%; demonstrative – mandatory – 78%, preferably – 20%, may not be used – 2%; education supplies – mandatory – 85%, preferably – 14%, may not be used – 1%; 3) in laboratory-based works: audiovisual – mandatory – 28%, preferably – 41%, may not be used – 31%; visual flat – mandatory – 40%, preferably – 47%, may not be used – 13%, demonstrative – mandatory – 69%, preferably – 27%, may not be used – 4%; education supplies – mandatory – 87%, preferably – 11%, may not be used – 2%.

The fifth and the last element of the system of criminalistic didactics, which addresses the question: "In what form, where, and when to teach?", is represented by the forms of training process organization. The following training modalities are used in the study of criminalistics: lectures, practical classes, practicals, and students' individual work. These forms of training process organization are provided by the working program of the academic course "Criminalistics", hands-on exercises and practicals, as well as tasks for students' individual work, tests, etc.

Such a form of training process organization as lectures is the main link of the didactic education cycle, as it forms the approximate basis necessary to further facilitate the students' learning experience. Based on the provisions of the theory of didactics, the lecture should amalgamate three main components: didactic, ideological and methodological. This provision, according to V. Kolomatskyi[1], which, certainly, deserves attention, fully applies to lectures on the academic course "Criminalistics". In this regard, the scientist argues that a lecture on criminalistics, in terms of didactics, is intended to constitute an interrelated whole, in which all the facts, the form and techniques of their presentation, visual and teaching aids – all serve as a means of addressing the main content

[1] Kolomatskyi, V. (1992). Course of Criminalistics (Didactics and Methodics). Academy of Ministry of Internal Affairs of Russian Federation.

of the lecture theme. The ideological aspect of a lecture on criminalistics is to present its material from a scientific standpoint, to define the social content of the topic in the light of the priority of universal values. The methodological aspect consists in the lecturer's (author of the lecture) provision of a form of learning material presentation that would not only ensure the effective acquisition of the content of lecture in the allotted for its delivery time, but would encourage more in-depth independent study[1]. In our view, lectures on the course "Criminalistics" should be scientific, informative, substantiated; contain a sufficient number of clear-cut, convincing examples based on judicial and investigative practice; to be well-structured and logic for covering issues that are consistently set out; not to duplicate the content of the relevant chapter, paragraph of the training manual; to be taught in an accessible and understandable language, and the newly introduced terms and names to be explained; illustrated through audiovisual means.

Practical training is no less important form of student training than lecture, as its purpose is to acquire practical skills in working with modern forensic tools to detect, record, extract and study traces and other sources of evidence, skillful application of forensic tactics achievements and provisions of certain methods required for investigating various types of crimes. Practical classes in criminalistics should be conducted in the form of tasks, business games, drawing up the necessary documents. Criminalistics classes are as a rule associated with the development of their script, the need to model (simulate) situations. With students working in small teams, at least several scenarios should be prepared. Undoubtedly, the increased attractiveness of classes, which motivate the acquisition of theoretical knowledge, should be recognized as a virtue of situational methods[2]. Particularly effective for the acquisition and consolidation of the obtained theoretical material, as well as for the acquisition of professional skills and abilities, appear to be the practical classes conducted at the criminalistic training ground. The criminalistic training ground is a specially equipped area or premises for conducting such classes in the field. The training ground must be adapted for specific tasks to be accomplished by students of law schools: the availability of staged rooms, furniture, mock-ups, dummies, models, analogues, etc. Also, various forensic equipment, simulators, devices, accessories, and materials must be provided at the criminalistic training ground. At the criminalistic training ground it is expedient to conduct classes on topics such as forensic photography, trasology, forensic

[1] Kolomatskyi, V. (1992). Course of Criminalistics (Didactics and Methodics). Moscow: Academy of Ministry of Internal Affairs of Russian Federation. 16.

[2] Kedzierska, G. (2014). Criminalistics Study in Poland. *Models of Criminalistics Teaching: History and Nowadays*. Edited by N. Yablokov and V. Shepitko. Kharkiv: Apostille. 111, 112.

ballistics, tactics of the scene of action inspection, tactics of investigative experiment, investigation of murders, investigation of railway accidents, investigation of criminal explosions, investigation of fires and arson, investigation of traffic accidents, investigation of airline crashes[1]. The environment in which such a practical class takes place is as similar as possible to practical activities and contributes to the formation of students' professional thinking and the creative use of the resulting knowledge in typical investigative situations.

Laboratory-based work, as one of the forms of education, is an individual students' performance of tasks using criminalistic techniques, methods and tools. The primary value of laboratory-based work is that, in the process of its execution, first of all, the acquired knowledge is well remembered and stored in memory for a long time; secondly, certain knowledge is acquired independently by direct study of objects having probative value; third, practical skills are created; fourth, the interest in studying the academic course of "Criminalistics" is developed; fifth, students obtain certain results, which teach to bring the work to a logical conclusion[2].

Students' individual work should consist in supplemental reading (monographs, practical guides, and academic papers), legislative and departmental regulations, performance of works assigned during classroom time, active participation in meetings of the student scientific circle and student conferences dedicated to pressing issues of criminalistics.

3. WHO SHOULD CRIMINALISTICS BE TAUGHT TO?

The discipline of criminalistics should be taught to all law students. With this, criminalistics should be a mandatory (normative) discipline at law faculties and universities, regardless of the professional orientation (specialization) of future lawyers (prosecutor, detective, lawyer, notary, legal adviser, judge, etc.). Another issue is that different lawyers require different amounts of forensic data[3], a certain amount of study load for different programs. Training of law students in the discipline of criminalistics involves the development of their creative thinking, skills in practical activities, proper decision-making[4]. According to the results of the implemented survey questionnaire, when answering the question: "Should criminalistics

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[1] The Great Ukrainian Legal Encyclopedia. Vol. 20: Criminalistics, Forensic Science, Juridical Psychology (2018). Kharkiv: Pravo. 622, 623.

[2] Kapustina, M. (2014). Systematic Approach to Criminalistic Didactics. *Models of Criminalistics Teaching: History and Nowadays*. Edited by N. Yablokov and V. Shepitko. Kharkiv: Apostille. 188.

[3] Shepitko, V. (2012a). Criminalistics of XXI Century: Subject Matter, Tasks and Trends in New Conditions. *Modern State and Criminalistics Development*. Kharkiv: Apostille. 53.

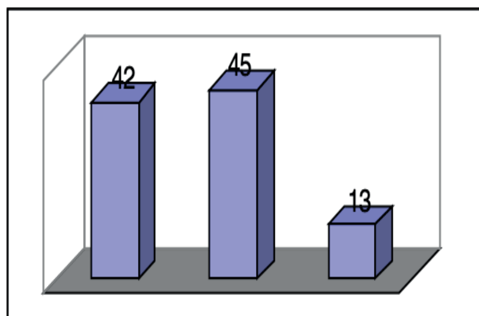
[4] Shepitko, V. (2014). Problems of Criminalistics Establishment and Development as University Discipline in Ukraine. *Models of Criminalistics Teaching: History and Nowadays*. Edited by N. Yablokov and V. Shepitko. Kharkiv: Apostille. 73.

be taught at the basic level, i.e. be included in the scope of compulsory disciplines?", 95% of students answered "Yes". However, some students provided explanations. Thus, students believe that "criminalistics covers a wide and important range of knowledge and skills allowing mastering them", "criminalistics are an important discipline, no matter what legal profession the student would choose in the future." When answering the following questions: "Is it necessary to teach criminalistics by specialization?", 62% of students answered "Yes", "Is there a need for in-depth knowledge of criminalistics for your specialization?", 53% of students answered "Yes". Students who answered "No" to 47%, provided the following explanations for their negative answer "basic knowledge is sufficient"; "during the study of the academic course criminalistics, we managed to acquire the most important learning materials, and were also given the opportunity to study the discipline more deeply than any other area of specialization." Also, through the questionnaires, students provided assessments on the following issues: "Informativeness of educational material in the discipline (how widely and fully the fundamental and applied aspects, current issues and new approaches to their solution are covered)?" (Fig. 1); "Structure and illustrativeness of the discipline (how cohesive and logical the educational material is)?" (Fig. 2); "The discipline in comparison with other courses at your faculty according to the criterion" "INTERESTING"? (Fig. 3); "The discipline in comparison with other courses at your faculty according to the criterion "USEFUL"? (Fig. 4).

While answering questions, respondents provided explanations relevant to the issue of educational material informativeness (Fig. 1), namely, those students who rated satisfactorily explained that through this process "more hours should be allocated to study each theme to be able to accomplish more than once the tasks on each theme"; with regard to the issue of the structure and illustrativeness of the discipline (Fig. 2) – students who rated satisfactorily explained their choice by the need to allocate at least three hours to study one theme for the learning material to be well acquired"; as for the issue relating to the criterion "interesting" (Fig. 3) – students who rated excellently explained their answer as follows "this discipline is the most interesting one due to the large amount of laboratory-based work that clearly demonstrates the investigator's activities", "Most interesting if I enroll in Master's degree program, I will pursue the more intensive study of this subject"; with regard to the issue relating to the criterion "useful" (Fig. 4) – students who rated excellently explained it as follows, "the most useful, because this knowledge is integral for our specialization".

Students provided reflections on the question: "What is the value of the course (discipline) "Criminalistics"?" Most of them come down to the following: "an interesting combination of theoretical knowledge and practical skills"; "provides the knowledge required for the

Fig. 1



Excellent good satisfactory

Fig.2

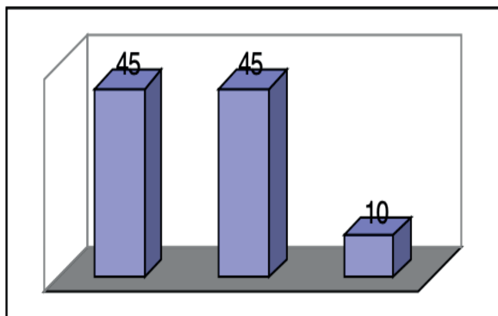


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Fig. 3

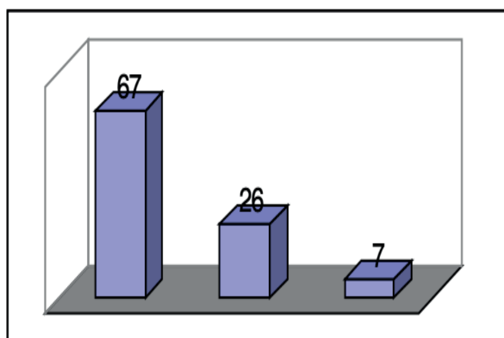

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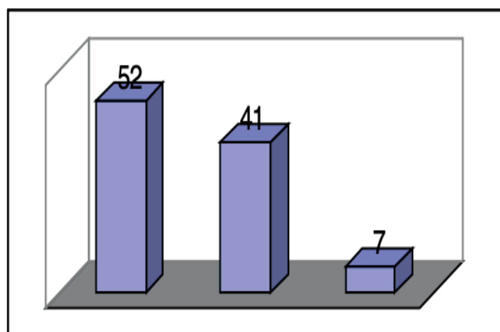
Fig.4



excellent good satisfactory

future profession"; "a visual example of forensic expert's activities"; "in correlation with the criminal proceedings it is a science on the basis of which a pre-trial investigation is carried out, which helps to quickly expose the offender's identity)"; "giving students the opportunity to try themselves in the role of investigator, expert and conduct investigative actions. Also, students have the opportunity not only to learn about criminalistics from textbooks, but also to try everything in reality, by conducting team modeling of the situation and carrying out actions related to, for example, detecting, recording and removing footprints of a probable criminal"; "provides an understanding of the crime situation and the psychological portrait of criminals, teaches psychological techniques, contains background knowledge to solve crimes"; "the merit of the course is that the trainees do not just study the theory, but use it in practice. Laboratory-based work helps to consolidate the theory. It is not all about seeking solutions to problems on the Internet, as in other subjects, but to put oneself in the place of the in-

vestigator and plan the actions, the tasks that must be performed to solve the crime";"the knowledge provided develops students' skills of logical thinking, critical thinking and will be of benefit even for those who are not going to make a career in this field"; "helps to construct the right logical thinking", etc.

When answering the question: "Is there a need to teach special courses in Criminalistics in further study (in subsequent courses)?", 61% of students answered "Yes". When providing answers, students indicated the special courses they would like to study. These are, for example, methods of investigating certain types of crimes; methods of investigating cybercrimes; methods of investigating corruption-related crimes; methods of investigating crimes in the IT sphere; methods of investigating economic crimes; methods of investigating crimes involving official activity; methods of investigating environmental crimes; innovative technologies in criminalistics; specialized knowledge of the legal profession; the offender's psychotype and the behavioral analysis of the victim and the offender.

When answering the question: "Should special courses in criminalistics have a specialization in faculties?", 65% of students answered "Yes". The following answers were provided to the question: "Is the relationship between the academic course "Criminalistics" and the future profession clear for you?" – "Yes, completely" – 56%; "Yes, mostly" – 38%; "A little understood" – 3%; "No" – 3%.

4. CONCLUSIONS

In Ukraine, the development of criminalistics can be traced in three main areas: 1) the development of university science (science in educational institutions); 2) development of academic science (within the activities of research institutions); 3) development within departmental subordination (within research units in the structure of the Ministry of Internal Affairs of Ukraine, forensic expert institutions within the system of the Ministry of Justice of Ukraine, the Ministry of Healthcare, etc.).

The development of university science is carried out, as a rule, through the research activities of specialized departments of law faculties, institutes or universities (departments of criminalistics, criminalistics and forensic medicine, criminalistics and forensic science, etc.) as well as the development of forensic research projects in research sectors of higher education.

Within the framework of academic science, research in the field of criminalistics is conducted by structural subdivisions of the National Academy of Legal Sciences of Ukraine, within its research institutes (for example, the Laboratory "Use of Modern Achievements of Science and Technology in Crime Control" of the Research Institute for the Study of Crime Problems named after Academician V. Stashis of the National Academy of Legal Sciences of Ukraine). Coordination of scientific research in this direction is carried out by the Department of Crim-

inal Legal Science of the National Academy of Legal Sciences of Ukraine. The structure of this department includes an office on problems relating to the science of criminalistics, forensic science, investigative activities and forensic psychology. In particular, the result of scientific research of academic science is the preparation of fundamental works "Legal Doctrine of Ukraine: in 5 volumes" (Volume 5 was dedicated to the state, problems and ways of development of criminal law in Ukraine)[1]; "The Great Ukrainian Legal Encyclopedia: in 20 volumes" (volume 20 covers the problems of criminalistics, forensic science and forensic psychology)[2], etc.

The development of criminalistics in Ukraine is associated with the development of certain criminalistic theories, criminal investigation technique studies, tactics and methods of investigating certain types of crimes. At the present stage, individual scientists and research teams are developing and implementing scientific and technical means, methods and technologies in the practice of combating crime. Confirmation of this fact is the defense of a significant number of theses on various problems relating to criminalistics, preparation for publication of monographs and academic papers, participation in international congresses, symposia and conferences.

[1] Legal Doctrine of Ukraine. Vol. 5: Criminal Legal Sciences in Ukraine: State, Problems and Ways of Development (2013). Kharkiv: Pravo.

[2] The Great Ukrainian Legal Encyclopedia. Vol. 20: Criminalistics, Forensic Science, Juridical Psychology (2018). Kharkiv: Pravo.

Thus, an important achievement is the activity of the International Congress of Criminalists. The International Criminalists Congress was formed in 2012 as an international non-governmental and non-profit organization bringing together scientists and criminalists, teachers, specialists in related fields of science, forensic experts, law enforcement officials, and public figures to meet and protect their legitimate interests. The presence of a single information space implies the further unification of criminalists, forensic scientists and practitioners from different countries and scientific schools, development of modern tools and methods of criminalistics, promotion of criminalistic knowledge.

We believe that organization and holding of the International Congress of Criminalists, symposiums, conferences provide an opportunity for scientists and practitioners to consolidate their efforts, scientific and practical potential to solve problems of both theory and practice of criminalistics and forensics.

Interesting in this connection is the information on the scientific article of Slovenian criminalists on the organization of informal meetings "Criminalistic Wednesdays" at Maribor University (since 2015), the aim of which is to unite theory and practice as well as to discuss relevant issues in the area of Criminalistics in a relaxed (arbitral) atmosphere[3].

[3] Frangež, D., & Lindav B. (2019). Kriminalistika med teorijo in prakso v Sloveniji. *Revija za kriminalistiko in kriminologijo*. Ljubljana 70, 142.

Moreover, Slovenian criminalists, in their scientific article, emphasize that theory and research results shape the practice, and the practice in turn indicates (dictates) the theories of the domain (area) that need to be theoretically substantiated and / or investigated[1]. We (the authors of this academic paper) believe, in turn, that theory, the ideal model of practice, should offer the best ways of practical activity implementation. The theory must be ahead of practice. Mastery of theoretical knowledge is a criterion for increasing the level of future practice[2]. Moreover, the effectiveness of law-enforcement, law-application and human rights activities is directly related to the speed and quality of the generation and promotion of criminalistic knowledge through the science – training – practice channel[3].

Criminalistics refers to the criminal sciences, which are developing dynamically. Literary sources rightly point out that modern criminalistics, as a certain reality, is quite difficult to describe, even within one scientific school. The avalanche of new knowledge requires a rethinking of the discipline and boundaries of the science of criminalistics, especially given the processes of globalization, integration and differentiation of knowledge[4].

The criminalistics literature contains proposals aimed at changing the criminalistic system. Recently, the independent term “criminalistic strategy” has been increasingly used, there are proposals on the feasibility of a separate section “criminalistic strategy” or “criminalistic tactics and strategy”[5]. In the literary sources there is a suggestion as for the need to create an additional (fifth) section of criminalistics[6].

Thus, Slovenian criminalists suggest that the forensic strategy should be attributed to a separate section of criminalistics. It is argued that the development of a criminalistic strategy is a scientific process, since scientific methods and sound proposals are used in research that are based on reliable and valid methods, which is not the result of individual researchers’ experience and opinions. They

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[1] Frangež, D., & Lindav B. (2019). Kriminalistika med teorijo in prakso v Sloveniji. *Revija za kriminalistiko in kriminologijo*. Ljubljana 70, 157.

[2] Shepitko, V. (2012b). Problematic Lectures on Criminalistics. Kharkiv: Apostille. 20

[3] Bilous, V. (2014). Role of Informative Technologies in Criminalistic Didactics Development. *Models of Criminalistics Teaching: History and Nowadays*. Edited by N. Yablokov and V. Shepitko. Kharkiv: Apostille. 160.

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[5] Bernaz, V. (2011). Problems of Criminalistic Strategy. *Topical Problems of Criminal Procedure, Criminalistics, Forensic Science and Criminal Intelligence*. Odesa: Feniks. 40–44.

[6] Malevski, H. (2013). Criminalistic Strategy, Strategy in Criminalistics or Strategy of Criminalistic Policy. Criminalistics and Forensic Science: Science, Studies, Practice. Vol. 2. Vilnius, 17–31; Frangež, D., Lindav B. (2019). Kriminalistika med teorijo in prakso v Sloveniji. *Revija za kriminalistiko in kriminologijo*. Ljubljana 70, 141, 156.

recognize the criminalistic strategy to be a separate branch of criminalistics, such as criminalistic technology, criminalistic tactics and criminalistic techniques. At the same time, Slovenian colleagues note that criminalistics is no longer devided into three separate sections, but has four sections which are related (intertwined) to each other but can equally have independent development[1].

However, we believe that a separate section of the criminalistic strategy is a sufficiently argumentative issue and should therefore be the subject of another separate study (scientific article). In turn, we stress that the criminalistic system traditionally covers four sections, but not three, as noted by Slovenian colleagues. They are as follows: the General Theory of Criminalistic Science; Criminalistic Technology; Criminalistic Tactics; Criminalistic Techniques[2].

With regard to the definition of criminalistic strategy, Slovenian criminalists believe that this is a branch of criminalistic science in which, taking into account legal and political constraints, financial and human resources, investigative actions are analysed and planned, aimed at detecting, investigating, controlling and limiting crime. Furthermore, the criminalistic strategy is a way of thinking about the effectiveness of planning the process of seeking solutions to limit crime using criminalistic methods and means[3].

We are of the opinion that the criminalistic strategy can be considered both as a scientific category and as a separate area. Thus, the national school traditionally considers the criminalistic strategy as a separate category, direction and the highest level of criminalistic tactics application. It can be implemented by the judicial bodies and law enforcement agencies only in the long run, after a certain remote period of time. The goals and objectives of the criminalistic strategy may be determined by the Constitution of Ukraine, the laws of Ukraine, conventions and international treaties ratified by Ukraine, certain programs, strategies adopted by the President, executive, legislative or judicial branches of government. These goals and objectives of the criminalistic strategy should relate to the need to provide the judiciary and law enforcement agencies with criminalistic methods and means of establishing legal facts. Therefore, criminalistic strategy is defined as a field of knowledge on combating crime using criminalistic tools in the years ahead. In the long run, criminalistic strategy may be awarded a special place in a separate section of the national school of criminalistics, which will not only provide the judiciary and

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[1] Frangež, D., & Lindav B. (2019). Kriminalistika med teorijo in prakso v Sloveniji. *Revija za kriminalistiko in kriminologijo*. Ljubljana 70, 156.

[2] The Great Ukrainian Legal Encyclopedia. Vol. 20: Criminalistics, Forensic Science, Juridical Psychology (2018). Kharkiv: Pravo. 729, 730.

[3] Frangež, D., & Lindav B. (2019). Kriminalistika med teorijo in prakso v Sloveniji. *Revija za kriminalistiko in kriminologijo*. Ljubljana 70, 153.

law enforcement agencies with modern criminalistic methods and tools, but also enable to effectively organize and plan measures directed to combat crime in the future, which are premature.

Criminalistic strategy can be implemented in the context of the country's criminal policy through its application in combination with other institutes of criminal sciences – criminal law policy, criminal executive policy, criminal procedure policy, criminological policy. This approach will make it possible to combat crime in a multidimensional way and significantly more quickly to achieve the goals and objectives that are generated for the long term.

Criminalistic strategy as a separate category or direction is implemented by establishing legal facts within the activities of the relevant law enforcement entity. Criminalistic strategy is important for determining the overall trajectory of crime prevention, investigating crimes, judicial proceedings and other law enforcement activities. This strategy is guided by the competent State authorities, which can be significantly influenced by public organizations. In this way, the criminalistic strategy concerns the use of modern forensic tools in compliance with the global challenges and tasks facing such bodies.

Today, the implementation of the criminalisic strategy is associated with achieving the goals and objectives of the Sustainable Development Strategy "Ukraine – 2020" (approved by the Decree of the President of Ukraine № 5 of January 12, 2015) and the Strategy for reforming the judiciary system, judicial proceedings and related legal institutions for 2015–2020 (approved by the Decree of the President of Ukraine № 276 of May 20, 2015). 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 (dated November 30, 2015) has a significant impact on the formation of criminalistic strategy. Equally important for the implementation of the criminalistic strategy is the adoption of the Single European Program for the Development of Criminalistics until 2025 "Criminalistics – 2025" and work within the statutory goals and objectives of international institutions – INTERPOL, EUROPOL, ENFSI (International Network of Forensic Institutes) and others.

Accordingly, in Ukraine, the criminalistic strategy is associated with significant reforming the judiciary and law enforcement agencies, holding competitive examinations for posts among persons who use forensic tools. At the same time, there are created not only new positions for persons who, according to their functions, are programmed to use forensic tools (for example, a detective or a prosecutor of the specialized prosecutor's office), but also the emergence of new bodies (National Anti-Corruption Bureau of Ukraine). Supreme Court of Intellectual Property, etc.).

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TASKS OF CRIMINALISTICS IN THE CONDITIONS OF MILITARY THREATS AND DIGITAL TECHNOLOGIES

Abstract. *The article is devoted to the study of topical problems of new tasks of criminalistics in modern conditions of war and digital technologies. The challenges, tasks and trends of the modern development of criminalistic science in today's realities are identified and analyzed, and promising areas of its scientific research are outlined. The emergence and formation of new areas of criminalistics due to scientific and technological progress, the introduction of new technologies, the conditions of war, digitalization and the emergence of new tasks associated with the need to identify specific traces and collect evidence (digital, genomic, nuclear, etc.) are substantiated. It is noted that it is important to take into account the current tasks and trends in the development of criminalistics associated with the formation of certain branches (directions): medical, digital and nuclear criminalistics. Under the conditions of the war in Ukraine, the necessity and relevance of the formation of a new scientific forensic direction of military criminalistics is substantiated. A system of military criminalistics is proposed, its tasks, object and subject are defined. The most perspective directions of researches of this new direction of scientific developments in criminalistics are outlined. The problems of formation and development of digital criminalistics and its role in the investigation of war crimes in Ukraine are analyzed. The most promising areas of criminalistic research in this field of knowledge are highlighted. The author's vision of this issue is proposed, aimed at improving investigative (detective) activities in the field of using tools and means of digital criminalistics in the investigation of war crimes. It is substantiated that further prospects for the formation and development of criminalistics provide for the need to reboot and modernize the cur-*

rent paradigm, in particular, we are talking about revising, modernizing and significantly updating the modern understanding of the subject of criminalistics. The problems of the formation and development of European criminalistics, the activation of the processes of integration of criminalistic knowledge into a single European criminalistic space are considered and substantiated.

Keywords*: innovations in criminalistic, tasks of criminalistics, military criminalistics, digital criminalistics, war crimes, digital technologies, collection of evidence of war crimes, criminalistic knowledge.*

Introduction

Today, the use of digital information and modern information technologies is not just the latest technological trend or a fashion fad – it is actually a new digital reality based on social innovations and advanced digitalization technologies[1]. Obviously, in modern conditions, digitalization processes act as an important strategic direction for the prospective development of the advanced states of Europe, the world, including Ukraine, which has chosen the European vector of development. Under such conditions, digitalization has become not only a modern trend in the development of society, but also becomes an important factor in the economic, social, political and international growth of the state.

Modern processes of enhancing the digitalization of all spheres of state activity, in turn, necessitate the improvement of the system of law enforcement agencies and the prosecutor's office, and the judiciary. There is a transition of the existing traditional system to a new reality – digital, in which digital information is an integral attribute, both in the work of criminal justice bodies, on the one hand, and modern criminal activity, on the other[2]. This, in turn, determines current trends and prospects for the development of legal science, including forensic science, which is at the forefront of the fight against crime. In Ukraine, criminalistics has chosen the European vector of development. European approaches are also manifested in the application of standards of proof in the course of criminal proceedings[3].

It is obvious that today's digital reality is now closely connected with the emergence of new forms of crime – cybercrime, information fraud, cybe terror-

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ism, a large number of cyber attacks on enterprises and government databases[1]. Of course, such threats require the development of the latest approaches to combating crime, modernizing and updating the system of criminal justice bodies to modern conditions and global threats of the XXI century. This leads to the intensification of the use and dissemination of digital technologies in investigative, judicial and expert activities.

It is assumed that among the new challenges and threats, the full-scale invasion of the Russian occupation forces into the territory of Ukraine on February 24, 2022 and the military aggression of the Russian Federation became unprecedented and shocking. Such a difficult situation for our state made it necessary to introduce martial law in Ukraine, which significantly affected all spheres of our life. The Russian military is committing mass murders of civilians on the territory of Ukraine, the destruction of infrastructure facilities and dwellings of citizens, the rape of women and children, and looting. The crimes committed by the military of the Russian Federation on the territory of Ukraine are extremely large-scale, and their fixation, documentation and investigation involves the study of a significant amount of events, the careful collection of a large amount of evidence[2] and the conduct of a huge amount of criminalistic research and forensic examinations[3].

In such conditions, challenges and threats today necessitate the formation and implementation of innovative approaches in criminalistic support for combating war crimes in Ukraine, taking into account the processes of digitalization and Europeanization[4]. Of course, such challenges today determine the current trends in the development of criminalistics and its tasks that require special research.

In the context of full-scale military aggression by the Russian Federation on the territory of Ukraine, taking into account the modern tasks of adapting criminalistic knowledge to the conditions of martial law and reforming domestic legislation to the international standards of the European Union. Today the problems of adapting and modernizing the tasks of criminalistics to the requirements of modern practice and solving all problems are quite relevant facing criminal-

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istic science and criminal justice authorities. In modern conditions, criminalistics is called upon to develop the latest tools, techniques and methods aimed at countering crimes related to the military aggression of the RF against Ukraine and other criminal manifestations in war conditions.

1. New tasks of criminalistics and challenges for the criminal justice authorities in the context of full-scale military aggression of the Russian Federation

The main task of criminalistics is the development and application of tools, techniques and methods that allow you to collect, investigate, use evidence in the conditions of war and global threats of our time. The transformation of crime in Ukraine during the war had a significant impact on changing the priorities of the tasks of criminalistics and the features of the formation and application of criminalistic knowledge in martial law[1]. In such conditions, the issue of increasing the role of criminalistics in the formation of the evidence base for the investigation of war crimes committed by the Russian military in Ukraine is acute.

In today's realities, it is seen that the practice of using criminalistic knowledge to collect evidence during the war is quite relevant and important. Today, in the conditions of martial law, the tendency to strengthen the practical orientation of forensic developments, innovative products[2], their pragmatic orientation towards solving practical problems is of particular importance[3]. It is no coincidence that for another time Hans Gross called the «practical» goal as the unchanging goal of criminalistic science[4]. Criminalistics, as an applied science, integrating modern achievements of science and technology, now directs its scientific potential to create an effective system of criminalistic tools, techniques and technologies, the use of which is aimed at solving complex practical problems, among which the possibilities of using criminalistic knowledge in war conditions are of particular importance[5]. Therefore, criminalistics and each of its chapters face tasks related to ensuring the activities of law enforce-

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ment agencies and other special subjects of such counteraction with effective criminalistic recommendations for combating crime under martial law, in particular in identifying, documenting and investigating crimes related to military aggression. RF vs Ukraine.

Today, the tasks of criminalistics, depending on the theoretical-cognitive and applied problems, can be divided into two levels: a) tasks aimed at improving the theory of criminalistics; b) tasks aimed at improving law enforcement practice, that is, we are talking about both scientific and practical developments for the development of the theory of criminalistics, and about solving problems for law enforcement practice. It seems that these and other important tasks can be solved comprehensively and systematically, in particular, by improving the criminal, criminal procedural legislation and developing theoretical and methodological foundations and scientific and practical recommendations for investigating this category of criminal offenses.

In the current conditions of war and the realization of Ukraine's aspirations to become a full member of the European Union, certain changes, modernization and a kind of reloading of criminalistics are taking place, primarily associated with the emergence of new challenges to society and the need to solve priority tasks in conditions of active hostilities on the territory of Ukraine, the formation of criminalistic knowledge in accordance with the needs of practice in the realities of wartime and global upheavals. Changing the paradigm of forensic science affects the system of knowledge classified as criminalistic.

Criminalistics, as an applied science, integrating modern achievements of science and technology, now directs its scientific potential to create an effective system of criminalistic tools, techniques and technologies, the use of which is aimed at solving complex practical problems, among which the possibilities of using forensic knowledge in combating crime are of particular importance in the realities of the military present and the approach to a single criminalistic European space[1]. Ukraine's integration into the world and European community requires our state to adapt national legislation to international standards and obligations[2]. This is especially true for criminology and the criminal process, both in the field of combating crime and in the field of protecting important constitutional rights, freedoms and interests of citizens, taking into account the current realities of the development of Ukrainian society.

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During martial law, law enforcement agencies faced new challenges, so the legislator made appropriate changes to the Code of Criminal Procedure and the Criminal Code of Ukraine[1]. The creation of a system of military justice is very relevant today, in particular, this is the issue of the formation of the military police, military prosecutor's office and military courts, taking into account the best foreign experience, European and international standards for combating crime. The creation of military justice bodies in the realities of the military present is a necessary step to ensure high-quality and effective prevention, counteraction, detection, fixation, disclosure and investigation of war crimes committed by the Russian military on the territory of Ukraine.

In military realities, today there is also a change in the vector of forensic research in Ukraine, bringing it closer to the common European space[2]. Therefore, for Ukraine, which has determined the course of accession to the EU, one of the priority areas of activity is the task of bringing the legislation in line with European standards, including in the field of combating crime, the implementation of legal proceedings, the formation and development of a system of military justice bodies[3].

An innovative direction in the development of criminalistics is the development and implementation in practice of criminalistic support for combating modern crime, including documenting and investigating war crimes in Ukraine. This requires the intensification of the development and implementation of advanced technologies based on the use of modern criminalistic knowledge, observing the standards of proof in criminal proceedings and the widespread use of digital technologies and artificial intelligence[4]. In this case, we can talk about the formation of new scientific directions in criminalistics (medical, nuclear, aerospace, genotyposcopy, digital, military criminalistics), the emergence of which is due to modern trends and tasks in the development of science.

In the conditions of war and modern European integration processes, criminalistics is being rebooted, associated primarily with the emergence of new challenges to the criminal justice system and the need to solve priority tasks in the

1 Changes in criminal proceedings (2022, April). Retrieved from https://pravo.ua/zminy-u-kryminalnomu-provadzhenni-vid-14-kvitnia-2022-roku/

2 Shepitko, V. (2021). Theoretical and methodological model of criminalistics and its new directions. *Theory and practice of forensic examination and criminalistics*, 25(3), 11.

3 Bogutsky, P. P. (2021, October). Military justice as a legal system: international standards and national peculiarities. *Activity of military justice in conditions of armed conflict. Experience of the Ukrainian prosecutor's office*: *materials of the International science-practice conference*. Kyiv-Odesa: Phoenix, 12–18.

4 Shevchuk, V. M. (2023, January). Development of digital criminalistics in the conditions of war in Ukraine. *Diversity and inclusion in scientific area. II International Scientific and Practical Conference*. Warsaw, Poland: Ceac Polonia, SPC «InterConf», 442–450.

conditions of active hostilities on the territory of Ukraine, the formation of criminalistic knowledge in accordance with the needs of practice. Under such conditions criminalistics is called upon to develop the latest means, techniques and methods aimed at countering criminal offenses related to the military aggression of the Russian Federation against Ukraine and other crimes in war conditions. A separate area in criminalistics should be the development of a system of criminalistic investigation techniques[1], the activation of the development of technical and criminalistic support, the use of special knowledge[2], the protection of information sources and the problems of information security[3].

So, in modern conditions of war, there is a reboot of criminalistics, associated primarily with the need to solve new problems that confront criminalistics. It is assumed that such tasks can be: a) strategic; b) tactical. In particular, strategic tasks are related to the development of *Criminalistic Strategy*[4] and the formation of strategic scientific areas in criminalistics (digital, military, nuclear criminalistics), and tactical tasks are aimed at solving problems in criminalistic technology, tactics, investigative techniques and the formation of innovative approaches to improve investigative, judicial activities in the face of military threats and digital technologies

2. Problems of formation of military criminalistics and its role in modern conditions

Today, in the conditions of martial law, criminalistics is called upon to develop innovative criminalistic products, means, techniques and methods aimed at countering crime associated with the military aggression of the Russian Federation against Ukraine and solving other important tasks. Moreover, the system of pre-trial investigation bodies and criminal justice faces new challenges related to the need for quick, comprehensive and high-quality documentation, collection of evidence of massive criminal violations of international humanitarian law committed by the Russian occupation forces. In fact, it can be stated that it is today that a new scientific criminalistic direction

[1] Konovalova, V. O., & Shevchuk, V. M. (2021, February). Prospective directions of research of innovations of separate criminalistic methodics. *Scientific practice: modern and classical research methods*: Collection of scientific papers «ΛΌΓΟΣ» (Vol. 1), Boston-Vinnytsia: European Scientific Platform, 81–85.

[2] Shevchuk, V. M. (2020). Criminalistics : traditions, innovations, perspectives: a selection of sciences. pr. In N. A. Chmutova (Ed.). Kharkiv: Pravo, 108–122.

[3] Shevchuk, V. (2020, April). Criminalistic innovation: modern problems of formation and prospects for research. *Perspectives of world science and education*: abstracts of VIII International Scientific and Practical Conference. CPN Publishing Group. Osaka, Japan, 158–168.

[4] Bernaz, V. D., & Bernaz, P. V. (2008). Criminalistic strategy as a scientific category. *Actual problems of the state and law,* 44, 28–32; Textbook of criminalistics. Vol. 1: General theory (2016). H. Malevski, & V. Shepitko. Kharkiv: Apostille Publishing House, 286–287.

is being formed – "*Military Criminalistics*" [1].

It should be noted that in the history of criminalistics there have been attempts to form the idea of "military field criminalistics" (for example, G. M. Grigoryan)[2], "military applied criminalistics", "military criminalistics"[3], etc. From our point of view, the proposed terms somewhat narrow understanding of the subject, system and tasks of military criminalistics. So, for example, the term "field criminalistics" itself is debatable, since it is rather conventionally understood as technical and forensic tools and methods of working with evidence that are used or can be used not in the investigator's office or in the expert's laboratory, but directly at the scene the time of its inspection, during the production of other investigative actions or research expert operations at this place[4]. As you can see, these questions are far from exhausting the problems of military criminalistics. Of considerable interest both in scientific and practical terms are the analysis and solution of other problems that require research in this specific field of knowledge.

In our opinion, the content of the scientific concept of military forensics should be made up of ideas and theoretical provisions about the object of research, the knowledge system, the content of its individual elements, the place in the system of scientific knowledge, the significance for the theory and practice of investigative work, and the tasks of further scientific research. The object of study of military criminalistics is the patterns of collection, research and use of evidence, the formation of criminalistic support for the investigation of war crimes and military criminal offenses committed in war, in areas of military operations, military operations and military aggression.

It is assumed that the *object of military criminalistics* to a certain extent predetermines its system, which contains scientifically substantiated and proven in practice forensic provisions and recommendations for organizing the detection, documentation and investigation of war crimes and criminal offenses committed in areas of active hostilities or weapons. Also, the provisions of this system de-

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[1] Shevchuk, V. (2022). The role of criminalistics in improving the efficiency of the investigation of war crimes committed by the military of the RF in Ukraine. *Scientific Collection «InterConf»,* 122, 187–195. Retrieved from https://archive.interconf.center/index.php/conference-proceeding/article/view/1208.

[2] Grigoryan, G. M. (2021). International legal and organizational foundations for the investigation of war crimes committed by the warring parties to an armed conflict (Candidate thesis).

[3] Shevchuk, V. M. (2023, January). Criminalistic didactics in modern conditions of war and digital technologies. *Scientific goals and purposes in XXI century*: **IV** International Scientific Conference. Seattle, USA: SPC «InterConf», 121–140.

[4] Shevchuk, V. (2020, July). Actual problems of a separate criminalistic methodics. *Theoretical and empirical scientific research: concept andtrends*: Collection of scientific papers «ΛΌГОΣ» International Scientific and Practical Conference (Vol. 4). Oxford, United Kingdom: Oxford Sciences Ltd. & European Scientific Platform, 21–26.

termine the development and use of theoretical and methodological foundations, the choice and application of means, methods and techniques of forensic technology, tactics and methods of investigation, taking into account the specific conditions of activity – in conditions of martial law, war and active hostilities in a certain territory of the state. The main *tasks of military criminalistics* are the development, formation and application of a system of means, methods, techniques and measures of forensic support for combating the commission of war crimes and military criminal offenses. Since military criminalistics is complex in nature, it should cover the theoretical and methodological, technical, tactical and methodological and criminalistic areas of research[1].

The *theoretical and methodological foundations of military criminalistics* contain general scientific issues related to the development of the concept, subject, system and tasks of military forensics, its place in the system of forensic science. Important areas of scientific research can be the development of such scientific problems as the methodology of military criminalistics, the course system of military criminalistics, innovations in forensic didactics in the teaching of military criminalistics, etc. In this case, we can talk about military criminalistics as a new scientific direction in criminalistic doctrine, which has significant prospects and requires further research.

In the direction of the *technical and criminalistic support of military criminalistics*, it is necessary to update scientific developments and research on the creation and implementation of innovative criminalistic products aimed at optimizing the fight against crime in the military sphere, documenting and investigating identified crimes related to the military aggression of the Russian Federation against Ukraine[2]. Among such innovative products are the latest (newly formed or adapted to the tasks and needs of combating war crimes and other criminal detections in war conditions) technical and criminalistic tools, modern information technologies, electronic knowledge bases, methods for recording, analyzing, evaluating and collecting evidence information. In addition, for the needs of military forensics, modern identification biometric systems can be used based on human characteristics (fingerprints, appearance signs, iris pattern, DNA, etc.).

Relevant is the use of the capabilities of unmanned aerial vehicles, surveillance and video control systems, electronic control over the movement of persons in space and air, identification systems for recognizing faces behind faces, etc. It is also necessary to intensify work on the use of artificial intelli-

[1] Shevchuk, V. (2022). Current Issues of Criminalistics in Context of War and Global Threats. *Theory and Practice of Forensic Science and Criminalistics*, 3(28), 11–27. DOI: 10.32353/ khrife.3.2022.02.

[2] Shepitko, V. Yu., Konovalova V. O., Shevchuk V. M. et. al. (2021). Scientific and technical support of investigative activities in the context of an adversarial criminal procedure. *Issues of Crime Prevention,* 1, 42, 92–102.

gence to ensure the types of activities under consideration and solve practical problems both in the field of law enforcement[1] and in the fight against crime in war conditions.

In the *tactical and criminalistic support of military forensics*, promising areas of research should be the development of tactical foundations for conducting procedural actions and forensic recommendations for their conduct in war conditions. They may be related to the specifics of the tactics of conducting individual investigative (search) and covert investigative (search) actions under martial law or military operations[2]. This situation necessitates the development of new tactics, revision of the possibilities of tactical combinations and tactical operations, algorithms of investigative (detective) actions, etc. It is important to develop separate tactics for carrying out actions in which the participants (suspects, witnesses, victims, etc.) are persons from temporarily occupied territories or from areas of active hostilities, as well as prisoners of war [3].

Innovative developments in this area of criminalistic science should be aimed at creating *methodics for investigating* new types of criminal offenses, tactical operations, algorithms for investigative (detective) actions, checking standard investigative versions, developing forensic characteristics of criminal offenses[4], etc. In addition, scientific studies of methods for investigating crimes against the foundations of the national security of Ukraine are becoming relevant; war crimes committed by the military of the Russian Federation in Ukraine; crimes against peace, human security and international law and order; crimes related to the illegal use of humanitarian aid, charitable donations or gratuitous aid, illegal crossing of the state border of Ukraine[5], etc.

The spread of information computer technologies contributes to the further development of algorithmization of the pre-trial investigation process and ensuring the efficiency and effectiveness of the trial[6]. These issues should be taken into account when developing programs, academic disciplines and improving the methodology of teaching criminalistics,

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[1] Baltrūnienė, J. (2022). Dirbtinis intelektas ir duomenų apsauga kriminalistikos plėtros kontekste. *Kriminalistikos teorijos plėtra ir teismo ekspertologijos ateitis.* In V. E. Kurapkai (Ed.). Vilnius, 203–205.

[2] Shevchuk, V. M. (2023). Problems of the formation of military criminalistics and its role in modern conditions. *Military offences and war crimes: background, theory and practice*. Riga, Latvia: «Baltija Publishing».

[3] Chornous, Y. M. (2017). Criminalistic support of crime investigation. Vinnytsia, 39–58.

[4] Konovalova, V. O., & Shevchuk, V. M. (2021). Prospective directions of research of innovations of separate criminalistic methodics. *Scientific practice: modern and classical research methods:* «ΛΌГOΣ». Boston; Vinnitsa, 81–85.

[5] Orlovskyi, R., Us, O., & Shevchuk, V. (2022). Committing a Criminal Offence by an Organized Criminal Group. *Pakistan Journal of Criminology,* 14, 2, 33–46.

[6] Shevchuk, V., Vapniarchuk, V., Borysenko, I., Zatenatskyi, D., & Semenogov, V. (2022). Criminalistic methodics of crime investigation: Current problems and promising research areas. *Revista Juridica Portucalense*, 32, 320–341.

forming criminalistic didactics in modern conditions.

3. The role of digital criminalistics in the investigation of war crimes, genocide and crimes against humanity in Ukraine

Today, in the realities of military and global threats, all practitioners in the field of international criminal justice must improve their technical understanding of the latest digital technologies and must cultivate a deeper understanding of the application of how social networks, geolocation, mobile conversations, computer information and other digital. traces and communications are used in war zones[1]. Given the military aggression by the occupying Russian troops on the territory of Ukraine and the commission of massacres, violence, looting, today the problem of collecting evidence of these crimes is acute. This requires the activation and dissemination of the use of digital technologies in detecting, documenting and investigating war crimes, crimes against humanity and genocide[2].

For our study, digital sources are of particular importance, since they are associated with digital information and digital traces. It seems that in the modern world, almost all human activity, including criminals, is accompanied by a kind of "trace pattern", among which digital traces acquire a special place as an important source of forensically significant information. It is digital, and not electronic traces that today form the basis of the evidence base in the investigation of criminal offenses. In digital traces, despite the constantly changing form of information storage, one thing remains unchanged – this is the digital encoding of this information, which has become quite widely used, replacing the analog signal[3]. It is in view of these arguments that today it is worth talking about the digital traces that remain in the virtual space.

Today, the lack of a clear understanding of the nature and characteristics of digital traces entails either a complete loss or depreciation of the evidence base in relation to the criminal offenses under investigation. That is why, in our opinion, it is necessary now to develop the concept of digital traces of the methods of their acquisition, research and analysis, both in an individual aspect and as part of a complex trace. In this regard, it should be noted that the digital footprint

[1] Freeman, L. (2018). Digital Evidence and War Crimes Prosecutions: The Impact of Digital Technologies on International Criminal Investigations and Trials. *Fordham International Law Journal*, 41(2), 284–336.

[2] Dufenyuk, O. M. (2022). Investigation of war crimes in Ukraine: challenges, standards, innovations. *Baltic Journal of Legal and Social Sciences,* 1, 46–56.

[3] Baltrūnienė, J., & Shevchuk, V. (2022, December). Artificial Intelligence Technologies in Law Enforcement and Justice: Ukrainian and European experience. *Digital transformation of criminal proceedings under martial law*: materials of the All-Ukrainian round table. National Law University named after Yaroslav the Wise; Scientific Research Institute of the Academy of Sciences named after academician V. V. Stashis NPR of Ukraine. Kharkiv,135–140.

has a certain system of features and properties, among which the impossibility of perceiving such a trace directly with the senses, but only with the help of special devices and programs, i.e. working with them requires the use of special knowledge that requires new non-traditional methods, methods and procedures for their identification, fixation, research and evaluation as evidence in the future. The success of the disclosure and investigation of such criminal activity will be possible only with the integration of forensic and special knowledge in the field of IT technologies, programming and training of the investigator and the relevant specialist who will be involved in the investigation and the process of collecting digital information.

In turn, digital evidence requires the latest approaches to their collection, storage, use and research in proving in criminal proceedings. Noteworthy are the developments of Ukrainian scientists regarding the methods of investigating criminal offenses committed in cyberspace, constructing their criminalistic characteristics, determining the algorithm for their investigation, as well as the specifics of using special knowledge and conducting forensic examinations in the investigation of this category of criminal offenses[1]. In criminalistics, "digital evidence" is understood as factual data presented in digital (discrete) form and recorded on any type of media, which become accessible to human perception after computer processing and on the basis of which the investigator, prosecutor, judge and court establish the presence or absence of facts and circumstances relevant to criminal proceedings and subject to proof[2].

In such circumstances, now we can talk about the intensification of trends in the formation and application of a new scientific direction – *Digital Criminalistics* [3]. Some scholars point out that digital forensics is a separate area of forensic sciences, which is a system of scientific methods for examining digital evidence in order to facilitate the detection and investigation of criminal offenses[4]. Others note that digital criminalistics is related to the process of collecting, receiving, storing, analyzing and presenting digital information in order to obtain operational-search information, evidentiary information and to investigate and prosecute various types of criminal of-

[1] Shepitko, V. (2021). Theoretical and methodological model of criminalistics and its new directions. *Theory and practice of forensic examination and criminalistics,* 25(3), 16.

[2] Tsekhan, D. M. (2013). Digital evidence: concepts, features and place in the system of proof. *Scientific Bulletin of the International Humanitarian University. Series: Jurisprudence,* 5, 259.

[3] Latysh, K. (2022). Digital criminalistics in the period of war in Ukraine: possibilities of using special knowledge in the field of information technologies. Kriminalistika *ir* teismo ekspertologija: mokslas, studijos, praktika, 18, 31–37.

[4] Stepanyuk, R. L., & Perlin, S. I. (2022). Digital criminalistics and improvement of the system of forensic technology in Ukraine. *Herald of the Luhansk State. internal university affairs named after E. O. Didorenko,* 3(99), 283–294.

fenses[1]. Therefore, digital criminalistics can be a strategic direction for the development of criminalistics[2].

Given the above, in our opinion, the subject of digital forensics is the patterns of detection, fixation, preliminary research, the use of computer information, digital traces and means of processing them in order to solve the problems of identifying, disclosing, investigating and preventing criminal offenses, as well as developing patterns based on this knowledge. technical means, techniques, methodological recommendations aimed at optimizing activities to counter criminal offenses in the digital space. So, *digital criminalistics* is a field of forensics that studies the patterns of occurrence and use of digital traces and the development of technical means, techniques and methods for identifying, fixing, extracting and studying digital information (evidence) and means of processing it with the aim of disclosing, based on the knowledge of these patterns. investigation and prevention of criminal offenses[3].

In the conditions of military aggression of the Russian Federation against Ukraine, traditional criminalistic tools and forms of collecting evidence of war crimes can work to a limited extent due to the danger to all participants in investigative (search) actions, as well as due to the impossibility of direct access to the scene. Therefore, there is a need to use digital forensics tools[4].

In military realities, artificial intelligence technologies have taken a central place for collecting evidence of war crimes and military criminal offenses in digital criminalistics. The following areas can be distinguished: 1) ¦search for saboteurs and war criminals using facial recognition algorithms; 2) listening to the conversations of the Russian military-occupiers; 3) search for occupiers in social networks; 4) collection of intelligence data for the Armed Forces of Ukraine using artificial intelligence technologies; 5) identification of persons, unidentified corpses and conducting DNA analysis studies, etc.

Modern capabilities for investigating war crimes make it possible to identify sources of digital information that determine the areas for collecting and researching digital traces, which include:

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[1] Kolodina, A. S., & Fedorova, T. S. (2022). Digital criminalistics : problems of theory and practice. *Kyiv Journal of Law*, 1, 176–180.

[2] Konovalova, V. O., & Shevchuk, V. M. (2023, January). Digital criminalistics as a strategic direction of formation of criminalistic knowledge. *Advanced discoveries of modern science: experience, approaches and innovations*: collection of scientific papers «SCIENTIA» with Proceedings of the III International Scientific and Theoretical Conference. Amsterdam, The Netherlands: European Scientific Platform, 73–77.

[3] Shevchuk, V. M. (2023). Digital criminalistics and its role in the detection and investigation of war crimes and military criminal offenses. *Military offences and war crimes: background, theory and practice*. In V. M. Stratonov (Ed.). Riga, Latvia : Baltija Publishing, 805–822.

[4] Ackermann, V. R., Kurapka, V. E., Malewski, H., & Shepitko, V. (2020). Schaffung eines einheitlichen europaisehen Kriniinalistischen Raumes: Die Tatigkeit offentlicher Organisationen zur Starkung der internationalen Beziehungen. *Kriminalistik,* 6, 355–363.

obtaining information from mobile devices of seized phones from participants in criminal proceedings; obtaining information from personal computers of individuals and legal entities; obtaining information from servers and other storage media in organizations and institutions; obtaining information on radio frequency identifiers, GPS trackers, sensors, stationary and mobile measuring devices using geopositioning, video surveillance and positioning systems; obtaining information from network services that establish voice and video communication between computers via the Internet, such as ICQ, Skype, WhatsApp, Viber, Telegram and others; obtaining information from banking systems on appropriate digital media (SD disks, flash cards, etc.); obtaining information from cellular communication operators regarding the detailing of subscriber communications and establishing the location of the subscriber by geolocation; obtaining information from video surveillance cameras of various commercial and government structures; obtaining information from cameras and video cameras confiscated from participants in criminal proceedings.

As you can see, a huge array of diverse forensically significant information, including digital information, requires constant search and development of the latest approaches to identifying and collecting evidence of war crimes[1].

[1] Textbook of criminalistics (2016). Vol. 1: General theory. Hendryk Malevski, Valery Shepitko. Kharkiv: Apostille Publishing House.

Among them, the use of artificial intelligence technologies, in particular digital forensics tools, is of particular importance. Since the early 1990s, the volume of digital information has grown so much that in 2020, the UN, with the participation of more than 150 experts, prepared a special practical guide “The Berkeley Protocol on the Effective Use of Data from Open Sources of Digital Information in Investigating Violations of International Criminal Law, Human Rights and IHL” (Berkeley Protocol, 2020)[2], which contains standards and methodological approaches to “the collection, storage and analysis of information in the public domain (social networks, satellite images, etc.) that can be presented as evidence in criminal proceedings.

No less important is the connection between the use of special knowledge in collecting digital traces, determining the possibilities of criminalistic research, evaluating and using the results of examinations in proving and transforming the competencies of forensic experts from most types of forensic examinations in the digital age. Currently, objects in digital form are submitted for examination both on separate storage media and on computer systems. Therefore, in

[2] Berkeley Protocol on Digital Open Source Investigations A Practical Guide on the Effective Use of Digital Open Source Information in Investigating Violations of International Criminal, Human Rights and Humanitarian Law. (2020). United Nations. Retrieved from https://humanrights.berkeley.edu/programs-projects/tech-human-rights-program/berkeleyprotocol-digital-open-source-investigations

order to legally obtain digital traces, it is necessary to use appropriate specialized knowledge, as well as conduct a forensic computer-technical examination[1]. As you can see, today in military realities there is an acute issue of increasing the efficiency of investigating modern crime, including war crimes and cybercrimes using digital technologies.

Conclusions

Military aggression and the full-scale invasion of the Russian Federation into the territory of Ukraine had a significant impact on changing the priorities of the tasks of criminalistics and the specifics of the formation and application of criminalistic knowledge under martial law. The question arose of updating the development of problems of criminalistic strategy aimed at solving the strategic tasks of criminalistic science. The main task of criminalistics is the development and application of tools, techniques and methods to collect, investigate, use evidence in war and global threats. In fact, we can state the formation of a new scientific criminalistic direction of military criminalistics, the emergence of which is due to new challenges of military threats and military aggression of the Russian Federation on the territory of Ukraine. Such studies constitute strategic areas of research in criminalistic science and are a priority in modern conditions.

The activation and dissemination of digital technologies in investigative and judicial activities, as well as the active use of such technologies in modern criminal activity, determine the importance of using digital forensics tools in detecting, documenting, investigating war crimes and countering modern criminal manifestations in the realities of today. The process of digitalization of forensic science is a natural stage in the development and formation of modern forensic knowledge, which provides for the introduction of digital technologies in various areas of forensic science, forensic science and legal practice. This leads to the actualization of the development of problems of digital forensics and an increase in the role of forensic didactics, in particular, forensic training of investigators, prosecutors, courts, detectives, forensic experts in the field of digital technologies. The modern forensic paradigm should be aimed at the further development and formation of digital forensics to effectively solve new problems in a war and strengthen the European vector for the development of forensic science.

[1] Shepitko, V. (2021). The Formation of Digital Criminalistics as a Strategic Direction for the Development of Science. *17 Medzinarodny Kongres Kriminalistika a Forenzne Vedy: Veda, Vzdelavanie, Prax*. Zbornik Prispevkov. Bratislava, 185–196.

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WAR, CRIME, VICTIMOLOGY, HUMAN RIGHTS AND CRIMINAL JUSTICE HOLISTIC APPROACH

Abstract. *International and national substantial criminal law protects human rights and maintains a balance between people's security and the state's apparatus. New hybrid and aggressive war challenges necessitate understanding the stability of criminal legal form and social care amidst evolving public and social relations. By analyzing crime and abuse of power tendencies, we can challenge social control schemes related to international society, the state, perpetrators, victims, and civil society attitudes. This article explores the interrelationships among war consequences, crime, modern victimology, human rights, and criminal justice, using a holistic approach grounded in human rights discourse. It highlights the integration of international and national means within modern criminal justice to safeguard victims from crime and abuse of power at individual and collective levels. The article particularly focuses on the interplay between war and crime, fragmentation of international criminal law, victims' reparations, and criminal policy development.*

Keywords: *security, penal law, victim, human rights, war, crime, holistic approach*

From 4 a.m. on 24 February 2022, when the Russian Federation's armed attack against Ukraine started, to midnight 9 June 2022 (local time), the Office of the UN High Commissioner for Human Rights (OHCHR) recorded 9,585 civilian casualties in the country: 4,339 killed and 5,246 injured. This included a total of 4,339 killed (1,646 men, 1,098 women, 102 girls, and 105 boys, as well

as 67 children and 1,321 adults whose sex is yet unknown) and a total of 5,246 injured (1,073 men, 730 women, 120 girls, and 151 boys, as well as 172 children and 3,000 adults whose sex is yet unknown (Ukraine: Civilian Casualty Update…). It is estimated that since 2014 to February 2022, the conflict between Russia and Ukraine resulted in more than 40,000 casualties. It was also reported earlier that as of 2021, more than 3,300 civilians lost their lives because of the conflict and the number of injured civilians exceeded 7,000. NB, according to the Crisis Group analysis, there was no unified source for casualties resulting from this conflict. While international organizations provided concrete, triangulated data on civilian casualties and the Ukrainian government issued detailed statements about its reported military losses, statements from de facto officials have been patchy. In many cases, the Crisis Group has sought to triangulate data using social media posts or to gather more information through communications with private citizens (Conflict in Ukraine's Donbas…).

February 24, 2023 – a full of Russian aggressive imperial war against Ukraine (UA). A huge number of changes in life, social values, interactions, legal solutions notwithstanding from what side you are. The ideas on sanctioning and declaring Russia as the state-terrorist that have been spread in the beginning of 2022 by academia and realized in political statements, joint declarations, sanctions packages, etc. Ukrainian news is at the top of the list, and victims' treatment became a trend in the whole world, causing unexpected reactions from survivors of military conflicts in other parts of the planet.

The problem of interrelationships of consequences of war, crime, modern victimology, human rights and criminal justice in holistic approach methodology is based on the idea of uniting international and national means of modern criminal justice to protect victims of crime and abuse of power on individual and collective level through human rights discourse. Special attention should be brought to war and crime interrelationships in the context of the fragmentation of international criminal law, victims' reparations and criminal policy development.

The reports of ongoing extrajudicial and military killings of civilians as well as the concepts of crime of aggression and its consequences should also be analyzed from the legal perspective of the humanitarian and economic crisis and the possibilities of respecting human rights.

What does the 'state as a victim' mean in international and domestic law? Should the state be treated as a victim of international crime? Since Arie Friberg's concepts, there have not been many works highlighting this theoretical and practical lacuna (Freiberg, 1988). International tribunals, political and economic sanctions, military operations, diplomatic measures are supported by inter-

national mechanism of restitution and compensation. Calling international community to continue providing humanitarian support to Ukraine means not only to punish perpetrator but to organize and promote fair compensation, restitution and reparation processes. New actors in international war crimes and crimes against humanity (private secu rity and international private warfare companies) should also be treated in view of the concept of responsibility and reparations. Therefore, the system of international criminal policy should be changed.

The interest of the international community lies not only in ensuring that individual victims of international crimes obtain justice and reparations and perpetrators of atrocities receive fair trial and just sentence, but also in constituting the state as a collective victim in line with the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 29 November 1986 and Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law of 15 December 2005 According to these documents, "'victims' means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally" (Declaration of Basic Principles…).

International and national criminal law is a fundamental tool to protect human rights. New hybrid-war challenges make it necessary for us to understand how global and regional imbalances and conflicts affect the rule of law. In order to grasp the importance of maintaining a stable criminal justice system and social care initiatives amidst evolving public and social dynamics, it is crucial to challenge existing social control mechanisms within the realms of international society, state institutions, perpetrators, victims, and civil society's responses to crime and abuses of power. By critically examining these control schemes, we can discern the potential discord that may arise between them and the progressive nature of public and social relationships and processes. It is imperative to analyze how these systems interact and adapt to changing societal dynamics to ensure their efficacy and alignment with evolving social norms and values. The way international criminal justice is understood and implemented can have significant implications for society. When there is a lack of consensus within the world's biggest actors regarding the principles and goals of rule of law, it can lead to situations where the state or individuals and social groups feel entitled to mistreat their opponents. This can manifest in the formation of armed groups and a tolerance for local restrictions on freedom of movement. These conditions, in turn, create an environment where impe-

rial thinking, ideology of terrorism and rebellion as well as aggressive wars may be justified as a means of seeking justice or challenging an illegitimate authority. Such circumstances undermine the fundamental idea of the legitimacy of power in transitional periods of development.

In simpler terms, when there is a lack of agreement on how international and substantial criminal law should be enforced, it can lead to situations where states or people feel justified in mistreating others. It is important to strive for a common understanding and consensus on the principles of law enforcement to maintain a just and stable world through new system of management. It is known that in response to Russia's military aggression against Ukraine, the European Union has adopted sectoral and individual measures in the form of asset freezes and entry restrictions, as well as anti-circumvention provisions that prohibit knowledge and intentional participation in activities aimed at circumventing these measures. In order to further counteract the risk of violation of such measures, a proposal was adopted to add violation of the Union's restrictive measures to the areas of crime defined in Article 83(1) of the Treaty on the Functioning of the European Union to define violations of the Union's restrictive measures legislation as a particularly serious crime with a cross-border dimension.

The question to ask is whether, on the abovementioned background, we must develop a theoretical model of war, crime, and international criminal justice from victimological perspectives. The concept is quite simple: criminal justice shows the transition from absolute forms of public-law relationships to today's postmodern approach with a holistic system that is essentially based on the concept of human rights primacy and the ideology of basic human values landscape protection in local and international levels.

War consequences and crime tendencies are the last Horsemen of Apocalypse that should be analyzed in this respect.

"Justice" and "criminal law" were identified with the understanding of truth and justice.

In contemporary political discourse, there is an increasing concern regarding the post-truth phenomenon and its influence on the interpretation and application of the law. This concept encompasses the deliberate misuse of legal principles to erode the foundations of justice and truth. It is not limited to individual cases but extends to the theoretical underpinnings that explain the occurrence of interstate and mass misuses and abuses of power. These distortions of law reflect various manifestations, including acts of aggression, hybrid attacks, corruptive practices, and the pursuit of political interests. They are influenced by the attitudes, values, and beliefs of individuals, as well as the prevailing communicative and religious norms, both at the national and international levels of interaction. Within this context, contemporary criminal policy serves as a crucial instrument to enforce

a shift in the framework of social relationships, moving away from outdated structures towards a new transnational public law. This entails a reevaluation of established legal paradigms and the adoption of innovative approaches that align with the demands of a rapidly changing global landscape. By implementing a modern criminal justice policy, societies can address the challenges posed by post-truth interpretations and promote a more just and inclusive legal framework.

It is more dynamic and flexible; it is constantly changing and contributes to breaking the legal forms and outdated stereotypes at the same time. Unity and sovereignty are changed to the legality of international criminal law virtual relationships, where the production of certain types of criminal offenses is given to international society's universal jurisdiction scheme. However, this creates the possibility of non-governmental transnational authorities and other supranational actors influence on local legislative level by protection of international interests (like the proposed 'ad hoc tribunal' for Putin's aggression with the paragraph 2 of Article 7 of European Convention on Protection of Human Rights, 1950).

Criminal law is a tool for protecting the sovereignty and security of human rights and freedoms, which is the main tool that symbolizes the legal, moral and social attitude of people, society and the state to defend against various threats and criminogenic factors. Thus, criminal responsibility and victims' compensation schemes on domestic and international levels constitute mutual rights and obligations between the state (legality and justice), offender (punishment), victims (fair treatment), and third persons (cognitive control) on crime commission. Mutual rights mean that criminal norms should be constructed to effectively modify forbidden human behavior respecting all actors' needs. Such complex holistic approach and new law constructing as the result of new security paradigms based on internationalization of domestic laws. and mutual recognition of all parties' rights and obligations should produce positive effects in combatting international and transnational crime. The shift for criminalizing those non obeying the sanctions on the EU level is a strict argument for the abovenamed thesis (Communication from the Commission…).

It seems that we have not to make a choice between the law in force, the law in media, the law in minds, and the law in communications, but to find out a common model of multipolar crime and its victims through modern conditions of the aggressive war in UA. That approach should help to describe and implement new rules regarding the usage of the universal principle of justice for collective victims and societies, too (Tuliakov, 2023).

This theoretical methodology needs to carry out:

– Formulating human rights oriented theoretical approach of victimology

means (concepts of legality, crime, and punishment regarding state of the victim on domestic, supranational, and international level).

– Structural analysis of international, state, social, communicative, and cognitive approach to victims of aggression and international crimes common indicators through war and crime interrelationships background.

Formulating the Academic Matrix as a tool for collective and individual victims' treatment (dignity, sanctions, reparations, restitution, and compensation, right to self-destruction and self-defense).

That practice should be reflected as in crime of genocide's corpus delicti and other international crimes and crimes against humanity' as well as at special construction of individual and collective victim's notion in General Part of Draft Criminal Code of Ukraine (Tekst proiektu novoho Kryminalnoho kodeksu Ukrainy, 2023).

Thus, the final aim is to prepare a new theoretical background to Ukrainian criminal law doctrine development as from its path to EU standards and ROL, as from changes that war and crime "contributed" to the civil society of nowadays (Tuliakov, 2022a).

The development of the new criminal legislation of Ukraine in the context of using modern European narratives and discourses of public understanding of the importance of criminal law influence should prove how global and regional contradictions, imbalances and conflicts have affected the rule of law and how human security should be protected in general on the European continent.

Understanding how stable should be the criminal legal form that is dissonant with the development of public and social relations and processes challenges the social schemes of effective control of crime by the state, the victim and civil society.

To be happy means to feel safe, secure and independent. The status of happiness reflects the commonly accepted sense of peace and security in today's sustainable world.

But the role of the state is changing in a multipolar post-truth information society. Abuse of power and large-scale corruption practices in the transition period of development lead to the situation that the criminal legal form of ensuring sustainable development may be in dissonance with the development of civil liberties.

Moreover, the understanding of the criminal law differs according to the level of education of citizens, characteristics of the media, narratives of social groups and networks, and security discourses in law enforcement. It also differs between victims and perpetrators, civil society and police and judges. The criminal legal protection of fundamental rights and freedoms opens less prospects for abuse of power (lack of the right to appeal, the right to legal assistance in most disciplinary proceedings, ample opportunities for abuse of law, etc.) And this problem is not exclusively national

in nature. Interpretative characteristics in cases of competition of paradigms in the absence of significant violations of human rights are transferred to national jurisdictions, recognizing, as a rule, subsidiarity, complementarity of interstate institutional mechanisms. Thus, the Lisbon Treaty in Art. 83.1 states that

[…] the European Parliament and the Council may, by directive adopted in accordance with the ordinary legislative procedure, lay down minimum rules on the definition of criminal offences and sanctions in the field of particularly serious crimes with cross-border characteristics arising from the nature or consequences of such offences or from the special need to combat them on a common basis. These areas of crime are as follows: terrorism, trafficking in human beings and sexual exploitation of women and children, drug trafficking, arms trafficking, human trafficking, money laundering, corruption, counterfeiting, computer crime and organized crime (Communication from the Commission…, COM/2010/0171 final).

In other words, disciplinary practices related to criminal law in the form of harmonization of sanctions for particularly serious crimes are spreading across the entire system of public law norms. And therefore, European Commission will add the breakage of EU sanctions to the list of EU crimes (Sanctions: Council requests…; Tuliakov, 2021).

This is the central discourse (model) of penalization of relations at different levels of social interaction based on subsidiarity and proportionality, legality and necessity demand. Thus, as it was noted above, the new criminal legislation, victimological and penological practice are formed based on a multidisciplinary matrix, taking into account the norms of European criminal law and human rights law.[1] The Council of Europe has adopted

[1] Strategic guidelines for legislative and operational planning within the area of freedom, security and justice adopted by the European Council by 26/27 June 2014. Retrieved from: https://data.consilium.europa.eu/doc/document/ST-79–2014-INIT/en/pdf; Council framework decision 2002/584/JHA of 13 June 2002 on the European Arrest Warrant and surrender procedures between Member State; Council framework decision 2008/947/JHA 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions; Directive 2014/62/EU 15 May 2014 of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal law; Council framework decision 2003/568/JHA 22 July 2003 on combating corruption in the private sector; Directive 2014/42/EU 3 April 2014 of the European Parliament and of the Council on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union; Directive 2014/57/EU 16 April 2014 of the European Parliament and of the Council on criminal sanctions for market abuse; Directive 2013/40/EU 12 August 2013 of the European Parliament and of the Council on attacks against information systems; Directive 2011/36/EU 5 April 2011 of the European Parliament and of the Council on preventing and combating trafficking in human beings and protecting its victims; Directive 2017/541 15 March 2017 of the European Parliament and of the Council on combating terrorism; Council framework decision 2008/913/JHA 28 November 2008 on 66 combating certain forms and expressions of rac-

a significant number of recommendations aimed at criminalization of certain crimes and procedural aspects of combating them (Complete list…).

However, the issues of harmonization of national legal systems and approximation of international normative acts are not solved effectively enough or not solved at all. In addition, according to the latest trends, the European Union criminal policy seeks to achieve only a basic level of harmonization in terms of criminalization of cross-border crimes and in terms of supporting mutual recognition of judgments. There is also a separate impact of transnational norms of corporate conduct of nonstate actors (Lex Mercatori, Lex Medici, Lex Sportive) on the dynamics of criminalization in national jurisdictions.

The cross-border nature of the actions of the IMF, WHO, FIFA, which ensure the systemic impact of their norms on the legislation of individual states, does not require proof. But it is the processes of interpretation of criminal prohibitions in accordance with the requirements of transnational structures that require criminological analysis in terms of compliance of the latter with jurisdictional processes and sovereignty of the country. Otherwise, the primacy of interstate narratives leads to the weakening of state coercion. Accordingly, criminal law dissolves in the processes of transit and limitations of the sovereignty of national political and legal forms. At the same time, it is in the field of criminal law that the process of fragmentation is increasingly seen, when the primacy is given to national rather than interstate standards.

Even the final completion of the process of joining the European system of combating crime, signing, ratification, accession, recognition of international treaties does not justify innovations.

The reason is also connected with turbulent state of developing a new system of interrelations through traditional criminal senses to "Crimistrative" penological contest that is more flexible to executives. The state has the right to punish its citizen and compensate victims. Only the state. This is an axiom of transition from talion laws to a democratic system of governance.

The limitations of this rule on international level need to create a new system of ad hoc tribunals and ad hoc compensating international schemes. But these measures are limited by the "ad hoc" rule. Complementarity is a working principle for a certain state or a certain type of victims. Thus, the question of frozen Russian assets usage to compensate losses from the current Russian aggression is open to for mulate a legal solution that solves the contradiction between legality and necessity on EU governance and Human Rights legislation. The same was considered at International and the UN level while the The

ism and xenophobia; Directive 2008/ 99/EC 19 November 2008 of the European Parliament and of the Council on the protection of the environment through criminal law. Retrieved from: https://eur-lex.europa.eu/homepage.html.

Draft of Ljubljana-the Hague Convention on international cooperation in the investigation and prosecution of the crime of genocide, crimes against humanity, war crimes and other international crimes and the United Nations Conventional mechanism on restitution and compensation for victims of crime and abuse of power still exists as a principle not the norm (Redo, 1997; Ljubljana – The Hague Convention, 2023).

According to EU legislation, Council Directive 2004/80/EC of 29 April 2004 related to compensation to crime victims, each EU country has its own system for compensating victims for the damage they have suffered because of a crime. As a victim of crime, you have two channels of compensation: you can claim compensation from the offender during the criminal proceedings or you can claim compensation from the state (from the compensation authority or any other relevant body in the country) (Council Directive 2004/80/EC…).

Despite the traditional constitutionalist understanding of the primacy of international treaties over national law, criminal law has a certain degree of protection. As a rule, conventional norms or human rights law are applied in the criminal law sense only when they become part of the national legislation, being implemented or approximated into the national criminal law. In addition, European states seek to achieve a basic level of harmonization and approximation of legislation only in terms of criminalization of cross-border crimes and support for mutual recognition of judgments.

In this sense, it is extremely important to resolve the issue of adequate understanding of criminal prohibition as a necessary tool for the political establishment to ensure public and national security, a guarantor of public peace, a regulator of antisocial activity of citizens in specific spatial, temporal, and historical boundaries, backed by the coercive power of the state. It is the limitation of criminal prohibition by spatial limits that does not provide an opportunity to ensure the effectiveness of the process of approximation and harmonization of national criminal legislation and the formation of artificial supranational criminal law.

The limit of punishment is connected precisely with the state of development of political and legal ideology in the state, the degree of permission to use punishment by the state and the tacit permission of society to use coercion against its individual members. At the same time, criminal law coercion (punishment and other measures of criminal law influence) and criminal law compromise (reconciliation, restitution, and compensation), being in formal contradiction, provide an effective limitation of the punitive power of the state. As for supranational structures, the possible solution to the issues of union cooperation in criminal matters (European Arrest Warrant, etc.) does not provide an incentive to formulate a unified punitive policy; in this case we are talking about the

inevitability of responsibility, not the unity of punishment and compensational mechanisms (Tuliakov, Approximation…; Tuliakov, 2009; Tuliakov, 2022c).

We refer to the famous decision of the Grand Chamber of UA Supreme Court in the case 635/6172/17 (Supreme Court UA, 2022) on compensation for non-pecuniary damage caused by the death of an individual, in which Ukrainian Supreme Court drew attention to the fact that

[…] the ECHR, having analyzed the provisions of Article 1177 of the Civil Code of Ukraine in the wording that was in force until June 9, 2013, and Article 1207 of this Code, in the cases of applications №54904/08 and №3958/13 (filed by the victims, to whom the state did not compensate for the damage caused as a result of a criminal offense), indicated that obtaining compensation on the basis of these orders is possible only under the conditions provided for in them and in the presence of a separate law, which does not exist, and which should determine the procedure for awarding and paying the relevant compensation. Therefore, the ECHR noted that the right to compensation by the state to victims of a criminal offense in Ukraine has never been unconditional. Since the applicants did not have a clearly established right of claim for the purposes of Article 1 of the First Protocol to the Convention, they could not claim that they had a legitimate expectation of receiving any specific amounts from the state. In view of this, the ECtHR declared the applicants' complaints of violation of Article 1 of the First Protocol to the Convention incompatible with the provisions of the Convention ratione materiae (see the ECtHR admissibility judgments of 30 September 2014 in the case of Petlyovanyy v. Ukraine (no. 54904/08) and 16 December 2014 in the case of Zolotyuk v. Ukraine (no. 3958/13)). Part one of Article 19 of the Law No. 638-IV provides for a special rule, according to which compensation for damage caused to citizens by a terrorist act shall be paid from the State Budget of Ukraine in accordance with the law and with the subsequent recovery of the amount of this compensation from the persons who caused the damage in accordance with the procedure established by law. In addition, in the manner prescribed by law, compensation for damage caused by a terrorist act to an organization, enterprise or institution is carried out (part two of Article 19 of Law No. 638-IV). Considering the content of these provisions of the Law No. 638-IV, the exercise of the right to receive the said compensation is made dependent on the existence of a compensation mechanism to be established in a separate law. The law regulating the procedure for compensation at the expense of the State Budget of Ukraine for damage caused by a terrorist act is absent both at the time of the disputed legal relations and at the time of consideration of the case by the courts. Moreover, the legislation of Ukraine lacks not only the procedure

for payment of the said compensation (see, for comparison, mutatis mutandis, the ECHR judgment of 24 April 2014 in the case of Budchenko v. Ukraine, application no. 38677/06, § 42), but also clear conditions necessary for making a property claim against the State for such compensation (see, mutatis mutandis, the ECHR admissibility judgment of 30 September 2014 in the case of Petlevany v. Ukraine). Thus, the right to compensation by the state in accordance with the law for damage caused by a terrorist act, provided for in Article 19 of Law No. 638-IV, does not give rise, without a special law, to a legitimate expectation to receive such compensation from the State of Ukraine for non-pecuniary damage caused to the plaintiff as a result of the death of his mother during a terrorist act during the ATO, regardless of whether the act took place in the territory controlled or uncontrolled by Ukraine. There is no such legal basis in the legislation of Ukraine that allows to determine the specific property interest of the plaintiff regarding the right to claim under the Law No. 638-IV against the state for compensation for nonpecuniary damage caused in connection with the death of the plaintiff's mother during the ATO (see similar conclusions in the resolutions of the Grand Chamber of the Supreme Court of September 4, 2019 in case No. 265/6582/16-ц (paragraphs 36, 69), of September 22, 2020 in case No. 910/378/19 (paragraphs 7.5, 7.11)) (Supreme Court UA, 2022).

Alas, the right to compensation by the state in accordance with the law for damage caused by a terrorist act does not give rise, without a special law, to a legitimate expectation to receive such compensation… It is strictly understandable from a legal perspective but politically makes a shift towards widespread understanding of victim in individual, societal and governmental level as forgotten figure.

Making possible systematic analysis of national criminal, criminal procedural, preventive and criminal enforcement legislation of Ukraine with the aim to bring it in compliance with:

1.1. EU Strategy on victims' rights for the period 2020–2025, which established the principles of further development of legislation on the rights of crime victims (Communication from the Commission…, COM/2020/258 final);

1.2. Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/ JHA (the 'Victims' Rights Directive');

1.3. Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA;

1.4. Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (the 'Compensation Directive');

2. Ratification of the COE European Convention on Compensation for Victims of violent crimes Strasbourg 11/24/1983 ETS No. 116, signed by Ukraine on April 8, 2005.

Considering that the huge amount of EU and COE prescriptions have not been implemented properly at national legislation, the question is to organize its legal background for individual and group victims at national level and state victims at UN legislation as well.

Therefore, the decision within the UA National framework requires:

1. Introduction of the term "victim" in the General Part of the Criminal Code (Chapter IV PERSON SUBJECT TO CRIMINAL LIABILITY (SUBJECT OF A CRIMINAL OFFENSE) and VICTIM OF A CRIMINAL OFFENSE) in line with EU aquis law and the Code of Criminal Procedure.

2. Amendment to the General Part of Criminal Code by Section XIV-2 Restitution and compensation (according to the rules of ETS #116).

3. Adopting of UA Draft Law on Compensation for victims of crime with a special attention to tourists, victims of terrorism, victims of war crimes, and crimes against humanity.

International treaties should be amended by special UN basic principles of justice for victims of international (transnational) crimes, resolving the case of states immunities, compensation, and reparation like it was done before in the UN. "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law" (Doc E/CN.4/ RES/2005/35, 20 April 2005).

But as the practice shows, the latter is still hard to achieve.

Should we format a positive obligation of international community to react to the acts of interstate violence and aggression, slavery and misuse of law, supply chains and development via security system and obligation to compensate and recover?

The answer is "yes" but this depends on sovereignty and good will.

On 29 April 2022, the Federal Republic of Germany instituted proceedings before the International Court of Justice against the Italian Republic for allegedly failing to respect its jurisdictional immunity as a sovereign State. In its Application, Germany recalls that, on 3 February 2012, the Court rendered its judgment on the issue of jurisdictional immunity in the case concerning Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening). The Applicant indicates that, "[n]otwithstanding [the] pronouncements [in that Judgment], Italian domestic courts, since 2012, have entertained a significant number of new claims against Germany in violation of Germany's sovereign immunity" (Germany institutes proceedings…).

Being united means to divide sovereignty from common approach and interests realizing principle of proportionality and the rule of law (as recommen-

dation to criminalize nonfulfillment of EU sanctions). But as S. Kandelbach truly noted:

Rather, it is to be seen in the antagonism between subject matter and procedural law: whereas we are witnessing an increasing empowerment of the individual with respect to his or her rights in international law, the modes of implementing these rights are still strictly consensual. The individual has no standing before international courts or national courts of a foreign state unless states are willing to grant it, be it by agreement or by the waiver of immunity (Kadelbach, 2021).

Therefore, a joint concept of criminal responsibility constitutes mutual rights and obligations between state (legality and justice), offender (punishment), victims (fair treatment) and third persons (cognitive control) on crime commission. Mutual rights mean that one should construct criminal norms in order to effectively modify forbidden human behavior only respecting all actors' needs through national and international requirements. The second point of interest is connected with the development of contemporary methodology analysis based on multipolar understanding of criminal sanctioning while constructing administrative, disciplinary and criminal punishment in respect of compensation and restitution measures.

The truth and justice for victims on all levels of social interaction is over here.

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WAR AS A CHALLENGE TO ROAD SAFETY: DAMAGE TO SOCIETY AND THE ECONOMY OF UKRAINE[1]

Abstract. *The armed aggression of Russia against Ukraine has become a real challenge and threat to Ukrainian society in various aspects of life. The inadequacy of financial resources due to the defensive nature of the economy, caused by the war, complicates ensuring road safety in Ukraine and preventing road traffic mortality and injuries. The topical issue of the state of transport safety in Ukraine also relates to its European inte-*

[1] *Note*: The scientific article was prepared within the framework of the development of the fundamental research topic "Strategy for preventing violations in the field of road traffic and transport operation in Ukraine" of the Academician Stashis Scientific Research Institute for the Study of Crime Problems, National Academy of the Law Sciences of Ukraine

gration course, as road safety is a priority task of European policy for EU member countries. The aim of the article is to conduct a criminological analysis of the state of road safety in Ukraine during wartime, as well as to determine the damages from road traffic injuries and mortality for the Ukrainian economy and society as a whole, taking into account the wartime situation. The assessment of the state of road safety in Ukraine is based on official statistical information from the Office of the Prosecutor General and the Patrol Police Department, and theoretical conclusions are grounded on the results of an anonymous survey of Ukrainian drivers regarding their adherence to traffic rules. The study of the level of road traffic accidents with fatalities and injuries in Ukraine has shown that compared to the pre-war period, the state of road safety during the war has worsened. The impact of the war on this condition is diverse and depends on the dislocation of the region in Ukraine and the intensity of combat operations in a specific territory. It has been established that among the factors that significantly influenced the quantitative and qualitative indicators of violations in the field of road safety during wartime, the decisive ones include the destruction of objects of road and transport infrastructure, a decrease in the effectiveness of patrol police activities, the construction of fortifications on roads, and so on. The article also reveals the characteristic features of the transport safety system in wartime, with an emphasis on the inadmissibility of extrapolating the state of road safety from the pre-war period to wartime, including in the direction of preventing violations in this area.

Keywords*: War, Road safety, Road traffic mortality and injuries, Traffic violations, Vision Zero, Economic losses*

1. Introduction

The numerous factors and circumstances affect modern society, some of which have a negative character, posing threats to humanity. Most of these threatening risks have been systematized by the United Nations in the Sustainable Development Goals, designed for the year 2030. In this context, among the seventeen priority goals of the global community, special attention is given to Goal #9: Build resilient infrastructure, promote inclusive and sustainable industrialization, and foster innovation; Goal #11: Make cities inclusive, safe, resilient, and sustainable; and Goal #16: Promote just, peaceful, and inclusive societies (Sustainable Development Goals).

What unites these goals? A common area for them is, among other things, road traffic and transport operation. In this sphere, various innovations and technologies are being implemented, without which its functioning would be unproductive and unsafe.

According to the World Health Organization (WHO) estimates, road safety worldwide is extremely unsatisfactory. Statistical data from 2018 indicate that every year, up to 1.35 million people die on the roads. This means that every 24 seconds, the death of a road user is recorded. Road traffic fatalities are the leading cause of death for children aged 5–14 and young people aged 15–29. Injuries resulting from road traffic

accidents are considered the eighth most common cause of death globally. Road traffic mortality and injuries are particularly prevalent in poor and economically vulnerable countries, accounting for 13% of all road traffic deaths, even though these countries have only 1% of the world's motor vehicles (Global Status Report on Road Safety 2018).

Regarding Ukraine, the latest indicator remains relevant, as, according to the data from the Ministry of Finance of Ukraine, its GDP in 2020 amounted to only 3,540 euros per person (Gross Domestic Product (GDP) in Ukraine). As of the results of 2022, due to the war, Ukraine's economy has contracted by at least one-third (The Ministry of Economy preliminarily estimates a 30.4% drop in GDP in 2022). The mentioned and several other negative factors contribute to Ukraine having one of the lowest levels of road safety among all European countries: 85 deaths per 1 million population (2020). (Holovkin, 2022) The chances of dying on the roads in Ukraine are twice as high as in the EU (42 deaths per 1 million people in 2020), and five times higher than in Norway, which has the best road safety level in the world (17 deaths per 1 million population in 2020) (Road safety targets: Monitoring report).

The United Nations Goal 16 is of fundamental importance for global society in the 21st century. Unfortunately, it is particularly relevant for Ukraine in the conditions of Russia's full-scale aggression. According to the UN assessments, current and new violent conflicts worldwide hinder the path to global peace. In 2022, the number of deaths among the civilian population related to armed conflicts increased by more than half, mainly due to the war in Ukraine (Goal 16: Promote just, peaceful and inclusive societies).

The armed aggression of Russia against Ukraine and the insufficient material resources due to the defensive nature of the economy, caused by the war, complicate traffic safety in Ukraine (Batyrhareieva, 2023). The war has effectively paralyzed the transportation system in Ukraine, as highlighted by the International Transport Forum (ITF) (Transport and the War in Ukraine), causing significant damage to this sector of the Ukrainian economy. On the first day of Russia's invasion of Ukraine, air traffic was canceled due to the blockade by Russian military-naval forces in the Azov and Black Seas, and maritime transportation was suspended due to the blockage of the Kerch Strait. Significant changes also occurred in the functioning of road transport, especially in the frontline regions and areas where active combat operations are taking place.

Not only do road traffic accidents have their "cost" in terms of the consequences of fatalities and injuries to road users, the implementation of measures to influence the behavior of drivers (Kimberlee, 2014; Why politicians need to stop using the word "war" when talking about road safety measures), and efforts to build a comfortable and safe urban environment (Evans, 2022), but

there are also cases of the loss of civilian lives due to Russian shelling during the use of roadways.

Moreover, for EU member countries where road safety is a priority of European policy (Sustainable and Smart Mobility Strategy – putting European transport on track for the future; EU Road Safety Policy Framework 2021–2030 – Recommendations on next steps towards "Vision Zero"; European Parliament transport committee backs 2030 road safety programme), the assessment of Ukraine's road safety status – a candidate for EU accession since June 2022 – is undoubtedly a relevant topic for discussion.

The aim of the article is to conduct a criminological analysis of the road traffic safety situation in Ukraine during wartime, as well as to determine the economic and societal losses from road traffic injuries and fatalities, taking into account the war situation.

The research methodology includes:

– Evaluation of the current state and trends of road traffic accidents, as well as the level of mortality and injuries among road users in Ukraine;

– Comparison of the number of violations in the field of road safety during wartime with the pre-war period;

– Identification of circumstances that have influenced the level of road traffic mortality and injuries in Ukraine during wartime;

– Description of characteristic features of the state and other parameters of road traffic safety during wartime;

– Determination of the losses for the economy of Ukraine due to the premature death of individuals involved in road traffic and for the Ukrainian automotive industry, taking into account the wartime situation.

The assessment of road traffic safety in Ukraine is based on official statistical information from the Office of the Prosecutor General and the Patrol Police Department – the main entity responsible for implementing policies in Ukraine aimed at identifying and preventing relevant legal violations, as well as reducing mortality and road traffic injuries.

Theoretical conclusions are based on the results of empirical research, specifically an anonymous survey of Ukrainian drivers regarding their adherence to traffic rules. The survey was conducted through the independent completion of a Google Form using a provided QR code. The survey took place from August to October 2023, and it involved 969 respondents. The demographic distribution of the respondents is as follows: Gender: 62.6% male, 37.4% female. Age: 18–29 years – 19,3%, 30–44 years – 61,1%, 45–59 years – 16,8%, 60–70 years – 2,3%, over 70 years – 0,5%. Geographical distribution: Central Ukraine – 10,2%, Northern Ukraine – 70,4%, Southern Ukraine – 5,7%, Eastern Ukraine – 6,3%, Western Ukraine – 7,4%.

The survey did not cover drivers from the annexed Crimea by Russia and certain temporarily occupied territories of the Kharkiv, Luhansk, Donetsk, Za-

porizhzhia, and Kherson regions of Ukraine. However, 81,9% of the respondents live in Ukrainian territories that are currently frontline regions or were occupied by Russia in 2022 and subsequently liberated from occupation.

2. The state and dynamics of road traffic safety in Ukraine

During the war In 2022 (the wartime period), there was an increase in the overall crime rate from 321,443 to 362,636 registered criminal offenses compared to 2021. However, there are contrasting trends in the dynamics of different types of offenses: some tend to decrease, while others, on the contrary, show a significant increase. The tendency to decrease in many crime categories in 2022 is substantiated by researchers (Yagunov, 2022).

As for criminal offenses against the safety of traffic and vehicle operation, their level decreased by 5.5%, from 13,493 offenses in 2021 to 12,755 in 2022. This trend can be observed in the context of the most typical criminal violation in Ukraine and many other countries, including European nations, namely the criminal violation of traffic rules or vehicle operation by individuals operating vehicles (Article 286 of the Criminal Code of Ukraine). Specifically, in 2021, there were 7,961 such offenses detected, and in 2022, there were 6,366 (–20%). As a result of these offenses, 1,507 individuals lost their lives in 2021, and in 2022, the number decreased to 1,270 (–15.7%) (Unified report on criminal offenses for January-December 2021–2022).

The imposition of martial law in Ukraine led to a change in the situation on the country's roads due to the introduction of stringent requirements to ensure state and public security. The war factor seemingly resulted in a reduction in corresponding offenses (Shramko, Kalinina, 2022). However, this is only a superficial observation.

During an anonymous survey conducted among Ukrainian drivers, two questions were posed: 1) "Have you been involved in a road traffic accident before the imposition of martial law in Ukraine during the years 2017–2021?" and 2) "Have you been involved in a road traffic accident during the period of martial law in Ukraine (2022-2023)?" To the first question, 21,4% of respondents answered affirmatively, while to the second question, only 8.6% gave a positive response. This means that over the five pre-war years (2017-2021), an average of 4,28% of respondents became involved in a road traffic incident each year, whereas over the two war years (2022-2023), 4,3% of respondents were involved. Therefore, nearly identical figures were obtained, indicating that the actual (non-official statistical) level of road safety in Ukraine during the compared periods, at least, did not change.

In this context, some researchers rightfully conclude that despite the official reduction in the level of traffic violations, there is "no tendency to decrease their actual quantity" (Khrystych, 2022).

Other researchers add that changes occurred due to the addition of a new article, 286–1, to the Criminal Code of Ukraine in 2021, which establishes criminal responsibility for violations of traffic safety or vehicle operation rules by individuals operating vehicles under the influence of alcohol (Novikov, 2023). These changes have affected the accuracy of comparing violations in 2021 and 2022. Taking this circumstance into account, the decrease in the level of criminal violations under Article 286 of the Criminal Code is, in reality, much smaller than officially stated.

Such a conclusion requires additional justification, which is provided by the analysis of statistics from the Department of Patrol Police of Ukraine (Table 1).

Table 1. Data from the Patrol Police Department on road traffic accidents by regions of Ukraine in 2021–2022.

Region	Accidents with Fatalities or Injuries		
	2021	**2022**	**% Change**
Vinnytsia	50	57	+14
Volyn	51	51	0
Dnipropetrovsk	172	168	–2,3
Donetsk	101	32	–68,3
Zhytomyr	63	68	+7,9
Zakarpattia	38	34	–10,5
Zaporizhia	85	70	–17,6
Ivano-Frankivsk	74	91	+23,0
Kyiv	129	137	+6,2
Kyiv City	176	159	–9,7
Kirovohrad	51	60	+17,6
Luhansk	28	0	
Lviv	146	167	+14,4
Mykolaiv	89	73	–18,0
Odesa	114	147	+28,9
Poltava	78	69	–11,5
Rivne	45	37	–17,8
Sumy	63	43	–31,7
Ternopil	51	59	+15,7
Kharkiv	158	132	–16,5
Kherson	43	5	–88,4
Khmelnytskyi	62	73	+17,7
Cherkasy	40	61	+52,5
Chernivtsi	21	18	–14,3
Chernihiv	50	52	+4,0
Total	**1 978**	**1 863**	**–5,8**

The presented data requires some comments.

Firstly, in 2021–2022, there is an overall, albeit slight, reduction in the level of road traffic accidents with fatalities and/or injuries (–5,8%).

Secondly, there are uneven and even opposite trends in different regions of Ukraine. A clear correlation is observed here between combat actions in the territory of the respective regions of Ukraine and artificial improvements in road traffic safety. A striking example is the Kherson and Donetsk regions, where the number of road traffic accidents with fatalities and/or injured persons decreased the most in 2022: by 88,4% and 68,3%, respectively. In other words, the more intense the combat actions and the larger the area of occupation of a certain region, the lower the indicators of road traffic incidents.

Thirdly, opposite trends are evident in some central and most western regions of Ukraine where there is no direct military confrontation with Russia. As of the end of August 2022, according to the International Organization for Migration, Ukraine had 6,9 million internally displaced persons (Displacement in Ukraine Again on the Rise, IOM Data Shows). The majority of them sought refuge in the western and central regions of Ukraine. Therefore, it is quite logical to see an increase in the number of road traffic accidents in the Cherkasy (+52,5%), Ivano-Frankivsk (+23%), Khmelnytskyi (+17,7%), Ternopil (+15,7%), Lviv (+14,4%), and Vinnytsia (+14%) regions.

Fourthly, the main social factor through which the assessment of road traffic safety during wartime should be conducted, and its comparison with the pre-war period, is population migration. By the way, for the purpose of ensuring national security and defense, the State Statistics Committee of Ukraine does not disclose data on the population of Ukraine after February 1, 2022 (Population of Ukraine).

Moreover, the complexity of determining the population of Ukraine is explained by the dynamic nature of the external migration process. According to the UN Refugee Agency, over 11.1 million Ukrainians (almost a third of the entire population of Ukraine) have moved to other countries, especially to EU countries (to Poland – 1.5 million people, Germany – about 1 million people, Czech Republic – 450 thousand people, Italy – 170 thousand people, Spain – 150 thousand people, and others). UN experts consider the departure of millions of Ukrainians beyond their country's borders to be the most significant forced migration since World War II (Vierlinger, 2022). Despite the return of some Ukrainian citizens to Ukraine in the second half of 2022 and in 2023, as of November 2023, this figure still remains significant, amounting to 6.2 million people (Ukraine Refugee Situation).

Taking into account the above, it can be stated that the population of Ukraine significantly decreased in 2022–2023. The reduction in the number of road traffic accidents with fatalities and/or in-

jured persons in 2022 was, as a reminder, only 5,8%.

Furthermore, formulating relevant judgments regarding the state of road traffic safety in Ukraine during a state of war is necessary considering important factors such as:

– Reduction in Traffic Intensity: This is influenced by a decrease in the number of vehicles due to the departure of millions of Ukrainians abroad in their own cars, the occupation of parts of Ukraine's territory, the destruction or damage of vehicles due to combat actions, and the shortage of fuel in Ukraine, especially in March-July 2022, along with a significant increase in its cost;

– Mobilization of Citizens into the Armed Forces: Hundreds of thousands of predominantly male citizens were mobilized into the Armed Forces of Ukraine. The exact figure is unavailable as it constitutes a state secret during wartime. Some of these individuals were car enthusiasts and/or were previously active participants in road traffic, adding to the complexity of the road safety situation.

From this, one cannot assert real stabilization, much less significant successes in the field of road traffic safety in Ukraine in 2022. Moreover, it is worth agreeing with the opinion of researchers that the analysis of the state of transport safety in Ukraine during wartime, especially in the frontline regions, should take into account different phases of its dynamics. These phases include: 1) Acute Phase: Characterized by the uncertainty and unregulated nature of road traffic due to active combat; 2) "Adaptive" Phase: Adapting to the defense needs of the community; 3) Partial Recovery and Reconstruction Phase: Involving the restoration and reconstruction of road infrastructure and the normalization of road traffic safety conditions; 4) Stabilization and Full Recovery Phase: Achieving stability and complete restoration of road infrastructure. (Kalinina, 2022) These phases are contingent upon the intensity of combat actions and the scale of their consequences. The last phase is generally not well-defined, as the full restoration of the road transport system will only occur after the end of Russia's aggression. It emphasizes that the road safety situation is intricately tied to the broader context of wartime dynamics, including ongoing military activities and their aftermath.

The analysis of information from the Patrol Police Department regarding the number of road traffic accidents in Ukraine with fatalities and/or injuries on highways of national significance in 2021–2022 is of scientific interest. Despite a 19,3% decrease in this indicator (from 4,073 incidents in 2021 to 3,285 in 2022), there is a significant increase in specific sections of these national highways in Ukraine, including: P-38 (+250%); N-32 (+180%); P-31 – M-30 (+140%); P-04 (+71.4%); M-15 (+59,5%); P-46 (+57,1%); M-30 (+36%); H-15 (+35,7%); M-13 (+33,3%); M-11 (+21,1%) and others (Statistics of road accidents in Ukraine for 2021–2022).

The significant increase in fatalities and injuries of road traffic participants on these and many other highways of national significance occurred due to the intensification of road traffic associated with the evacuation of Ukrainian citizens from the frontline regions to the central and western regions of the country, as well as to Poland, Romania, and Moldova.

The decrease in the number of road traffic accidents with fatalities and/or injuries in Ukraine in 2022 coincides with the implementation of a curfew between 11:00 PM and 6:00 AM, which was introduced in connection with the state of war. During the curfew, the operation of vehicles and the free movement of citizens on the streets of populated areas are prohibited.

3. Circumstances influencing road traffic safety in Ukraine during the war

The negative state of road traffic safety in Ukraine during the state of war is influenced by factors such as the installation of special, including anti-tank, barriers, concrete blocks, and other fortifications on the roads designed to restrict or prevent the movement of large enemy military vehicles. Such objects not only hinder the unhindered passage of civilian vehicles and public transport but also create additional significant risks for collisions with such structures.

Furthermore, on Ukrainian roads, the operation of thousands of checkpoints and control points was organized to check the documents of drivers and passengers of vehicles, prevent entry into the territory controlled by Ukraine by Russian sabotage and reconnaissance groups, and inspect vehicles to prevent the illegal transport of firearms and explosives. According to the Ministry of Internal Affairs of Ukraine, during the 18 months of war, 11 military personnel and National Police officers lost their lives, and 37 people were injured in road traffic accidents at checkpoints (Road accidents at checkpoints: how many soldiers have died since February 2022). While these figures may not be critical, they contribute to the heightened road traffic safety concerns in Ukraine:

– Turning off Street Lighting: Street lighting was turned off in the evening and night to ensure light masking. This is a necessary measure to prevent Russian aviation from targeting both military and civilian infrastructure objects in Ukraine;

– Damage due to Combat Actions: Particularly in the eastern and southeastern regions of the country, the road transport infrastructure, including road surfaces, road signs, indicators and markings, traffic lights, road barriers, etc., have suffered damage from combat actions. All of these elements are crucial not only for comfortable road travel but also for ensuring road traffic safety;

– Widespread Demolition or Removal of Informational Signs: This includes signs with the names of settlements, direction indicators toward specific administrative units, aiming to

disorganize Russian forces in unfamiliar territories, impede their movement, and significantly lower the morale of Russian soldiers;

– Active Involvement of Patrol Police in Non-Specific Activities: Patrol police officers are actively engaged in activities beyond their typical scope in the field of security and defense. Additionally, many police officers have volunteered to defend Ukraine.

An additional challenge for the police in the Ukrainian region of Kherson became an ecocide perpetrated by Russia, which in 2023 detonated the Kakhovka hydroelectric power station. The police rescued thousands of Ukrainians who found themselves in the flooded area. The reduction in the number of police officers responsible for traffic safety had a negative impact on both accident rates on roads and indicators of road transport mortality and injuries.

In the first months of the war in the frontline settlements, the documentation of road accidents by the police was paralyzed, and consequently, holding those responsible for them accountable was hindered. Therefore, the documentation process was carried out in a self-regulatory mode, where drivers, in case of an accident, either filled out a European Protocol[1] or independently resolved compensation issues for the damage caused.

For criminological research, particular significance is attributed to the method of participant observation. This method is considered a form of field research and involves studying social phenomena without direct interference in their course (Horodianenko, 2008). Therefore, the personal experiences of scholars who have become direct witnesses to the impact of war on road safety in Ukraine are invaluable. In particular, criminologist V. S. Batyrhareieva shares personal impressions of life in the frontline city of Kharkiv in the spring of 2022 and highlights factors that negatively influenced the state of road safety: Suspension and disruptions in the operation of public transportation; Movement of military vehicles on urban roads; Disconnection of the automatic traffic violation detection system (to prevent the enemy from using video information to assess the quantitative composition of the Armed Forces of Ukraine and their movement directions); Presence of foreign objects on roads after the explosion of artillery shells and rocket artillery systems; Deliberate violation of speed limits by drivers attempting to avoid areas affected by enemy shelling; Increase in the number of car accidents in the city after the return of residents who were accustomed to low-intensity traffic and ignored certain traffic safety requirements due to the physical absence of patrol police and the gradual formation of a sense of impunity, and more (Batyrhareieva, 2022).

[1] *Note*: The European Protocol is a paper or electronic form used in Ukraine for drivers to independently document a road accident. It allows individuals to report a road incident without the need to involve law enforcement representatives (European Protocol for Road Accidents: What it is and how to use it).

Here's another example of participant scientific observation of the road situation during 18 hours of being stuck in an 83 km traffic jam outside a major city in the conditions of war. On the roads of national significance, numerous accidents occurred during the evacuation of millions of Ukrainians due to heavy traffic. These accidents were accompanied by cars driving into oncoming traffic lanes, other situations creating emergency conditions, fuel shortages, clashes between drivers, intentional damage to other vehicles against the backdrop of unfriendly relations between road users, antisocial behavior (insults, verbal abuse, humiliation), and more (Kolodyazhny, 2022). Such mass incidents that occurred in the spring of 2022 were generally not documented by the police and were not taken into account when assessing the state of road safety.

Personal experiences from participant observation of road safety conditions provided the basis for the development of guidelines by experts from the Academician Stashis Scientific Research Institute for the Study of Crime Problems of the National Academy of the Law Sciences of Ukraine. These guidelines, titled "Rules of behavior of road users during the war," are directed towards the National Police, military-civil administrations of Ukraine, and local self-government bodies. The aim is to empower citizens who read them with knowledge to ensure their safety, health, and vehicles in the conditions of Russian aggression.

4. Characteristic Features of Road Safety Conditions in Wartime

Criminological analysis of road safety in Ukraine during the war and the circumstances that have negatively influenced and continue to impact it to this day provide grounds to highlight a series of specific features. These features reflect the peculiarities of road safety in conditions of a state of war. They include:

– Unpredictability and instability of road safety, especially in the frontline regions of Ukraine and in areas where active combat is taking place;

– The inadmissibility of extrapolating the state of road safety from the pre-war period (2020–2021) to the wartime period due to the radical transformation of social conditions in Ukraine, starting from February 24, 2022;

– Complexity in predicting the state of road safety in wartime overall;

– Reduction in the number of road users and vehicles due to: evacuation of the population by cars abroad; destruction or damage of vehicles due to combat operations; destruction of transport infrastructure objects; fuel price increases; reduction in the length of highways due to the occupation of parts of Ukraine; and others.

– Changes in the legal regulation of road traffic as a result of the adoption of new regulatory acts during the war, including amendments to existing legislation that governs the field of road traffic;

– Weakening of coordination among entities in the field of road safety, includ-

ing information exchange (patrol police, road services, medical personnel, the State Emergency Service of Ukraine, relevant civic associations, etc.);

– Limited resource and personnel capabilities of the patrol police and, as a result, a decrease in their effectiveness in preventing violations in this area;

– Impossibility or complexity in providing emergency medical assistance to victims of road accidents and citizens traveling on hazardous roads in conditions of armed conflict;

– Unsuitability of measures to prevent violations in the field of road safety, normally effective in peacetime, due to their insufficient effectiveness in wartime conditions, and so on.

5. Economic Losses for the Road Transport Sector and Human Capital During War

In scientific literature, it is rightfully noted that the phenomenon of road injuries must be analyzed not only in retrospect but also given the huge socio-economic damage caused to society due to premature mortality of employable people who died or became disabled as an accident's result. (Batyrhareieva, Shramko, Samoilova, 2021, p. 2872) As is known, one of the methods for calculating losses to the human resource is the universal system of calculating the societal and governmental loss of income in the form of the Gross Domestic Product (GDP) over the years of potential life lost due to premature death.

According to our preliminary calculations, in monetary terms, the losses from the unrealized life of those individuals who died in road accidents in just one year amount to over 300 million US dollars. (Batyrhareieva, Shramko, Samoilova, 2021, p. 2875) This is the amount by which the income of the state and society, in the form of GDP, is reduced annually due to the premature deaths of Ukrainian citizens.

In the conditions of war, in addition to the material losses resulting from the death of people in "traditional" road accidents, one should also consider the losses arising from the death and injury of individuals who suffered from enemy shelling while on highways (for example, during evacuation on roads from areas where combat operations are taking place or being present in occupied territories). Unfortunately, Ukraine currently does not possess complete information in this regard. Therefore, conducting accurate calculations that would accurately reflect the situation is impossible.

According to preliminary estimates by the State Agency for Reconstruction and Development of Infrastructure of Ukraine, Russia has destroyed 25,1 thousand kilometers of roads and 344 bridges and overpasses of national, local, or municipal significance (Report on direct damage to infrastructure from destruction as a result of Russia's military aggression against Ukraine one year after the start of the full-scale invasion, p. 17). The reconstruction of this infrastructure

is estimated to require 970 billion hryvnias (Orel, 2022) (approximately 25,7 billion euros) and four years of painstaking work by thousands of construction workers.

The total losses due to the destruction of public transportation (trolleybuses, trams, buses) from enemy strikes with heavy weapons amount to 25 billion hryvnias or $0,9 billion. (Draft Recovery Plan for Ukraine. Materials of the working group "Audit of losses incurred as a result of the war", p. 46, 52). In turn, the direct losses of private passenger vehicles amount to approximately $1,86 billion or 207 thousand cars. Additionally, 1929 fire trucks were lost, totaling $89 million (Report on direct damage to infrastructure from destruction as a result of Russia's military aggression against Ukraine one year after the start of the full-scale invasion, p. 21), excluding losses of other specialized equipment and cargo trucks (Draft Recovery Plan for Ukraine. Materials of the working group "Audit of losses incurred as a result of the war", p. 52). The most significant damage to public transportation occurred in the Luhansk and Donetsk regions, as well as in the city of Kharkiv.

In this way, with the aim of enhancing the effectiveness of Ukraine's state policy in the field of road safety, expressed in a significant reduction in the number of fatalities and injuries among road users, and therefore, in reducing the losses from these incidents, there is a need to take into account new challenges and threats, including those of a military nature, in the development of a new pro-European strategy for ensuring road safety and transport operation in Ukraine. Therefore, the prospective directions of activity for many stakeholders in addressing urgent issues in the road transport sector and in the legal field of Ukraine, relevant until 2022, need to be complemented by a series of other tasks, influenced by the war and its negative consequences.

Conclusions

Criminological research on the impact of war on road safety in Ukraine provides grounds for the following conclusions:

1. The war has significantly influenced the transformation of the entire social system of Ukraine, including the sphere of road safety and transport operation. Russian aggression and its negative consequences have become a real threat to the citizens of Ukraine, particularly in terms of the level of violations in road safety and the prevention of road transport fatalities and injuries.

2. The reduction in the level of violations in the field of road safety, as well as cases of fatalities and injuries on roads in Ukraine in 2022, is mitigated by a series of negative socio-political, socio-economic, organizational-management, and demographic circumstances. Therefore, the actual state of road safety during the war, at a minimum, has not changed compared to the pre-war period and, at a maximum, has worsened, especially

considering the fact that millions of citizens have left Ukraine.

3. There is a multi-vector impact of the war on the state of road safety, influenced, among other factors, by the displacement of regions in Ukraine and the intensity of combat operations in certain territories.

4. The consequences of Russian aggression have caused colossal damage; they have altered the geography of traffic violations, reducing them in the eastern and southeastern frontline regions of Ukraine while significantly increasing them in the western and central regions of Ukraine. The artificial "shifting" of the concentration of road accidents with fatalities and injuries occurred due to the intensification of such incidents on evacuation routes for the peaceful population of Ukraine. The aggression has also influenced the structure of road transport accidents with casualties and/or injuries and complicated the work of the patrol police, which, due to tasks related to ensuring security and defense, struggles to effectively prevent violations in this sphere.

5. Among the most significant factors negatively affecting the state of road safety in Ukraine during the war are the destruction of road transport infrastructure, especially in frontline regions; the objective decrease in the effectiveness of the patrol police; the formation of a sense of impunity among road users; the construction of fortifications and the organization of checkpoints and control points on roads; the disconnection of street lighting during the evening and nighttime hours, and so forth.

6. Characteristic features of the road traffic safety system in Ukraine during wartime include: the complexity of objectively assessing the state of this sphere; its unpredictability and instability; the inadmissibility of extrapolating the state of road traffic safety from the pre-war period to wartime; the difficulty of predicting the state of road traffic safety during wartime; the reduction of road users and vehicles; the imbalance in interactions between various entities in the road traffic safety sector; the complexity of providing emergency medical assistance to those affected in road transport accidents; and the mismatch of tasks in preventing violations during peacetime and wartime.

7. Alongside the material losses resulting from the loss of lives in "traditional" road transport accidents during wartime, it is necessary to consider the losses arising from the death and injury of individuals due to enemy shelling while on roadways.

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