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On pros and cons of legitimizing cryptocurrency (case study of Ukraine)

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Abstract. The paper identifies the main positive aspects and risks of operations involving cryptocurrency after their legitimization and suggests ways to reduce the impact of risks and negative consequences. Analysis and synthesis techniques were utilized in the research in order to summarize the findings and draw conclusions in accordance with the paper's structural divisions. The structural approach made it possible to structure the provisions on the potential spread of the impact of the existing state regulatory system on participants' activities in the cryptocurrency market and determine which state executive authorities should be assigned the task of licensing cryptocurrency mining. The comparative legal method was used to search for advantages and disadvantages for various types of legal entities after legitimizing cryptocurrency. In order to examine the origins of human civilization and its recent acceleration of digitalization, the historical legal method was utilized. The authors have elaborated methods aimed at reducing the risks of operations with cryptocurrencies, as well as protecting the interests of the state and cryptocurrency market participants. It is proposed to establish a cryptocurrency exchange by citizens of Ukraine or business entities in agreement with the National Bank of Ukraine, the National Securities and Stock Market Commission or other central executive body. It is proposed to protect the interests of participants in the cryptocurrency market through the application of a group of measures characterized

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by the term “legal work at the enterprise”, and the LLC legal form can be used to prevent conflicts between founders and protection from encroachments of corporate raiders for small businesses

Keywords: cryptocurrency virtual assets; mining; licensing; taxation; risks; legal work at the enterprise

Introduction

The program for the issue and circulation of the first type of cryptocurrency known to modern humanity – Bitcoin was described and launched on the Internet on October 31, 2008 and distributed since the beginning of 2009 by a person or group of persons or a company under the name or nickname Satoshi Nakamoto. Since that time, relations have arisen between people in different countries, groups of people, enterprises, institutions, organizations, individual states, and are actively appearing daily on the purchase and sale of cryptocurrency, the sale and purchase of various goods for cryptocurrency, the generation of new cryptocurrencies and obtaining the right to their disposal, etc. However, not every country has legitimized such relations. Most countries still do not have legislation that would regulate them. The emergence and rapid spread of cryptocurrencies (today, there are several thousand types of cryptocurrencies in the world) in most states has led to a legal conflict. Relations exist, but there is no legislation that should regulate them. However, scientists and practitioners have repeatedly made attempts to eliminate this conflict in different countries. In some of them, relations involving cryptocurrency are partially legitimate. In others, attempts are made.

For instance, a number of draft laws were created in Ukraine and presented to the Verkhovna Rada. Law of Ukraine No. 2074-IX “On Virtual Assets” (2022) is one of them that was enacted. The enactment and signature of this legislation can be viewed as a major step in the right direction toward the complete legalization and widespread use of cryptocurrencies. For several years now, scientists and practitioners have been making predictions about the pros and cons of the legitimation of cryptocurrency. Therefore, today it is relevant not just to develop and justify proposals for legitimizing such relations but to develop a system of measures to positively and negatively stimulate various processes of cryptocurrency circulation to increase the economic and social effect after their legitimation.

The legal regulation of relationships that arise and occur through cryptocurrencies has been the subject of numerous scientific papers written by lawyers from various countries in the modern era. O.M. Vinnyk *et al.* (2021) examined the function of digital resources and examined electronic financial services using public registers as an example. It is established that the Commercial Code of Ukraine (2003) needs to be supplemented with provisions on digitalization, including the relevant direction of the state’s economic and legal policy, in order to provide modern legal support for the digital economy. A. Akiko (2018) conducted a separate study of the functioning of the Bitcoin cryptocurrency. S. Underwood (2016) pays more attention to Blockchain technology, the capabilities of which led to the emergence of cryptocurrencies. X. Liang *et al.* (2017), in turn, pays more attention to studying the nature of Cloud data, based on which Blockchain technologies are formed.

According to M.P. Kucheryavenko *et al.* (2019), a cryptocurrency is any kind of electronic money that is used as an extra form of payment and is transferred over international computer networks using blockchain technology. It also includes asymmetric encryption and the application of different cryptographic protection techniques. According to some authors, the primary relationship between economics and law necessitates legislative regulation and the precise legal definition of cryptocurrencies in order to maintain existing social relations. Cryptocurrency must be acknowledged by the government. There are suggestions for ways to strengthen the fight against corruption and improve the effectiveness of the laws governing relationships in the digital economy. These include making the laws more transparent in terms of social orientation and, first and foremost, taking into account the rights and interests of the most vulnerable parties involved in these relationships.

Emphasis is placed on the expediency of codifying such legislation to establish common rules and to take account of the specifics in certain areas of digital economy by adopting special acts (Vinnyk *et al.*, 2020). The network factors and production factors are constructed by Y. Liu and A. Tsyvinski (2021) to represent the user adoption of cryptocurrencies and the production costs, respectively. Blockchain technology application and commercialization were studied by M.H. Miraz and M. Ali (2020). Along with these scientists, scientists and practitioners from many nations have conducted scientific research on the issues surrounding the legitimacy of cryptocurrencies, the characteristics of using Blockchain technologies and their legal support, and the difficulties associated with the operation of the cryptocurrency market in various nations. However, further research is necessary to address the legality of implementing both positive and negative incentives for market participants in order to achieve the desired social and economic impact as mandated by the government.

By combining general philosophical and specialized cognitive methods, it is possible to find solutions to the problems mentioned above. To make conclusions about the paper’s structural divisions, which were then systematized into the research’s findings, the study used techniques of analysis and synthesis. Selecting which state executive authorities should be tasked with granting mining licenses for cryptocurrencies and structuring provisions regarding the possible spillover effects of the current state regulatory framework on participants’ activities in the cryptocurrency market were made possible by the structural approach. Following the legalization of cryptocurrencies, the comparative legal method was employed to investigate the benefits and drawbacks for different categories of legal entities. In order to examine the origins of human civilization and its recent acceleration of digitalization, the historical legal method was utilized. Formulating conclusions and recommendations was aided by moving from the abstract to the concrete.

Positive aspects and risks of legal activity of the cryptocurrency market in the state (a case study of Ukraine)

Legalization and expansion of cryptocurrency in any country where this was not the case before (including in Ukraine) will cause changes in the financial and foreign exchange

markets. These changes will bring both positive aspects and risks. The authors believe that the first stage of legitimization of cryptocurrency in Ukraine has already been passed. Therefore, now it is necessary to calculate the financial effect very quickly, with the involvement of specialists from several ministries and other central executive authorities at once. It is logical to create a specific intersectoral commission, which will act until it conducts an appropriate thorough analysis and provides a report. The authors believe that the customer of the report, which will be presented by the state and act on its behalf, should be the government (in relation to Ukraine – the Cabinet of Ministers of Ukraine (CMU)). The positive aspects of the spread of cryptocurrency should outweigh the risks. To contribute to such a result, it is necessary to identify the main ones.

The primary benefits of the state's cryptocurrency market's establishment and operation should be more money for households, businesses, and the government. Legalizing operations involving the deduction and mining of cryptocurrencies will allow individuals and business entities to receive additional legal income. At the same time, the taxes paid will allow openly using what you earn both in the national currency of the state and in cryptocurrency. It is not even necessary to focus on the revenues to the national (state) budget and local budgets from funds received from the taxation of individual cryptocurrency operations. The emergence (legitimation) of a new type of economic activity, the income from which will be taxed, should be welcomed. However, taxation should be restrained and balanced. Law of Ukraine No. 2074-IX (2022) was adopted, but no amendments were made to the Tax Code of Ukraine (2010). Therefore, business entities and citizens who "bring out of the shadows" or have already "brought out of the shadows" their cryptocurrency operations do not have advantages over business entities in other sectors and spheres of the economy. They must pay taxes on a general basis. Not all miners and participants in cryptocurrency operations will agree to legitimize their activities under such conditions voluntarily. Therefore, the positive effect of revenues to the state budget from taxes paid is minimal.

A few words should be said about the positive aspects of introducing licensing operations for mining cryptocurrencies and the legal taxation of income derived from them. First, it will bring additional funds to the budget, and second, to a certain extent, it will prevent such activities. Noteworthy is the task of determining the licensing authority, the solution of which will be described below.

A positive aspect for households will consist in the fact that now they will be able to get official recognition from the state, pay small taxes and avoid potential and some even real blackmail and extortion from criminals and/or corrupt law enforcement officers, who in one way or another can find out or have already learned about such household activities. Unfortunately, this is quite common. The authors pointed out that corporate raiding, i.e., illegal seizure of shares and property of enterprises, is common in Ukraine. At the same time, unlike countries with highly developed economies, where weak and unviable enterprises become targets of attack, in Ukraine and other countries where the economy is only developing, the object of attack is most often a profitable business (Derevyanko *et al.*, 2020). Cryptocurrency mining operations today are quite profitable. Therefore, in addition to the positive aspect, households that are engaged in mining are at risk of being attacked by corporate raiders with all the ensuing consequences. However, suppose households already carry out cryptocurrency operations and have organized cryptocurrency mining. In that case, it is much more difficult for business entities to organize such activities when they are prohibited. After legitimizing cryptocurrency, business entities, subject to obtaining specific permits, passing coordination procedures, etc., will be able to organize professional activities in mining and act as players in the cryptocurrency market, perform transactions to exchange cryptocurrency for national or other traditional currencies, to buy and sell certain products, goods, works, services per unit of cryptocurrency.

A positive aspect for business entities is that the organization of mining activities can seriously diversify various economic risks of industrial, transport, agricultural, and other enterprises. In 2020, the authors specified that the alternative to the extraction of iron ore, gas and coal, ore smelting, production and sale abroad and on the domestic market of semi-finished products today is to invest money in the financial, in particular banking, sector, development of IT technologies not prohibited by law, obtaining energy from alternative renewable sources, implementation of the latest projects in the transport and medical spheres, etc. (Derevyanko *et al.*, 2020). Trading cryptocurrencies is one of the cutting edges, contemporary creative endeavors. While not disclosing their operations, individual Ukrainian businesses are actively mining a variety of cryptocurrencies. Today, after adopting the Law of Ukraine No. 2074-IX (2022), enterprises' prospects for legitimizing such activities are emerging. In this case, enterprises of a large industrial region will be able to officially conduct operations on the cryptocurrency market, mainly to carry out mining. They have many advantages over small miners – individuals. Large enterprises have significant human, technical, and technological potential and significant production areas. The positive aspect for the state in the case of organizing and carrying out mining of cryptocurrencies by large enterprises or their associations is the almost impossibility of concealing this activity and, accordingly, tax evasion.

Risks of introducing legal activities of the cryptocurrency market in Ukraine stem from often ineffective state control and supervision over the actions of business entities. The legitimization of cryptocurrency mining activities should correspond to introducing its licensing and taxation and, therefore, the organization and implementation of control. For several years, a permanent shortage of highly qualified personnel has been established and fixed in almost all sectors and spheres of the economy, especially in state power. Unfortunately, a full-scale war does not contribute to the training of administrative personnel. Today, not every official from the potential licensing authority for cryptocurrencies mining (according to the provisions of the Law of Ukraine No. 2074-IX (2022), such a licensing body can be the National Bank of Ukraine (NBU) or the National Securities and Stock Market Commission (NSSMC); however, the Ministry of Digital Transformation, the Security Service of Ukraine (SBU) or other central executive authority cannot be excluded) and even an official of the State Fiscal Service will be able to monitor the implementation of such activities qualitatively and assess the degree of its effectiveness. In this case, the level of the negative image of the state will increase both inside the country and in the world. However, this will negatively affect the state's image and financial

results because households (individuals) or business entities are legitimized and openly carry out cryptocurrency operations. The incompetence of state controllers will significantly underestimate the number of operations, their amounts, the number of counterparties, etc. The number of cryptocurrency units mined will be underestimated. The impact on the image of the state will be significant.

Article 16 of the Law of Ukraine No. 2074-IX (2022) states that state regulation in the sphere of virtual asset turnover is assigned to the NSSMC concerning virtual assets and to the NBU concerning secured virtual assets. However, the authority to license activities involving cryptocurrency is not directly assigned to these bodies.

The effects of cryptocurrencies' legalization on the environment and economy

Legitimizing cryptocurrency can positively and negatively impact the economy and mainly negatively affect the environment. As a result of the legalized mining of cryptocurrencies, Ukrainian citizens and business entities will be able to receive additional legal units of cryptocurrency, which can be exchanged for units of traditional currency and goods, works, or services. Additional funds will undoubtedly increase the state's gross domestic product (GDP) and positively impact the national economy and the well-being of owners. Due to the legitimization of cryptocurrency in the state, electric energy consumption will increase. This can revive the economy to a certain extent and provide an opportunity for domestic electricity producers to receive additional revenues and increase budget revenues from taxes paid by these producers.

Increasing electricity use can also lead to negative consequences for the economy and the environment. Ukraine may depend on foreign electricity producers if its own electricity producers are unable to expand their output. The countries of the Russian Federation and the Republic of Belarus are the most unfavorable suppliers of electricity. They are able to exert political and economic pressure on the author's state through the use of their products. After a large-scale attack on Ukraine by the Russian Federation, with the active assistance of the Republic of Belarus, the supply of electricity to Ukraine from these states stopped. The risks to the economy and the environment can manifest themselves in an increase in the load on the power grid, which is an additional threat of fires. The need for more electricity will increase its production, which, as noted, is a particularly positive aspect. However, electricity production is likely to be carried out through "dirty" technologies – burning additional amounts of hydrocarbons (primarily coal and gas), additional splitting of uranium, etc. This will negatively affect the environment and cause previously described threats. Additional amounts of coal and gas will have to be purchased from other states, and other states will have to pay for the disposal of spent radioactive fuel.

By implementing initiatives more aggressively to shift the economy and households' consumption of "green" energy produced from renewable sources, it is possible to mitigate the detrimental effects of legalizing cryptocurrencies on the environment and economy of Ukraine. However, it will also be necessary to make certain adjustments in this economic sector because today, Ukrainian "green" tariffs are the highest in Europe, and the state cannot pay them to owners of mini-electric power plants (electrical installations) promptly. Earlier, the authors pointed out that the "green" tariffs for the first producers that were highest in Europe positively impacted the emergence of the "green" energy sector. Over time and due to the expansion of this sector, the state is quite justifiably gradually reducing "green" tariffs, which should not be higher than the European average. The trend toward a gradual reduction in "green" tariffs should be maintained, subject to mandatory compliance with the rules of retroactive effect of the law. Tactical adjustment of "green" tariffs should take place toward setting the highest possible tariffs for generating systems of new types for Ukraine (using water, land, etc.) and gradually reducing tariffs for generating systems (power plants) that generate solar radiation and wind energy. Strategic adjustment of "green" tariffs should aim to gradually reduce all "green" tariffs that need to be set at a level lower than electricity tariffs for the population (Derevyanko, 2020). In this case, cryptocurrency mining using relatively inexpensive and "green" electricity, together with safety for the environment, will provide a significant synergistic effect on the economy.

Risks of cryptocurrency turnover compared to traditional money

The principal risks of cryptocurrency transactions in comparison with transactions in the national currencies in different countries were briefly described in the paper. These risks include the following:

- technological risk, which is the potential for human civilization to reject modern computers and the Internet either voluntarily or under duress;
- legal risk of the company-traitor of services unilaterally changing the terms of the agreement and adding payment for the supply of specific services and the execution of specific operations in order to place a cryptocurrency wallet;
- economic and legal risk, which includes the potential for a decline in cryptocurrency demand as a result of a rise in demand for tangible goods, a global economic crisis, a state ban on them, etc., or as a result of the emergence of a new cryptocurrency;
- technological risk, which includes the potential for unauthorized individuals to obtain information about the wallet ID and password, as well as the potential for the wallet placement service provider to transfer this information to third parties; the potential for damage to the wallet owner's computer or software equipment;
- in the possibility of a banal loss and recovery of the wallet ID and password by its owner;
- legal risk includes things like the lack of laws governing cryptocurrency operations, the NBU's advice to refrain from conducting such operations, the need to protect the rights of those who own cryptocurrency wallets, indications that using them is prohibited by various laws, and the potential for applying liability measures (Derevyanko, 2020).

It is necessary to add a comment to the risks listed above. Some of the risks are related to the irreversibility and anonymity of cryptocurrency transactions, while transactions with traditional money usually involve the possibility of something else. The risks are caused and aggravated by the fact that due to ambiguity in the legislation concerning the definition of the cryptocurrency that does not have a material shell and real value, the NBU and law enforcement agencies in advance refuse to protect and assist citizens and business entities of Ukraine in case of encroachments

on their rights to cryptocurrency. The risk related to law enforcement agencies' intricate control mechanisms ought to be included in the aforementioned risks:

- the sale and purchase of objects withdrawn from civil circulation (weapons, narcotic drugs, dangerous substances, etc.), which is carried out through cryptocurrency;
- receipt of illegal benefits by an official in cryptocurrency;
- the receipt by criminals of a ransom in units of cryptocurrency, as well as the commission of fraud, in which units of cryptocurrency are the subject of a crime.

However, this feature (the complexity of control by law enforcement agencies) and the anonymity of cryptocurrency transactions allowed individuals and companies economically or otherwise dependent on the terrorist state of the Russian Federation to assist Ukraine anonymously, its people, and its armed forces in 2022.

Available and potential ways to reduce the risks of cryptocurrency operations

There are numerous ways to reduce the risks of cryptocurrency operations. It is more effective to do this in a comprehensive manner. One of these methods, which can only be introduced if cryptocurrency is legitimized, is licensing. It seems appropriate to introduce licensing of cryptocurrency mining. It will be possible to mitigate the risks through the development and adoption of a separate bylaw – "Licensing conditions for cryptocurrency mining". This document should carefully prescribe the requirements for fire safety, in particular, to differentiate possible places of implementation of this activity according to the volume of mining:

- starting from a specific volume (equipment capacity), mining is prohibited in residential premises;
- larger volumes of mining are prohibited in residential buildings (technical and other non-residential premises) and are allowed in industrial zones within residential areas;
- even larger volumes of mining are allowed exclusively in industrial zones outside residential areas.

The following methods of reducing the risks of cryptocurrency mining can be applied after legitimizing such activity by state executive authorities, which will be charged with licensing individual cryptocurrency mining activities and supervising activities in cryptocurrency circulation. Perhaps it will be the Ministry of Digital Transformation or the NBU, the State Security Service, the NSSMC, or another body. The above entities other than a relatively new body – Ministries of Digital Transformation already have experience of a specially authorized licensing body. This is confirmed by the Resolution of the Cabinet of Ministers of Ukraine No. 609 "On Approval of the List of The State Licensing Bodies and Recognition as Invalid of Some Resolutions of the Cabinet of Ministers of Ukraine" (2015).

Since the Law of Ukraine No. 2074-IX (2022) assigns separate powers to regulate the turnover of virtual assets to the NBU and the NSSMC, it is logical to give the task of licensing cryptocurrency operations to one of these bodies. Obviously, this will be done by the legislator. Officials of these bodies should periodically, and preferably systematically, carry out measures to warn official participants in the cryptocurrency market regarding the rules of "safety" in relations with potential fraudsters and other criminals. In particular, participants should be familiar with the rules for storing and protecting the cryptocurrency wallet ID and wallet password (it is best to keep it in paper form or use "cold" storage, i.e., a computer that is not connected to the Internet). State executive authorities should check the well-known or most popular cryptocurrency exchanges and recommend the safest ones among them. The same bodies, and possibly Chambers of Commerce and Industry, can maintain a register of individual "safe" traders in the cryptocurrency market and recommend that Ukrainian participants in the cryptocurrency market enter into transactions with them. A more preferable choice would be to compile a list of prominent Ukrainian and potentially international players in the cryptocurrency space (i.e., anonymity vanishes) and encourage them to transact with one another. The ideal course of action might be for Ukrainian individuals or corporate entities to establish a cryptocurrency exchange, with oversight from the NBU, NSSMC, or another central government body. This exchange would then be recommended as the middleman for any trading activities on the cryptocurrency market. The Chamber of Commerce and Industry of Ukraine and state executive authorities may advise Ukrainians involved in the cryptocurrency market to conduct operations aimed at buying and selling goods, works, and services from verified (though anonymous) sellers/buyers using cryptocurrency.

The third group of ways to reduce the risks of operations with cryptocurrency can be used by the participants of the cryptocurrency market themselves. These methods are characterized by the definition of "legal work at the enterprise", which has been known in the theory of economic law and economic practice for many decades (Zamoyskiy, 1982; Holovan, 2003; Korostei, 2008; Smutchak *et al.*, 2023). Potential participants in the cryptocurrency market must pass all legitimation procedures with maximum compliance with legal requirements – registration, obtaining a license and other permits, if this is provided for in special laws. Statutory documents should be prepared clearly and unambiguously, without assuming a double interpretation. Perhaps, to prevent future conflicts between the founders and protect against encroachments of corporate raiders, small businesses may be recommended to use the LLC form with the property and management aspects of activities prescribed in the charter, indicating the participants with their property share, whose personal presence and whose signature should be present when making a particular decision, etc.

The state should continue to benefit from new types of activities that bring in budget revenues in the form of taxes. However, for the maximum voluntary legitimation of miners and participants in cryptocurrency transactions, a regulatory approved system of taxes with rates several times lower than the general ones should be developed. The introduction of licensing procedures for cryptocurrency mining will replenish the state budget and eliminate those miners from the market whose activities may threaten the environment and/or the state's interests and other participants in the cryptocurrency market. The state's and market participants' interests will be safeguarded by the creation and ratification of a distinct bylaw titled "Licensing conditions for cryptocurrency mining operations".

Households and business entities after "coming out of the shadows" will be able to work openly based a license and state registration, pay taxes, be protected from attacks by corporate raiders, and therefore openly develop and expand business, enriching themselves and the state. Business entities (especially large ones) engaged in mining will

receive an additional option to diversify the economic risks that may occur during the implementation of their main activities. Officials of state bodies for licensing activities related to cryptocurrency mining (NBU, NSSMC, or others) must periodically, or rather systematically, take measures to warn official participants of the cryptocurrency market regarding the "safety rules" in relations with potential fraudsters, familiarize them with the rules for storing and protecting the cryptocurrency wallet ID and password to it; check the most popular cryptocurrency exchanges and recommend the most secure ones among them. These state bodies and Chambers of Commerce and Industry can organize the maintenance of a register of individual "safe" traders in the cryptocurrency market and recommend that Ukrainian participants enter into transactions with them. An effective way to overcome many risks in the cryptocurrency market can be the formation of cryptocurrency exchange by Ukrainian citizens or business entities under the Coordination of the NBU, NSSMC, or other central executive authority and a recommendation to carry out operations in the cryptocurrency market through such an exchange.

Conclusions

Legitimization of cryptocurrency in Ukraine is in the near future. The relevant law has already been signed by the President of Ukraine and is awaiting entry into force. After that, there will immediately be changes in the legal status of persons who constantly carry out operations with cryptocurrency and the legal regime of such activities. Legitimizing cryptocurrency relations will positively and negatively affect households, businesses, and the state. The state's legal system should help strengthen positive consequences and reduce the impact of negative consequences.

A group of measures characterized by the term "legal work at the enterprise" can protect participants in the cryptocurrency market. Thus, after the regulatory legitimization of activities in the cryptocurrency market, they have to go through all the legitimation procedures – registration, obtaining a license and other permits, if this is provided for in special laws. In the statutory documents, information about property and management aspects of activities should be clearly and unambiguously specified, indicating the participants – what property share they have, whose personal presence and whose signature should be affixed when making a particular decision, how profits are distributed. Payments are due in case of losses, etc. A way to prevent conflicts between founders and protect small businesses from attacks by corporate raiders is to use the LLC legal form.

A list of recommended categories of techniques to lower the risks associated with cryptocurrency operations, as well as these techniques themselves, is not exhaustive. Other strategies can also be employed to shield the state's interests and cryptocurrency market players from possible dangers. It will be safer for players in the cryptocurrency market to carry out such operations the more procedures that are established, put forth, and approved.

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Conflict of interest

None.

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Про плюси і мінуси легалізації криптовалют (на прикладі України)

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Анотація. У роботі визначено основні позитивні аспекти та ризики операцій з криптовалютою після їх легалізації, а також запропоновано шляхи зменшення впливу ризиків та негативних наслідків. Для узагальнення отриманих результатів та формулювання висновків відповідно до структурних підрозділів роботи було використано методи аналізу та синтезу. Структурний підхід дав змогу структурувати положення щодо потенційного поширення впливу чинної системи державного регулювання діяльності учасників ринку криптовалют та визначити, на які органи державної виконавчої влади необхідно покласти завдання ліцензування майнінгу криптовалют. Порівняльно-правовий метод використовувався для пошуку переваг та недоліків для різних видів юридичних осіб після легалізації криптовалюти. Для дослідження витоків людської цивілізації та нещодавнього прискорення її диджиталізації застосовано історико-правовий метод. Розлянуто методи, спрямовані на зниження ризиків операцій з криптовалютами, а також на захист інтересів держави та учасників ринку криптовалют. Запропоновано, щоб громадяни України або суб'єкти господарювання створювали криптовалютні біржі за погодженням з Національним банком України, Національною комісією з цінних паперів та фондового ринку або іншим центральним органом виконавчої влади. Захист інтересів учасників ринку криптовалют запропоновано здійснювати шляхом застосування групи заходів, які характеризуються терміном «правова робота на підприємстві», а організаційно-правову форму ТОВ можна використати для запобігання конфліктам між засновниками та захисту від посягань рейдерів для суб'єктів малого підприємництва

Ключові слова: криптовалюта; віртуальні активи; майнінг; ліцензування; оподаткування; ризики; правова робота на підприємстві

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Superficies as one of the legal forms of land use in farming activities

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Abstract. The relevance of the study is due to the emergence of new agricultural entities in Ukraine – farms of various types, which need not only to engage in agricultural production but also to develop other areas of activity, in particular, construction. The absence of settlement in the farm legislation of land use based on superficial agreements and the possibility of further disputes between the parties is one of the grounds for conducting this study. The purpose of the study is to outline the formation and development of the superficies institute in Ukraine during 1990-2022 and establish the specific features of introducing it into farming activities. The study is conducted using a complex of general scientific and special methods of cognition. The dialectical method helped to determine the regularities of the development of the institution of superficies from the time of the Roman Empire to the present. The comparative legal method is used in the examination of the formation and development of farm land use in the modern Ukrainian state. In the course of the study, a historical and legal analysis of the peculiarities of using someone else's land plot, which has a intended purpose-construction, is conducted. A thorough comparative legal analysis of the norms of the Civil and Land codes of Ukraine concerning superficial land use is conducted. Originalities of legal regulation of land use in farms of independent Ukraine are considered. It is proposed to supplement Article 12 of the Law of Ukraine "On farming" by granting farms the right to conclude emphyteusis and superficies agreements. The main terms of superficies' contracts – the right to use someone else's land plot for development, are outlined. The specific features of the conclusion of such transactions are determined, it is noted that the registration of a superficial contract in the State Register of property rights to immovable property is an electronic proof of its conclusion. The practical value of the study lies in the fact that the proposals formed on the basis of its results can be used to improve the current legislation

Keywords: legislation; property law; contract; State Register of property rights to immovable property; someone else's land plot; development; agricultural production

Introduction

Ukraine has unique land resources. It also has favourable natural and climatic conditions for efficient agricultural production. The transformations that took place in Ukraine after the declaration of independence, in particular, land and agrarian reforms, contributed to the development of new forms of agricultural production entities. Ukraine, as an agrarian state, is tasked with becoming a leading producer of agricultural products, primarily, high-quality and safe food products. One of these entities is farms, which, according to quantitative indicators, form the basis of agricultural producers of the state. Both in Soviet Ukraine and at the beginning of the formation of an independent Ukrainian state, superficies were not discussed since the main type of land use, in particular, by farms, was rent. The introduction of the superficies institute in independent Ukraine took place only in 2004, with the entry into force of the Civil Code of Ukraine (2003), and later in 2007 it was implemented in the Land Code of Ukraine (2001).

Superficies in the activity of a farm is an indefinite or long-term (up to 50 years on land of communal and state ownership), alienated real right to someone else's property, which is subject to inheritance, which provides for the acquisition by a farm (a legal entity or a farmer – as an individual entrepreneur) of the right to own and use a land plot belonging to the alienator, for the purpose of building structures, buildings on it, with their subsequent operation, in accordance with the intended purpose, as well as for the purpose of obtaining income, which is subject to state registration in the State Register of Rights. Mostly superficies arise on the basis of the relevant contract, and only in some cases – on the basis of a will and are subject to mandatory state registration.

The institution of superficies has been considered in textbooks and manuals, but among the types of land use of farms, insufficient attention is paid to superficies of land use (Baik *et al*., 2021; Shulga, 2023). S. Reznichenko *et al.* (2019) conducted a comparative analysis of legal

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institutions: leases, emphyteusis on superficies, describing their advantages and disadvantages. I. Ilkiv (2021) analysed the legal regulation of superficies in Ukraine, the definition of the concept of "superficies", and pointed out the shortcomings, but in most cases, this concerned the transfer of state and municipal property under such an agreement.

N. Maika (2018) as a practising state registrar, describing the essential terms of the superficies agreement, draws attention to the fact that the right to build a land plot is a certain restriction of the owner of such a plot, so if there is no payment condition in the contract text, it is suggested to specify the terms of compensation for losses caused by the user. The author divides superficies into primary and derivative contracts, but the right to transfer superficies by inheritance is not considered.

Considering the issue of farm land use, M. Shulha and P. Kulynych (2022) indicate the possibility of obtaining land plots for the construction of a workshop or other production facilities by a farm, but do not identify the possibility of using land on the basis of a superficies agreement. In monographic studies by P. Kulynych (2021), Yu. Chumak (2021), and M. Dolynska (2022a), issues of farm land use are considered and the norms of land legislation regarding property rights to land are indiscriminately indicated, but the issue of supeficial relations with the participation of such farms are not highlighted.

The history of the establishment of the superficies institute, in particular, changes in the legal regulation of the superficies Institute during 2004-2022, is still insufficiently investigated. In addition, the mandatory details of the superficies agreement have not yet been identified and the importance of the superficies agreement in the activities of farms has not been justified.

The purpose of the study is to analyse the development of legal, in particular, legislative, regulation of the superficies Institute in the Ukrainian state, determine the main elements of the superficies agreement, and establish the specific features of introducing the superficies institute into farming activities.

The examination of the development of superficial land use in the activities of farms uses general scientific and special legal methods. In particular, the use of the dialectical method allowed determining the patterns of development of the institution of superficiality from the Roman Empire to modern Ukraine.

Using the comparative legal method, the issues of the evolution of land use by farming entities in Ukraine during 1990-2023 are revealed. By the method of analysis, an assessment of regulatory legal acts regulating superficial land use is formed.

The modelling method was used in the development of proposals for amendments to Article 12 of the Law of Ukraine "On Farming" (2003) regarding securing the right to use land by farmers on the basis of superficies agreements.

Hermeneutical and analytical methods are used to analyse the content of scientific achievements of researchers. The papers of researchers are processed: historians, practitioners of civil and land law, of the formation and development of the institute of superficies on European lands, of which the Ukrainian territory is a part.

Based on the axiological approach, an estimated (qualitative) analysis of the legal regulation of modern superficial land use by farms is conducted.

Genesis and evolution of legal regulation of the right to use a land plot for construction

The superficial institute, like the emphyteusis institute, has a long history, and both are derived from the land lease Institute.

The right to use a land plot for development appeared around the 3rd-2nd century BC, during the Roman Empire (Vysitska, 2020). In the Roman Empire, it was initially only public in nature since the state owned all the lands granted on the basis of a State Power Act. Since at that time, there was a ban on the alienation of both state and municipal land to citizens, the superficies Institute was used to solve the problem of providing housing for persons in need (Surzhenko, 2014).

According to O. Pidopryhora (2001), Justinian's legislation established the concept of superficiality. In the time of Rome, the superficiar had the right to use and dispose of buildings that they built on such a land plot (including donation, purchase, and sale, pledge, inheritance), which was not limited to time. The only requirement was the timely payment of rent for such a land plot (*solarium* or *vectigal*). As noted by V. Marchuk (2007), initially the praetor defended the rights of the superficiary only through lawsuits and interdicts, and only in the classical period of development did a new stage in the development of the institution of superficiality come. Superficies began to be considered as a thing that is legally separate from the surface and has a "separate legal position" (D.44.7.44.1). That is, superficies accompany the land plot (Fedushchak-Paslavska, 2012).

As V. Kutateladse (2011) states, the relationship of using someone else's land plot for development was settled in sufficient detail, usually with the help of an appropriate contract. From Ancient Rome, the institution of superficies was borrowed without substantial changes by almost all European countries (Bodnarchuk & Bodnarchuk, 2023).

The introduction of the institution of superficies and the Institute of emphyteusis, in independent Ukraine took place only in 2004, with the entry into force of the Civil Code of Ukraine (2003), which is devoted to a separate chapter 34 of the legislative act and includes only five articles (413-417).

The above-mentioned legal institution was implemented in the land legislation by Law of Ukraine No. 997-V (2007) by supplementing the act with Chapter 16-1, which consists of only one article, the content of which mainly duplicates the relevant norms of the Civil Code.

According to O. Surzhenko (2014), the modern Ukrainian Institute of superficies "differs substantially from the Roman one", in particular in terms of the terms of the contract and the grounds for its termination. Notably, only two changes were made to Chapter 34 of the Civil Code regarding the legal regulation of the superficies agreement during 2008-2021. In contrast, Article 102-1 of the Land Code (which regulates the legal basis of emphyteusis and superficies) was supplemented and edited by six legislative acts.

In particular, amendments to Chapter 34 of the Civil Code of Ukraine (2003) on superficial land use were introduced:

- The Law of Ukraine No. 509-VI (2008) limited the term of validity of the superficies agreement for both state-owned and communal land to 50 years;
- The Law of Ukraine No. 2518-VI (2010) amended (edited) part two of Article 417 concerning "cultural legacy monuments".

It is necessary to highlight the following legislative acts that introduced amendments and additions regarding the

legal regulation of superficies agreements to Article 102-1 of the Land Code of Ukraine (2001):

➨ The Law of Ukraine No. 2404-VI (2010) was supplemented with a new basis for termination of the superficies agreement, which was concluded within the framework of public-private partnership.

➨ The Law of Ukraine No. 5070-VI (2012) introduced new grounds for termination of the superficies agreement: from the time of transfer of such a land plot to the ownership of a territorial community or state on the basis of an alienation agreement for public needs or the motive of public necessity.

➨ The Law of Ukraine No. 340-IX (2019) gives the opportunity to the parties to conclude and certify the above-mentioned transactions in a notarised manner;

➨ The Law of Ukraine No. 1423-IX (2021) changed the procedure for using other people's land plots (emphyteutical and superficialised land use), in particular in terms of the grounds for termination of the superficies agreement – by agreement of the parties (in accordance with the procedure established by law).

Neither the Civil Code of Ukraine (2003) nor the Land Code of Ukraine (2001) establish the concept of superficies, although, for example, Article 413 of the Civil Code provides for the grounds for the emergence of superficies of land use and its main criteria.

Researchers, considering the criteria established by the legislator, formulate the concept of superficiality, in particular, P. Kulynych (2004), Ye. Kharytonov, and N. Golubieva (2009), as well as the author of this study. As M. Dyakovych (2016) states, "a superficies agreement is a legal fact that gives rise to property rights to someone else's property", but it is difficult to agree with the opinion set out in the same paper that superficies are a restriction or encumbrance of a land plot.

The characteristic features of superficies are: the intended purpose of the land plot (for the construction of buildings, structures, and houses); long terms, alienation, and heritability.

Types of land use in farms of Ukraine

The land reform in 1990 in Ukraine contributed to the emergence of new economic formations on the land, in particular peasant farms, the legal successors of which are modern farms.

According to part one of Article 6 of Land Code of Ukraine (1990), citizens of the state had the right to receive land for peasant farming in "lifelong inherited possession". The Law of Ukraine No. 2009-XII (1991) "On Peasant (Farming) Economy" granted the right to the owner of the farm (a citizen of Ukraine) to make a choice regarding obtaining a land plot for conducting commercial agricultural production: in lifelong inherited possession, in private ownership, or on lease terms (in accordance with the procedure established by law).

In Article 4 of the new version of the Land Code of Ukraine (1990) since 1992, a list of lands that can be transferred to private or collective ownership has been established, among which the primacy belonged to the management of a peasant farm. In particular, the norms of articles 50-55 of the Act established the grounds and process for granting land plots for such farming.

The Law of Ukraine No. 3312-XII (1993) settled the land use order of peasant farms. Notably, the norms in articles 4-7, 13 of the Law of Ukraine No. 3312- XII mostly duplicated the previous provisions of articles 5-7 of the Law of Ukraine "On Peasant (Farming) Economy" (1991).

The next stage in farm land use began at the beginning of the 21st century in accordance with: Article 31 of the new Land Code of Ukraine (2001) and Article 12 of the Law of Ukraine No. 973-IV "On Farming" (2003), which contain similar regulations on the establishment of three main types of farm land use.

The first type of land use by the legislator included land owned by a farm as a legal entity. Land belonging to members of the farm (citizens of Ukraine) belonged to the second group. However, the right to own and use these lands is still exercised by the farm itself. The third group consists of land leased by such a farm. Farms may also have a different legal regime for land since it can be purchased with the common funds of the spouses or purchased with the common funds of all members of the farm (Dolynska, 2022a).

Substantial changes in the legal regulation of farming, including types of farm land use, have taken place in accordance with the Law of Ukraine No. 1067-VIII (2016). The legislative Act introduced a new type of farming activity – a farmer who functions as an individual entrepreneur, and the new version contains not only Article 31 of the Land Code of Ukraine (2001) but also part one of Article 12 of the Law of Ukraine "On Farming" (2003) with the same content. Analysing the above-mentioned norms, it should be noted that the legislator divides farm land into two main types of land use, and not into three (as it was established earlier).

To the first type of land use by the legislator, land plots belonging only to members of such a farm (citizens of Ukraine) on the right of ownership or use are assigned.

The second type of farm land use includes land plots belonging to a farm, in particular, both on the right of ownership and on the right of use.

In addition, the Law of Ukraine Law of Ukraine No. 1067-VIII (2016)abolished the specific features of granting land plots for farming in Ukraine, since from now on the process of obtaining land plots – both state and municipal property for farming – is conducted on a general basis, in accordance with the State Land Code.

Farms can operate in five types of economic formations:

1. A farm is a legal entity that, in turn, is divided into:

➨ a legal entity that has the status of a family farm (the activities of which are based on the work of members of one Ukrainian family (in accordance with Article 3 of the Family Code of Ukraine);

➨ a legal entity created by one citizen of Ukraine;

➨ a legal entity that is a family entity of citizens of Ukraine (in accordance with Article 9 of the law of Ukraine "On Farming").

2. A farm without the status of a legal entity is a form of entrepreneurial activity of an individual entrepreneur, which in turn is divided into:

➨ a family farm created on the basis of the activities of an individual entrepreneur and his family members (in accordance with Article 3 of the Family Code of Ukraine) who are citizens of Ukraine,

➨ a farm (farmer) that operates on the basis of the sole activity of an individual entrepreneur (citizen of Ukraine).

It is also advisable to highlight a new form of farming – a family farm, which operates on the basis of registration of an individual entrepreneur as members of the same family, since the members of such a family farm are its "co-entrepreneurs".

Farming as an economic formation only after the relevant state registration, which can also be conducted by a notary, acquires the status of a full-fledged agricultural subject and a participant in legal relations of various types, in particular, regarding the grounds for land use.

The vast majority of farms use leased land in their practical activities. It can be agreed with D. Fedchyshyn *et al.* (2019) that due to the long-term ban on alienation of agricultural land, emphyteusis was considered as an alternative to the contract of purchase and sale of agricultural land in Ukraine.

There is reason to say that contracts for the use of land for construction – superficies have not yet become as widespread in Ukraine as emphyteusis, but they are the future. Therefore, it would be advisable to make appropriate changes to Article 12 of the Law of Ukraine "On Farming" (2003) since the law of both superficial and emphyteusic land use by farms has not yet been allocated by the legislator.

Superficies agreements in the land use of farms in Ukraine

Superficies agreements that occur in the activities of farms in Ukraine are still not widely used. The war and certain restrictions of certain European countries on the export of agricultural products to their states encourage Ukrainian farmers to look for land plots not for agricultural purposes that are suitable for housing construction, but primarily for the construction of workshops that will process agricultural products, warehouses, as well as the construction of farm shops, in particular those that will sell products grown on farm lands – both raw materials and goods created by its processing, such as cereals, macaroni, cheeses, yoghurts, sour cream, meat products, etc.

The importance of the consumption of organic products by the state's population is highlighted by researchers and practitioners, in particular D. Fedchyshyn *et al.* (2018). Notably, the construction of farmers' own shops selling eco-products, in particular on the right of superficial land use, will meet the interests of not only farmers but also ordinary Ukrainian buyers. Not just to the emphyteusis contract (Fedchyshyn *et al.*, 2018), but the legislator has not allocated any special conditions for the superficies agreement either. T. Kharytonova (2014) argues that leases and superficies are very close types of legal use, and suggests using the provisions to the essential terms of the superficies contract of Article 15 Law of Ukraine "On Land Lease" (1998). It should be emphasised that there is a reduction in the essential terms of land lease agreements by making changes to the above-mentioned article of the legislative act.

The drafting of a superficial transaction takes place in accordance with the current civil and land Ukrainian legislation, family and tax legislation, and is also subject to mandatory state registration in accordance with the Law of Ukraine "On State Registration of Property Rights to Immovable Property and their Encumbrances" (2004). In the case of notarisation of the superficies agreement, the notary, in addition to the above-mentioned legislation, also applies notarial legislation.

Since there have been substantial changes in the legal regulation of the institution of superficies, and the issue of concluding contracts with the participation of farms has not been considered, it is necessary to focus on certain issues of concluding the above-mentioned transactions. When entering into a superficies agreement, it is necessary to consider the legislation and current practice, in particular judicial and notarial, in terms of providing for the terms of the superficies agreement in the content of the transaction, especially when certifying such a transaction with the participation of farms. Before entering into a contract, the parties to a superficial transaction must discuss in detail all the essential conditions (criteria) at their discretion (since the legislator does not establish mandatory details), which should be reflected in the final text of the contract.

In accordance with the requirements of the superficial legislation, the subject of the superficial contract is the property right to a land plot for the intended purpose "for development", in other words, farms must use land under a clearly established legal regime. The Resolution of the Cabinet of Ministers of Ukraine No. 821 (2021) approved a new Classifier of types of intended use of land plots.

Regarding the study subject, it is necessary to identify the following subcategories of land plots that have the right to be used for construction by farms: intended for the construction and maintenance of commercial buildings, and the construction and maintenance of residential buildings, outbuildings, and structures (household plot). However, this construction can only be conducted by a family farm, the members of which members are only the family of a farmer who need their own housing. Land plots intended for the construction and maintenance of tourist infrastructure and public catering establishments are important for effective agricultural production by farmers.

The legal regulation of superficies in Ukraine is imperfect. Its main disadvantages are listed by I. Ilkiv (2021): the absence of pronouncements to the form of superficies, clear terms of the contract, special requirements provided for invalidating such a contract or its termination and termination of the right to use a land plot for development. The superficies agreement is consensual, is concluded in writing, can be notarised by mutual agreement of the parties to the transaction, and is subject to mandatory state registration.

Analysing regulatory and legislative acts and the practice of concluding land transactions, the author suggests the following elements of superficies contracts. In the text of the land plot agreement (considering the provisions of Article 132 of the Land Code of Ukraine, 2001), in addition to its intended purpose, it is necessary to indicate its location, cadastral number, and dimensions. In the case of the notarisation of a superficial contract, the obligation to establish the legal capacity of a farm, including the powers of its representative, is assigned to the notary certifying such a transaction. In the text of the contract, it is also necessary to indicate the document confirming the ownership of the land plot to its owner, the existing restrictions on the use of such a plot or their absence, and especially to check the absence of prohibitions on the land plot, the existing encumbrances and restrictions in its use.

In addition to the above, in the text of the superficial transaction, in particular with the participation of farms, it is proposed to specify: the boundaries of ownership and use of the subject of the contract by its owner; the rights of the user (farm), in particular regarding alienation (that is, the transfer of their powers to superficial land use); payment or gratuitous superficial land use; the term of validity of the concluded contract (consider the possibility of concluding a contract on private land without specifying the term and restriction for up to 50 years-on communal or state land);

acquisition by the land user (farm or an individual entrepreneur) ownership rights to the object built by them (in accordance with the requirements of the current civil, construction, and land legislation.

N. Ilkiv (2010) has a fair point, arguing that in this case, the owner of the land alienated under a superficial contract is "only its nominal owner". In addition, in the specified agreement, the researcher recommends specifying: the procedure and terms for transferring the specified land plot under the transaction, including the conditions for its return to the owner; the rights and obligations of the parties are also a necessary element of the agreement; restrictions on superficial land use, which must be observed by the land user (farm); the grounds for termination of the superficial transaction must indiscriminately consider the requirements of both articles 416 and 417 of Civil Code (2003) and articles 101-2 of Land Code of Ukraine (2001); dispute resolution procedure, which arise from a superficial transaction.

The Law of Ukraine No. 1875-IX "On Mediation" (2016) introduced a legal sub-institute for resolving land disputes – through mediation, complementing the Land Code of Ukraine (2001) with Article 158-1, so it is advisable to suggest that the parties must indicate in the text of the superficies agreement the possibility of resolving disputes through mediation. That is, the right to resolve a dispute is first implemented through negotiations, a mediator, and only in the future – in court. The contract text should also specify the conditions for alienation and inheritance of superficialised land use.

The obligation to conduct state registration of a superficial contract in the State Register of real rights to immovable property (even in the case of non-notarised conclusion of such a transaction) follows from the requirements of Article 126 Land Code of Ukraine (2001) and Law of Ukraine No. 1952-IV "On State Registration of Property Rights to Immovable Property and Their Encumbrances" (2004). It is worth agreeing with M. Vashchyshyn (2013), who indicates the fact that, to legally fix the registration of a property right of superficies, it is necessary for the state registrar to make a corresponding entry in the state register of property rights. However, such registration can also be conducted by public or private notaries, even if such a contract was concluded only in writing. State registration of a superficial contract is electronic proof of its conclusion.

One of the advantages of superficies is that it is an alienable property right. Alienation can occur either under a purchase and sale agreement or under a donation or barter agreement (Maika, 2018). It is also necessary to add that the superficialist can transfer this right by inheritance or even conclude an inheritance contract.

The war in Ukraine in 2022 led to the seizure of part of the territory of the state and substantial human and material losses, in particular, deprived the right to both use and ownership of farm land and prompted the adoption of Laws of Ukraine: No. 2145-IX "On Amendments to Some Legislative Acts of Ukraine Regarding the Creation of Conditions for Ensuring Food Security Under Martial Law" (2022) and No. 2247-IX "On Amendments to Some Legislative Acts of Ukraine Regarding the Peculiarities of the Regulation of Land Relations in the Conditions of Martial Law" (2022), which introduced substantial changes to the current land legislation. These changes are "temporary in nature", but they allow solving some problems during martial law (Bodnarchuk & Bodnarchuk, 2023), in particular, superficial land use since the above-mentioned contracts were renewed for a period of only one year and without entering information in the State Register of property rights.

Researchers, including Ye. Udovytskyi (2022), Ye. Smolenko (2023), guided by the norms of sub-paragraph 1 paragraph 27 of section X "Transitional provisions" of the Land Code of Ukraine, state that the norms on automatic renewal of contracts without the will of the parties for a period of one year should be applied from the moment of introduction of martial law. Difficulties in concluding the above-mentioned agreements, in particular the superficies agreement, arise due to the fact that certain landowners were forced to leave their places of residence, remained in the occupied territory or went missing, died, defended their homeland at the front (are in captivity), and in some cases, they lost not only their housing but also their documents. This, in turn, creates problems both in confirming ownership of land plots, and in a certain period does not allow them to generate electronic signatures (Dolynska, 2022b).

T. Kharytonova and Kh. Hryhorieva (2023) believe that in the conditions of shaky food security in Ukraine, the importance of private farms will increase in order to meet the consumer needs. Such entities during martial law in the state are also farms, especially family farms. Since there is a lot of destruction in the state, therefore, obtaining a land plot for the construction of their own shops is one of the ways to expand sales of grown products and provide products of their own production to the average buyer. This standpoint is confirmed by information about ensuring food security by farms during the war in Syria (Linke & Ruether, 2021).

It is worth recalling that the legislator in Article 5 of the Law of Ukraine "On Farming" (2003) gave farms a "privileged benefit" to create a separate farmstead outside of localities (Dolynska, 2022a). If there is a vacant land plot next to this estate, which can be provided to the farm on the basis of superficial land use, the farmer has the right to use the opportunity to build, for example, a mini-hotel, camping, buildings intended for servicing tourist infrastructure and public catering establishments, and other structures necessary for conducting green tourism.

Since the war caused huge losses to farms (especially in the south and east of the state), and too high fuel prices do not allow for efficient management, there is a practice of Ukrainian farmers producing their own biofuels, that is, creating a separate unit with existing infrastructure. The above requires the implementation of certain construction on non-agricultural land, in particular, provided under the terms of a superficies agreement. Thus, the farm will create a full cycle for efficient agricultural production, in particular on a separate farmstead.

The adoption of the Law of Ukraine No. 1788-XII (2021) was supposed to be an incentive for the development of superficial land relations in the activities of farms, which sets out in a new version of Article 16 of the Law of Ukraine "On Farming" (2003) regarding the construction of both residential buildings and structures and outbuildings by such farms. However, the legislator granted the right to do this to a farm only on leased land. Therefore, it is necessary to resolve this problem and grant the farmer the right to build structures on the basis of superficial land use as well.

A farm that is interested in entering into a superficies agreement sees it as a material benefit since it becomes the owner of the built real estate. In particular, in the legal form

of a legal entity – the owner of such property is a farm; in the legal form of an individual entrepreneur – the owner of such property is a farmer if they work alone; and if the farm is created by members of the same family, then the owners are co-entrepreneurs of the farm, in accordance with the agreement on the creation of a family farm.

Conclusions

The article analyses the normative legal and legislative acts on the regulation of superficial legal relations with the participation of farms in Ukraine, and the papers of researchers. The evolution of the formation of the institution of superficies from European states to modern Ukraine is examined and it is established that the reception did not take place in full.

The main elements of the superficies agreement were described, mandatory banking details were defined, and it was recommended to conclude these transactions in a notarised manner. Describing the development of the institution of superficies in independent Ukraine, a comparative analysis of the legal institution of superficies on the Civil and Land codes of Ukraine was conducted, common gaps in the regulation of superficies in them were identified, and additions and adjustments were proposed to improve the current Ukrainian legislation.

The study examines the development of legal regulation of farm land use during 1990-2023 and indicates that due to the war in Ukraine, land suitable for agricultural production suffered egregious losses and damage, which may be one of the grounds for changing their intended purpose, that is, from agricultural to non-agricultural.

Non-regulation by the legislation of certain issues of superficial land use (terms, payment) by farms may further lead to an increase in the number of legal disputes involving farms. In this regard, it is proposed to prescribe all key conditions and restrictions in the relevant contracts, which will avoid ambiguities and conflicts as much as possible, as well as define in these documents the possibility of resolving disputes through mediation.

The scientific originality of the study lies in the fact that it justifies all the advantages that superficies provide specifically for farms of various forms of legal relations, especially in the conditions of active military operations on the territory of Ukraine. In particular, it will be of great importance for farms to be able to build various premises for storing, processing, and selling their own products on non-agricultural plots, and construct various facilities necessary for the development of green tourism. The possibility of conducting such construction will have a substantial positive impact on the development of Ukrainian agribusiness.

Further research will consist in the investigation of findings of superficial legislation and analysis of judicial practice on the consideration of disputes involving various types of farms, the subject of which is superficial land use.

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Conflict of interest

None.

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Суперфіцій як одна з правових форм використання земель у діяльності фермерського господарства

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Анотація. Актуальність дослідження зумовлено появою в Україні нових аграрних суб'єктів – фермерських господарств різного типу, які мають необхідність не лише займатися агровиробництвом, але й розвивати інші сфери діяльності, зокрема будівництво. Відсутність урегулювання в фермерському законодавстві землекористування на основі договорів суперфіцію та можливість виникнення в подальшому спорів між сторонами – одна з підстав проведення цього дослідження. Мета роботи – окреслити становлення та розвиток інституту суперфіцію в Україні протягом 1990-2022 років і з'ясувати специфіку впровадження у фермерську діяльність інституту суперфіцію. Дослідження проведено за допомогою комплексу загальнонаукових та спеціальних методів пізнання. Діалектичний метод сприяв визначенню закономірностей розвитку інституту суперфіцію від часів Римської імперії до сучасності. Порівняльно-правовий метод застосовано в дослідженні становлення та розвитку фермерського землекористування в сучасній Українській державі. У процесі роботи здійснено історико-правовий аналіз особливостей користування чужою земельною ділянкою, яка має цільове призначення – будівництво. Здійснено ґрунтовний порівняльно-правовий аналіз норм Цивільного та Земельного кодексів України щодо суперфіційного землекористування. Розглянуто новели правового регулювання землекористування у фермерських господарствах незалежної України. Запропоновано доповнити статтю 12 Закону України «Про фермерське господарство» наданням права фермерським господарствам укладати договори емфітевзису та суперфіцію. Окреслено основні умови договорів суперфіцію – права користуватися чужою земельною ділянкою для забудови. Визначено особливості укладення правочинів суперфіцію за участю фермерських господарств та наголошено, що проведення державної реєстрації суперфіційного договору в Державному реєстрі речових прав на нерухоме майно виступає електронним доказом його укладення. Практична цінність дослідження полягає в тому, що сформовані на основі його результатів пропозиції можна використати для вдосконалення чинного законодавства

Ключові слова: законодавство; речове право; договір; Державний реєстр речових прав на нерухоме майно; чужа ділянка; забудова; агровиробництво

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Legal Tech: Unravelling the nature and purpose of modern law in the digital era

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Abstract. The purpose of the study is to investigate how computer technology is used in legal practice. The primary techniques employed in this article are systematization, which made it possible to place the results in a logical order for understanding and reproduction of the researched, as well as analysis and synthesis for a literary review of thematic literature and the determination of the main scientific trends reflected in it. The study's findings demonstrate how computer technology has improved the convenience, speed, visualization, and predictability of legal practice. The research's practical significance lies in the fact that computer technology, specialized software, and mathematical techniques must be incorporated into law enforcement and law-making processes in order to collect, store, and process legal information in a way that best enables the provision of various legal services. In conclusion, digital computer technologies are developing in the legal field in a number of areas, including the automation of standard legal services, the use of online legal services, the digitalization of public services and their online provision, the shift to an e-justice system, modeling of legal solutions based on artificial intelligence, and more. The automation of many social processes is gaining momentum, including in the legal profession

Keywords: computerisation; Legal Tech; computer technology; digitalisation; legal services

Introduction

In the professional daily life of a law firm, the topic of digitalisation is gaining increasingly more importance. The introduction in Europe of the so-called special lawyer-e-mailboxes (beA), as well as the sustainable development in the field of Legal Tech and Law Tech, are just some of the signs illustrating that lawyers will sooner or later be replaced by digital tools and technologies. The first step in this direction may already be to start legal education and provide the next generation with more digitised content to prepare them for the upcoming digital revolution. Student initiatives in Europe, such as Munich Legal Tech or Frankfurter Legal Tech Lab, are already demonstrating that there is high interest in this from the student community (Anjum *et al.*, 2018). Students who would already be exposed to technology content like Legal Tech in their studies would greatly simplify their professional lives. Moreover, in this way, they preceded the older generations with important technological skills.

Firstly, legal technologies imply all things technological. In a narrow meaning, this specifically refers to software that facilitates the work of lawyers. Thus, Legal Tech describes technologies designed to improve and simplify the day-to-day processes of a law firm. These include, for example, legal databases or time-tracking software. Furthermore, programs that can automate already repetitive processes constitute an

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extension of Legal Tech. Another stage of development includes programs that can edit documents automatically, for instance, read, understand, and process through interpretation. Legal software such as eDiscovery or Document Review are already capable of this (Greenstein, 2022b).

Currently, the Faculty of Law in Europe is still quite old-fashioned and has very little orientation in the digital world of work or technological innovation. As such, the time-tested PowerPoint presentation is generally still the only digital medium in use and it has long been outdated. Topics such as legal project management or legal technology are mentioned in the margins at best or usually need to be developed independently. This is largely conditioned by the fact that digitalisation is still a new area for many professors and teachers, and they, accordingly, have almost no competencies in this area. The same is true for legal training (ReFa). They are the ones who will most of all deal with the office organisation in the daily life of the firm and the future will increasingly come into contact with Legal Tech products. But the point is, they rarely come close to it in advance.

Predictive algorithms are increasingly being used in various contexts to determine legal standings. These algorithms are employed to predict outcomes related to healthcare, social services, resource allocation, and potential criminal behaviour. D.L. Burk (2021) in his study aims to establish a connection between sociological and legal perspectives on AI by examining the sociological ramifications of algorithmic measurements, which have been overlooked. The research brings to light the unfavourable societal repercussions of predictive legal algorithms, presenting a noteworthy critique that has been absent in existing literature. The analysis uncovers that the societal impacts go beyond concerns solely about accuracy, which have been the primary focus of prior critiques. In reality, some of these solutions might even worsen the negative outcomes of algorithmic systems.

Legal algorithms, especially in criminal law, often yield biased results. However, they don't always cause harm; sometimes, they unveil the flaws within the laws they apply. C. Doyle (2021), in turn, by creating models that cover different ways of predicting what may happen based on a particular law, shows that algorithms can show the accuracy of legal outcomes, their distribution among the population, and the influence of factors on the predictions. This data reveals the shortcomings of the law: its deviations from the intended goals, uneven impact, inefficiency, and hidden value judgments in seemingly neutral predictions that contradict other legal principles. Making algorithmic insights a standard practice can effectively evaluate the fairness and effectiveness of predictive laws, especially in criminal law.

This study aims to thoroughly explore and evaluate the impact and integration of digital technologies in the field of legal science. The goal of this research is to clarify the useful uses and consequences of digital tools in a range of legal practice areas, including electronic legal services, e-government, and e-justice. The study's novelty stems from the observation that computerization and internet technologies have become ubiquitous in Ukraine's legal landscape, underlining the need to understand how these advancements optimize legal services and information management. In sum, the study contributes to the discourse on the changing dynamics of legal practices and their integration with digital technologies.

Literature review

The alternative is that law firms take the money into their own hands and train their staff accordingly. It would be easier to teach interns and students important key qualifications through early course offerings (Sales, 2021) abroad, for example in the USA or England, which has been on the agenda for many years. On the other hand, this is an exception to European practice. Concerning audits, for example, it is increasingly required to conduct them electronically. For example, in Saxony-Anhalt, an electronic exam is already being introduced. Admittedly, some starting difficulties are not excluded here. However, benefits are offered in many ways: firstly, electronic delivery is significantly faster and work is not lost on the delivery route. Secondly, illegible manuscripts that need to be deciphered first are a thing of the past (Yalcin *et al.*, 2023).

Digitalisation is progressing more and more. And even if at present law firms still try to resist legal technology, at some point there will not be a way to avoid them. Those who tackle this topic early on will lose less time and money in the future. The solution, on which not only the profit of firms depends, is Legal Education 2.0. The mediation of key practice qualifications must be focused – or at least must be in sight – on meeting the requirements of the practice. The fact that some universities already offer separate courses in the field of digitalisation is encouraged. However, given the rapid changes taking place in the legal industry, this is not enough (Kleiberg *et al.*, 2018).

Digitalisation is inextricably linked with interdisciplinarity. To be able to take part in events that are changing the legal system and professional reality in the legal industry, it is necessary to understand the processes of digitalisation. Various interdisciplinary competencies are useful for this. The widespread belief that every lawyer should learn to program is not targeted. Admittedly, it is helpful for a digital affiliate lawyer to acquire programming skills (Surden, 2019). However, it will be much more important for lawyers to understand the software and use it to their advantage. This requires a technological education.

In the future, lawyers will have to work more on interfaces with other professional groups and teams. Thus, the success of a lawyer in the 2020s and beyond will be based primarily on their communication skills with professional carriers of other disciplines. The technological, economic, ethical, and communication foundations will be of particular importance. Thus, mediating these interdisciplinary competencies should be part of the education of lawyers. Meanwhile, universities are just graduating individual lawyers who can (and cannot) do the same thing (Hildebrandt, 2018). In comparison, most bachelor's programmes make provision for a combination of a main subject and a minor subject, and voluntary attendance at non-professional events is supported. The legal centre of gravity here is not enough, especially since it is also not assessed accordingly. That being said, the evaluation of the area of focus is essential.

Such an approach would allow cover such topics with a broad perspective and acquire additional knowledge in various fields. Notably, global legal audiences are still very highly specialised when compared to experts in other professional fields as well as internationally. But at the same time, digitalisation does not stop before legal practice. Law firms, legal departments, and public sector clients want and need to work more efficiently and remain attractive in recruiting

(Micklitz *et al.*, 2021). Technology and digital work play a decisive role here.

As a rule, the growing information complexity and changing customer claims lead to the fact that the legal market is at a turning point. This applies equally to small and large law firms. Therefore, they increasingly resort to technological solutions to work better and more productively. The Future Ready Lawyer survey examined the future of legal work (Razmetaeva & Razmetaev, 2021). There is no doubt that the global future of law is already happening today – and that technology is the driving force behind change. As such, lawyers are increasingly using innovative and powerful technologies to help them work more efficiently and productively through analysis and data-driven knowledge, deliver better results and offer significant value to clients across industries. Lawyers who already use technology nowadays and are considered "technological pioneers" have a clear advantage over their competitors because they are already working more profitably and are better prepared for the upcoming changes (Jansen & Schreiner, 2023).

The legal industry was wary of the introduction of legal tech, and this is understandable: lawyers deal with confidential information that should be protected for the benefit of clients. However, cloud storage and service developers are constantly working to improve security, and more law firms are embracing digital trends. Technology has enormous potential; helps save time and money; automates routine processes and allows specialists to concentrate on the really important tasks. For example, one of the most frustrating aspects of working in the legal field is research and information retrieval. The lawyer needs to listen to clients' stories, conduct briefings, study reports and testimonies to ultimately find what will help win the case (Greenstein, 2022b). Sometimes it is like looking for a needle in a haystack. Using machine learning, lawyers can quickly find the most important information. There's nothing unusual about having to deal with millions, even tens of millions of documents in litigation cases – this is how LexisNexis' description of the DiscoveryIQ IT solution begins. According to the company representatives, using this system, the analyst reduces the costs associated with legal due diligence by 70% (Crémer *et al.*, 2019). This sounds like a good investment for a law firm.

While some studies have explored specific aspects of technology's influence on law, a comprehensive investigation encompassing practical applications, legislative considerations, and the evolving potential of machine learning algorithms is lacking. Thus, the article bridges the gap in the literature by providing a comprehensive and context-specific understanding of the intersection between digital technologies and legal science, offering valuable insights for researchers, practitioners, and policymakers seeking a deeper grasp of this evolving landscape.

Materials and methods

The study comprises several distinct stages aimed at achieving a comprehensive understanding of the integration and impact of digital technologies within the realm of legal science. In order to enable a thorough analysis and synthesis of pertinent information, these stages entail the application of various research methods.

A comprehensive literature review, encompassing a broad spectrum of academic articles, research papers, legal documents, and related materials, is conducted as the first step of the study. The identification and gathering of pertinent information, ideas, and developments regarding the incorporation of digital technologies into legal science are made possible by this process. The phases of analysis and synthesis that come after the literature review provide the framework.

Following the literature review, the study employs the method of analysis and synthesis. This entails a meticulous examination of the collected information to identify key patterns, trends, and insights regarding the application of digital technologies in various aspects of legal practice. Through analytical processes, the study seeks to discern the underlying implications and potential benefits associated with the adoption of digital tools in legal science. Subsequently, the synthesized information is organized to present a coherent narrative that highlights the transformative role of technology within the legal domain.

The method of systematization is employed to logically structure and arrange the findings in a coherent sequence that ensures clarity and ease of understanding. The results of the analysis and synthesis are systematically organized into categories, subtopics, or themes that provide a clear framework for readers to follow. This structured presentation aids in conveying the evolution of digital technologies' influence on legal practices, from e-government to e-justice, electronic legal services, and beyond.

By employing a combination of these research methods, the study can unfold the intricate relationship between digital technologies and legal science. The literature review allows for the incorporation of existing knowledge and perspectives, while analysis and synthesis provide a deeper understanding of the implications and trends. The final stage of systematization enhances the clarity and accessibility of the study's findings, presenting a cohesive narrative that outlines the multifaceted impact of digital technologies on legal practices. Through these stages, the study to contribute valuable insights into the ongoing transformation of the legal landscape in response to the advancements in digital technology.

Results and discussion

The number of studies seeking to prove that many lawyers may also be deprived of appropriate technology is significantly growing. Almost impressive is a new study by the American platform LawGeex, which experimentally claims that an algorithm can check, analyse, and evaluate contract texts many times faster and many times more accurately than an experienced lawyer (Reier Forradellas & Garay Gallastegui, 2021). LawGeex teamed up with professors from Stanford University, the University of Southern California and Duke University Law School to conduct an experiment in which the algorithm had to compete with the best lawyers.

Twenty lawyers were tasked with reviewing 5 nondisclosure agreements and identifying 30 hidden legal issues in them. The lawyers spent more than an hour and a half on average and admitted on average 85% of legal problems. The algorithm achieved 94% accuracy in detecting problems and took exactly 26 seconds to do this. Whether this is just the beginning of what will be possible in the future is difficult to predict. Analysing standard contracts can ideally help overloaded law firms complete certain tasks faster and create space for lawyers to perform complex work (Deligianni, 2021). But the fear that algorithms will sooner or later be capable of solving even complex legal issues better

than experienced lawyers is already clearly felt in the discussion rounds on this issue.

The LawGeex experiment was the only case. Back in 2016, IT company Leverton made a similar attempt in Berlin. The Legal Tech software, specially developed by the company, had to be able to answer complex legal questions in certain areas of law. This is no longer just a "smart contract" of standard contracts, but an opportunity to initiate a revolution in the legal profession (Greenstein, 2022a). The software is currently still under the control of lawyers, but this may not be required any time soon. Legal Tech is slowly but surely conquering legal everyday life. Internet portals like "Flugrecht.de", "Geblitzt.de" or "Helpcheck.de" quickly and inexpensively help users assert their rights, for example, for compensation in case of flight delays. While international law on legal services still retains legal advice on the merits of trained lawyers, legal technology has long been a reality and therefore will not be stopped in the long run (Bathaee, 2018; Razmetaeva *et al.*, 2022).

Meanwhile, experts assume that not only will many poor people get better access to law with the help of legal technologies, but also that shortly 50% of the tasks that beginner lawyers currently perform in large law firms can be taken on by algorithms. This is also the forecast that Bucerius Law School and Boston Consulting Group published back in early 2016. A growing number of IT companies can offer legal advice in certain areas faster, cheaper, and more transparently than lawyers. At present, the software attracts interest, especially in cases with low dispute values. For example, the algorithm is capable of assessing the chances of success of a claim for compensation in case of violation of passenger rights after entering the relevant information within a few seconds (Kennedy, 2020).

But even with extensive, complex contracts, software sometimes has significant advantages in terms of speed and accuracy. Moreover, algorithms are more careful than lawyers. While human lawyers consumed a lot of coffee in the LawGeex experiment, the summary of the algorithm reads: "Robots don't need coffee". If a lawyer can be replaced by an algorithm, then perhaps a similar fate can befall the judge. Until now, although there is a perception among lawyers that computers cannot discuss law, researchers of the future suggest that, especially in standard cases, algorithms may soon be capable of enforcing laws more accurately than a human judge can. But the new technique also raises many questions. Whether the machine can consistently convey to the delinquent an understanding of the wrong they have committed seems at least doubtful (Larsson, 2019). It also raises doubts as to how a divorced client would feel when an inhuman machine listens to them describing their marital problems. Legal Tech will certainly take up more space in the future, and will also allow many people to gain access to a right that they previously did not have. However, it will most likely not be able to completely replace human jurisprudence.

In the technical literature, this is often seen as a dividing line between artificially intelligent systems and "normal software" when the system contains a machine learning component. If so, the system is said to be programmed implicitly. Almost all IT systems are explicitly programmed, examples of this are calculators or ERP software such as SAP. Implicit programming means that the steps to solve a problem are not known from the very beginning. In an implicitly programmed system, an algorithm "learns" the desired behaviour from a historical dataset. That is, it recognises patterns and relationships between input and output dimensions and translates this "learned" into systemic behaviour. Thus, algorithms and data are at the heart of any intelligent system (Custers, 2022). An algorithm is understood as instructions, broken down into separate steps, which the computer can process mechanically, while the data, without which the algorithm is useless, constitutes an irreplaceable building block of the system.

The importance of data for an artificial intelligence (AI) system cannot be stressed enough (Reyes & Ward, 2020). At present, much more depends on their quality and quantity than on the sophistication of the basic algorithms. The algorithms that are used nowadays have existed in theory, partly since the 19th century. But only after there is a lot of computer-readable data, the AI system can be calibrated and produce results. Current advances in AI have the least to do with particularly sophisticated algorithms but are directly related to digitalisation and the growing datafication associated with it. For areas where obtaining computer-readable data is particularly difficult, progress through AI can be slow. This applies, in particular, to jurisprudence, whose data consists mainly of written text – a kind of data, as will be explained, is especially difficult for algorithms to process (Reyes & Ward, 2020).

For a computer to read data, it must be of a very specific nature. Firstly, they must be in a structured form, which in computer science simply means that they must be organised in a tabular manner, with well-defined columns. Secondly, the computer must know what value the data it receives represents. This refers to the so-called data calibration. This marking is done manually and is therefore complex, but relatively simple when it comes to, for example, using an image recognition algorithm. Thus, to summarise, at this stage, it can be stated that the algorithm, firstly, is always as "smart" as the data with which it was calibrated allows. Obtaining this data can be simple or very complex depending on the requirements. Secondly, what is called artificial intelligence currently does not go beyond finding patterns in data and translating them into systemic behaviour (Gori, 2022). However, this, in turn, does not mean that AI cannot be a very powerful tool, despite these limitations. Because, firstly, an artificially intelligent system works much faster than a person, and secondly, it finds patterns even in the depth of details and with an accuracy that a person would never be capable of.

At this stage, it is necessary to object to the assumption that the relatively indecisive development of AI in legal science is justified mainly by its inherent conservatism. Rather, it is the way that AI must understand legal science using algorithms for the most difficult-to-access types of data: language or text (Siegel, 2019). However, the highly formalised language of legal science is superficially extremely structured, and this circumstance slightly simplifies the processing of data material. However, it must be emphasised that even the most structured font for the algorithm remains a complexity from unstructured data if it fails to translate the meaning encoded in the text into machine representation. But this huge problem is still largely unresolved today.

Every conceivable application for AI in legal science depends to a large extent on whether this problem can be tackled. The entire field of categorisation "Text" is so complex

that for this purpose GI Subdisziplin developed a programming language, which is called Natural Language Processing (NLP). What is already possible in legal practice using NLP methods, albeit quite considerable, is essentially limited by the possibilities of extracting information, that is, extracting significant particles from legal documents, for example, contracts. Currently, various NLP techniques are being used to develop powerful assistive systems that deserve attention, such as search technology for identifying relevant text or documents (Wolswinkel, 2022). However, extracting structured information from fonts is already possible.

For instance, lease agreements. With the appropriate software, one can create a spreadsheet from the mass of leases with decisive content at the click of a button and instantly know who rents what, from whom, when, and for how long. After all, another big field is decision forecasting and risk assessment. These tools are at a very early stage of development, but there are already early approaches to predicting court decisions. For this, for an open case, as many comparable historical cases as possible are identified from the database and an estimate is made based on the relative frequency of success cases (Zou & Zhang, 2022). However, decision prediction has still not been ground-breaking, and it is also questionable whether it will ever be possible in specific case categories. This can only fail because both legislation and judicial interpretation are in constant flux and often subject to regional specificities.

In the next decade, computers cannot be expected to understand legal texts. However, in the medium term, it can be expected that it will be possible to translate an increasing proportion of the meaning of texts into representation, to work algorithmically on this basis and thus bring the analysis of contracts to market maturity. Once this succeeds, a kind of abstract language, similar to a programming language, emerges from this view, which allows the content of contracts to be coded piece by piece. Subsequently, legal science would eventually enter the realm of algorithms, and the limitations on the continued application of artificial intelligence would gradually decrease.

The digitalization of human consulting was the mission of young insurance start-ups four years ago. Lavishly funded companies such as Knip, Clark, and GetSafe have proposed replacing the unpopular insurance broker with smart algorithms (Hildebrandt, 2018; Sales, 2021; Xu, 2022). Smartphone apps should advise clients on their insurance needs and provide related products objectively, independently, and around the clock. InsurTech startups have promised objective and independent advice that is not focused on personal preference or commission interests. Like human consultants, consulting applications need to gain insight into the client's life situation and existing insurance policies. In the second step, coverage gaps must be closed by automatically selecting new contracts.

To drive the promise of added value, consulting application vendors relied on the collaboration of major insurance companies. Since smartphone users did not have the option to select and enter existing insurance policies, start-ups requested information on existing contracts from the respective insurance companies. Therewith, they quickly faced the paper reality of the insurance industry. Insurers' responses, to the disappointment of users, took up to 5 weeks. The result was often a poorly scanned insurance policy that, littered with stamps and markings, was unreadable for the machine.

For example, to receive feedback from the Warentest Foundation, applications had to establish an accurate mapping between test reports and contracts. The analysis of the insurance portfolio ultimately had to be limited to identifying and closing obvious gaps in hedging. New contracts created even bigger problems. Although most insurers already have digital interfaces for calculating individual premiums, multi-page paper forms must be re-completed no later than the contract conclusion (Re & Solow-Niederman, 2019). Similar difficulties can be found in the world of legal science. Contracts and other documents are rarely found in digital readable form. A pronounced bias towards original signatures leads to the fact that, as a rule, not files, but paper documents are printed, signed, and stored. Thus, they are not available for applications and algorithms.

Greater use of digital legal advice in the future will require a digital ecosystem that digitally maps contractual and operational relationships. With the development of blockchain, including smart contracts, significant prerequisites have been created in recent years. Investment in blockchain-based business models has grown rapidly since then. The World Economic Forum expects that in 2025 about 10% of the world's gross domestic product (GDP) will be processed using the blockchain (Bathaee, 2018). Until that happens, digital consulting approaches will need to be limited to narrowly defined areas of application, such as passenger rights, to be successful. Algorithmic legal advice in practice fails, primarily in digital and structured data access. This is especially true if collaboration with traditional players is unavoidable. In practice, the promise of digital benefits must also be redeemed digitally. Users do not recognise any value in hybrid counselling with the Attorney Algorithm. Digital legal advice can be successful in special niches today. The path to the mainstream requires smart contracts and blockchains that provide digital infrastructure. Legal Tech companies face a dilemma: As a law firm, one cannot run a Legal Tech company based on the success fee compensation model because it is prohibited by legal professional law. And, if one is not a lawyer, they cannot provide legal services due to the monopoly on legal advice.

Digitalisation will fundamentally change the legal market, says Stefan Bridenbach, professor of civil law, civil procedure law, and international economic law at the European Viadrina University in Frankfurt (Hildebrandt, 2018). Consumer offerings are far beyond legal technology. The legal arena is generally predestined for the use of digital tools. Decisions in the legal field are determined by rules, namely by legal rules. If these rules only work with data – date of birth, income limit, or religion, yes/no, or something else, – then all these data-only decisions can be automated.

Workflows in which legal decisions play a role will be much more determined by algorithms and artificial intelligence in the future, according to Breidenbach's prediction. Even in law firms and legal departments, and sometimes in the courts. According to some experts on "digital" legal science, the integration of digital technologies and law is primarily accomplished by means of intellectual automation of tasks that typically require human intervention (usually in the form of legal education and/or relevant work experience) (Gooding & Kariotis, 2021). Searching, editing/replacing text, matching, spotting inconsistencies, translating into another language, analysing, interpreting, selecting, deciding, and so on are some examples of these actions.

Speed will undoubtedly rise as a result of this automation, and the accuracy and calibre of the work produced should also likely improve. As a result, the price of these legal services will go down because the complexity and time required to complete the work determine the primary pricing factors in the legal profession (Larsson, 2019). Information technology accessibility is one of the most significant factors influencing the growth of contemporary innovative societies. There was a long and difficult road leading up to this state of communication systems. For many of our ancestors' generations, spoken word was the only way to gather and store knowledge. States face a variety of challenging issues as a result of the growing understanding of the nature and principles governing computer information technologies and the growth of the Internet (Crémer *et al.*, 2019). Information technologies based on computers are neither a tool for creation nor for destruction. The way, who, and why they are used determines a lot about how they work. In this sense, the open nature of information registers and digitization can lead to both new opportunities and risks, such as those that arise when creating laws or modelling legal scenarios.

Nowadays, in Ukraine the socio-political, economic, and ideological role of information, and information law is increasing, and the information needs of society are growing. Information turns into a legal product and/or service. New concepts are emerging: e-democracy, e-government, "digital" legal science and others. Over the past five years, hundreds of all kinds of registries have been created in Ukraine, collecting thousands of terabytes of data about everything possible. It may seem that the country has already "digitalised" all possible public services (Micklitz *et al.*, 2021). However, state registers have not yet learned how to interact with each other. This very factor is an obstacle to the introduction of the "digital" economy of Ukraine.

The implementation of certain constitutional rights of Ukrainian citizens today allows them to practically provide such electronic public services as the provision of medical services through the electronic healthcare system, online receipt of public services through the system, etc. In legal activity, it is possible and necessary to effectively use computer and Internet technologies. The latter, according to the scientist, greatly facilitates the work of legal practitioners. Firstly, it is an unlimited operational exchange of information through the Internet between various subjects of legal relations. Secondly, it is the ease of use of various information retrieval systems of legislation. Thirdly, it is simply the possibility of competent paperwork using modern text editors (Kleinberg *et al.*, 2018).

With the development of information technology, professional computer platforms, legal reference systems, and special-purpose databases appear. To date, in Ukraine, there are information retrieval systems, information legal systems, and legal information systems: Liga Zakon, Base Garant, State Portal of Norms Federal Laws, etc. Such networks provide their services to hundreds of thousands of users (Gori, 2022). The tasks of these systems include the collection, accumulation, systematisation, storage, and provision of various legal information to consumers, etc. These systems are actively used in modern legal activities. That is why information security is becoming an important component of ensuring national and international security, which implies both the need for international cooperation and the unification of national regulations in this area.

At present, there are about 330 state registers in Ukraine. Most of them are not basic, such as the demographic, land cadastre, the register of property and real rights, the register of legal entities and individuals and public organisations. On average, there are from three to seven such base registers in each country.

Conclusions

In conclusion, digital technologies in legal science represent a structured approach involving the application of computer software, information networks, and other digital tools by governmental bodies and public administration entities. This application aims to collect, process, and expand legal information while generating electronic documents. The key areas of digital technology implementation in law encompass e-government, e-justice, electronic legal services, electronic lawyer services, and e-democracy, utilizing tools such as state electronic registers, communication systems, and analytical legal systems.

The legislative framework in Ukraine guides the use of digital technologies, covering unified state registers, electronic document management, information systems in courts and governmental activities, with ongoing considerations for expanding into areas like electronic healthcare and e-democracy elements. Although translating lawyer actions into machine-learning algorithms is feasible across legal branches, the current quality of these algorithms requires improvement to enhance accuracy and reliability. Overall, digital technologies have brought advancements to the legal field, but further refinement and legislative support are essential for their continued development and effective integration.

Machine-learning algorithms also show potential to replicate lawyer actions, despite needing improved quality. In essence, digital technologies offer transformative opportunities for modernizing legal practices and systems. The article suggests several promising areas for future research in the realm of digital technologies in legal science. These include evaluating the effectiveness of digital tools in legal information management, comparative studies of legislative frameworks, exploring ethical implications of machine-learning algorithms, investigating electronic healthcare systems' legal aspects, analysing e-democracy elements, and studying the evolving roles of legal professionals in the digital era.

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Conflict of interest

None.

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Legal Tech: розгадка природи та призначення сучасного права в цифрову епоху

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Анотація. Мета роботи – дослідити, як комп'ютерні технології використовуються в юридичній практиці. Основні методи, використані в цій роботі, – систематизація, яка дала змогу розмістити результати в логічному порядку для розуміння та відтворення досліджуваного, а також аналіз та синтез для літературного огляду тематичної літератури та визначення відображених у ній основних наукових тенденцій. Результати дослідження демонструють, як комп'ютерні технології підвищили зручність, швидкість, візуалізацію та передбачуваність юридичної практики. Практичне значення дослідження полягає в тому, що комп'ютерні технології, спеціалізоване програмне забезпечення та математичні методи необхідно впроваджувати в правозастосовні та законотворчі процеси з метою збору, зберігання та обробки правової інформації у спосіб, який найкраще уможливлює надання різноманітних юридичних послуг. Отже, цифрові комп'ютерні технології розвиваються в правовій сфері за низкою напрямів, серед яких автоматизація стандартних юридичних послуг, використання юридичних послуг онлайн, оцифрування державних послуг та їх надання онлайн, перехід до системи електронного правосуддя, моделювання правових рішень на основі штучного інтелекту тощо. Автоматизація багатьох суспільних процесів набирає обертів, зокрема й у юридичній професії

Ключові слова: інформатизація; Legal Tech; комп'ютерні технології; диджиталізація; юридичні послуги

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Trends in media development in Ukraine: Social communication and legal aspects

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Abstract. Globalisation and the development of new trends lead to the emergence of innovative tools for influencing the public; today, such tools are the mass media. Media is an important element of interaction between the authorities and society in the context of forming the necessary opinion on events and phenomena occurring in a particular historical period. The purpose of the study is to investigate the features and specifics of the functioning of mass media in Ukraine by examining the social communication and legal aspects of media activity in a historical context. The main method of research was the system and analytical method, by which the key characteristics and basic signs of the dynamics of the formation and development of Ukrainian media are considered, the specifics of the process of media influence on public opinion in Ukraine are outlined, and the prospects for the development of the direction in the future are presented. The essence and content of the concept of mass media, the history of its origin and general global trends in the development of the direction were analysed. The characteristic features of the transformation of the media sphere in independent Ukraine are identified, and the basic features and trends of the main types of media are summarised. The level and intensity of influence of certain media tools on public opinion in Ukraine were investigated. Based on the results obtained, the prospects for the evolution of mass media in Ukraine in the future are outlined; the main threats and challenges to further development in the context of the transformation of the social and communication sphere of social development are listed.

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The results and conclusions of this study can be used as a basis for future research on the presented topic, in particular, in the specialities “Sociology”, “Economics”, “Law”, as well as during the development and implementation of the legal framework in the field of regulating media activities in the social and cultural life of the state

Keywords: globalisation; legal framework; mass media; administrative and legal regulation; social and cultural life

Introduction

The outbreak of the COVID-19 infection, rapid climate change, the emergence of new military conflicts, and other stressful events on different continents of the world forces the population to look for more information about these events. Mass media, in particular print publications, have long held the lead among sources of providing up-to-date data and meeting almost all social and communication needs of citizens. The beginning of the 21st century was marked by the emergence of new tools in the media industry: Internet, social networks and online platforms became a mechanism for influencing the processes of public opinion development, a way to control various spheres of human life. Today, in the context of unpredictable changes on the geopolitical map of the world, in the context of the transformation of old and the emergence of new structures in the global security system, it is media resources that most often act as the only source of information for society; due to the influence of this sphere on the life of an ordinary person, it is quite possible to manage and direct thoughts and moods in society in a necessary way. The study of the phenomenon of media in Ukraine and the world, the influence of information resources on the formation of public opinion, in particular, in the field of legal and social communication interaction, is an important element in the process of creating and developing a political system on the democratic and legal basis of the state. The problem consists in updating the basic features and characteristics of the process of development and current state of the media sphere in Ukraine by studying the main areas, positive and negative trends in the transformation of information resources in the context of social and communication and legal cooperation.

A number of Ukrainian and foreign specialists have dealt with the problems of determining the essence, content and role of media in the political and social life of the state. According to M. Udut (2014), a person is surrounded by a variety of information throughout their life, which shapes their personality, needs and wishes, as well as creates dependence on constant information communication. Evolution of the human race, according to H. Tafozzoli and M. Bayat (2015), is constantly accompanied by information flows – first in the form of sounds, words, conscious speech, and then in the form of well-known mass media. Modern media tools, such as online applications, Internet portals, social networks, are defined by L. Gorodenko (2016) as key aspects of the current life of a modern Ukrainian. Innovative global changes of the third millennium, according to A. Garanja (2022), are conditioned by the rapid digital transformation of the global media environment and the emergence of a fundamentally new broadcasting format in Ukraine – digital media.

The role of media criticism in Ukraine differs from that of Europe and America, as it is not so much a factor in the functioning of civil society as an expression of media relations with the audience; according to A. Mykolaienko (2020), this is evidence of the modernisation of the media community in Ukraine. The activities of the Ukrainian mass media during the Russo-Ukrainian war were considered by L. Cherednyk (2022), according to which the media united during military operations to present high-quality and necessary content for society. Features of coverage of recent events in Ukraine in Western media, according to S. Fengler *et al.* (2018), indicate a strong interest of consumers, primarily from Europe, in information about the situation in Ukraine. Further development of the industry, considering various circumstances, was investigated by O. Galushko and A. Petkevich (2019) (transition from the classical method of transmitting information to the Internet – using modern online tools), N. Senam *et al.* (2022) (increasing the number of independent media resources to meet the needs of absolutely all categories of the population).

The purpose of the study is to identify and generalise the components of Ukrainian mass media at the present stage by considering and analysing the dynamics, trends, general and distinctive characteristics of this phenomenon in various spheres of social and state interaction.

Literature review

The issues of the development of the media sphere in Ukraine, and the specifics of the process of its transformation in the time context, have been investigated by many Ukrainian and international experts and analysts. Mass communication, active transmission of information and other types of useful data was one of the central characteristic features, due to which mass communication technologies were developed in the world during the World War II. According to P. Simonson *et al.* (2019), the global, in particular, American approach to the development of the concept and establishment of the essence of mass media indexed and communicated promoted the problems of media, which began to manifest itself in the 1920s.

M. Shi (2019) suggests that in the context of the growing popularity of mass media and widespread media information, the population seeks, receives, and processes data flows through media activities that adapt to the changing consumer sentiment of their products. According to O. Zinenko (2019), the media forms an idea of historical traditions, economic and political influence, as the media in Ukraine depend on their owners; journalists, publishers, and media editors control the mood in society and shape global trends among the population. Media in general have a strong overall impact on society, as the vast majority of the population fully trusts media tools in obtaining up-to-date information and the latest news.

R. Ullah and A. Khan (2020) argue that the media are a powerful weapon that can instantly change public opinion and form a completely opposite position on a particular issue. The decline in the popularity of print media – both in Ukraine and in the world – is one of the main problems of the classical media system caused by mass digitalisation of media processes. According to L. Vasylyk (2019), the complete revival of print media and the growth of their popularity is still impossible due to the practical lack of effective mechanisms and tools for competitive struggle with information resources on the Internet.

In the context of Ukraine's future membership in the European Union (EU), the issue of the functioning of free and independent media is extremely important and relevant, and the presence of a number of negative aspects, weak components of the sphere of media cooperation prevents the Ukrainian media from working and producing high-quality content. I.O. Tarnavska (2019) reviewed the results of European media research on the evolution of understanding the essence and ideological message of Ukrainian media through the analysis of publications in local media.

The influence and importance of mass communication for developing countries is difficult to overestimate, because the establishment of a democratic system in the state, along with the legal development of the country, both for the political and socio-economic sphere, is inextricably linked with the media sphere, its free and independent position. According to A. Jaguessar (2022), in addition to the functions of observation, correlation, cultural transmission, as well as entertainment and cognitive, one of the most important for every country is the function of encouraging development within the state by presenting the desired content. L.-V. Szabo (2021) argued that by using the possibilities of synergistically combining classical print media with the latest electronic media, it is possible to accelerate the technological revolution in the state, where the main driving forces and tools of influence and monitoring will be the mass media.

Materials and methods

The main scientific methods that were used in the process of preparing a scientific paper were system and analytical, historical and statistical, and predictive method. Using the system and analytical method, the features, historical differences and situational circumstances of the emergence and development of such a concept as mass media, as well as their basic elements – printed materials, electronic media – were determined. Using the historical method, the key characteristics and specific features of the evolution of the media sphere in Ukraine in the period from the declaration of independence of the state to the present were selected and summarised; subtleties and approaches to understanding the content and content of the direction in modern realities were analysed in the context of different periods of the country's historical development. Statistical and predictive methods were used to present quantitative and qualitative indicators in the media environment; the results of sociological research and quantitative assessment of the scale of the media market in Ukraine were presented to determine the prospects and problems of this sector in the context of the state's future accession to the EU. Based on the results obtained, generalised practical recommendations for Ukraine in the context of democratisation of processes in the media sphere for the future qualitative renewal of all branches of state development are provided.

A wide range of various scientific materials were used in the preparation of this paper, the main focus of which was on the investigation of the functioning of media resources in Ukraine and the world, their impact on the processes of state creation, and the determination of the main trends, threats, and scenarios for the development in the near future. This study included:

- analytical and methodological reviews (Ukrainian media, attitude…, 2022);
- critical publications (Haque, 2020);
- research papers (Matviienkiv, 2022; De-Lima-Santos & Ceron, 2021);
- statistical reviews (Kemp, 2022; A guide to the Ukrainian…, 2022).

For a more complete investigation of the presented topic to obtain broader and more diverse results, as well as to present generalised trends and predict likely prospects and threats to the sphere, a number of laws and regulations were selected, analysed, and used in the course of research. For example, the Constitution of Ukraine (1996) is a document that for the first time regulates relations in the field of information and communication technologies, establishes a legal regime for interaction and cooperation at the level of partnership relations, respect, and trust. In addition, the Law of Ukraine "On Media" (2022) regarding the right to search, receive, distribute, and use diverse information in the media space of modern Ukraine in order to distribute information materials as widely as possible within the state and abroad.

Results

According to generally accepted interpretations, media are means of communication or tools used to store, transmit, and deliver information or data from one object to another (Paul & Rai, 2021; Metzgar *et al.*, 2011). Throughout the entire period of existence of this phenomenon, the essence and content of the concept were transformed, but the idea remained unchanged: communicating information in the most convenient and profitable way (David & Sommerlad, 2020). The Law of Ukraine "On Media" (2022) interprets the concept of media as a means of distributing mass information in any form, which is periodically or regularly published under editorial control and a permanent title as an individualising feature.

In the modern world, all information that circulates in the environment is rapidly distributed in society using tools such as printed media (newspapers, magazines, books), electronic resources (web portals, social networks), television, radio, movies. All of the above tools are mass media (Tafazzoli & Bayat, 2015; Schranz *et al.*, 2018). These media resources greatly facilitate the life of a modern person, making it information-filled and self-sufficient. However, throughout the history of the emergence and development of information resources, they have been used not only as a way to reduce the time of transmission of certain data, but also for manipulation in favour of certain interested parties (Kapoor *et al.*, 2018).

The development of such a phenomenon as the conscious transmission of information occurred at the beginning of the period of establishment of the first proto-state entities. With the advent of writing, when alphabets began to appear (for example, frescoes on the walls of temples in the Nile Valley in Egypt, dated 3000 BC), the process of information influence on a person using the visual (later – printed) method began to gain momentum; each local ruler had a separate person with them, whose main task was to write the life of their helmsman (while often embellishing real events, attributing non-existent virtues and qualities) (Zeeshan, 2017). Thus, a primary resource was created, with the help of which it became possible to develop the correct image of the ruling dynasties, thus manipulating the moods and preferences of the local population.

The basic tool of information influence was the book: the first printed copy appeared in the 9th century in China, while in Europe the ability to print appeared in the middle

of the 15th century – after the invention of the printing press (Morgner, 2017). Newspapers became the next most powerful tool for transmitting information after the book. Due to the ease (compared to books) of the production method, newspapers and magazines quickly became a means of influencing social sentiment. The first printed newspaper was published at the end of the 17th century in the United States of America (Conboy and Steel, 2008). In the 18th-19th century, the telegraph was a popular means of communication (in 1844, the first telegraph line was laid), and later – the telephone, invented in 1876. The end of the 19th – beginning of the 20th century was a turning point in the history of media: in 1885, photographic film was invented, and in 1899, the first photograph was presented (Aithal, 2016). However, photography was not able to gain a long-lasting foothold among information resources, as television and radio emerged in the 20th century and are still sources of entertainment and news for almost the entire world's population. However, since the end of the 20th century, they have to compete with the latest mass media – the Internet, the idea of which originated in the United States in the 1090s (Table 1).

Table 1. Use of media in the context of news perception (global scale), %

	Online channels	TV	Social media	Press	Radio
Women	82	61	59	21	24
Men	82	61	54	26	29
Total	82	61	57	23	26

Note: the online survey was conducted using a number of online platforms (for example, YouTube)
Source: compiled by the authors based on S. Kemp (2022); Ukrainian media, attitude and trust in 2022 (2022)

Nowadays, the Internet is the most convenient and popular media resource in the world, with the help of which almost all global events and phenomena are covered. Ukrainian society faced many stressful situations after the collapse of the Soviet Union: dynamic changes, stunning transformations, and rapid transitions from one form of reflection of a particular phenomenon to another affected almost all spheres of life of the population and the state (Kovalevsly, 2009). The industry of media resources, whose modern history begins with the declaration of independence of the Ukrainian state in 1991, is no exception.

According to Article 34 of the Constitution of Ukraine (1996), everyone is guaranteed the right to freedom of thought and speech, to freedom of expression of their views and beliefs; everyone has the right to freely collect, store, use and disseminate information orally, in writing or in any other way of their choice. Due to these provisions and a number of other factors (economic and social reforms, legal reservations), Ukrainian media resources mostly function freely in the context of their activities (however, situations related to harassment of the media and free press in Ukraine are quite common) (Fengler *et al.*, 2018).

The legal framework in the field of media activity is considered one of the most advanced in Eastern Europe (Garanja, 2022). Despite the fact that the implementation of the points of some legislative documents is accompanied by significant violations and non-compliance with the conditions, the legal framework covers almost all segments of media work. The basic documents include, in particular: Law of Ukraine No. 48 "On Information" (1992), Law of Ukraine "On Electronic Communications" (2020), Law of Ukraine "On Media" (2022), Law of Ukraine No. 50 "On State Media Support, Guarantees of Professional Activity and Social Protection of Journalists" (1997). The above-mentioned documents regulate the media sphere, in particular, guarantee the independence of the media regulator, introduce additional mechanisms for protecting the national information space, improve the application of sanctions, define the principles of functioning of online media and introduce a definition of the concept of "media literacy" at the legislative level (Media legislation in the…, 2023).

The declaration of independence of Ukraine contributed to the entry of traditional media to a qualitatively new level: with the adoption of Law of Ukraine No. 10 "On Television and Radio Broadcasting" (1993), which proclaimed the creation of national television and the Supervisory Board for radio broadcasting, dramatically increased the number of new national media resources. This was a positive development, which, however, marked the emergence of a close relationship between business circles and political figures who used information resources to their advantage. The peak of media dependence on players in the political arena occurred during the presidency of L. Kuchma (1994-2005), when the influence on the media was uncontrolled and due to systemic censorship, the quality of content fell for a long time (Ryabichev & Ryabicheva, 2016).

During the presidency of V. Yushchenko (2005-2010), attempts were made to stabilise the situation in the media environment through European-style reforms (the Orange Revolution of 2004 created an impetus for positive changes in the sector, in particular, censorship was abolished and the list of journalists' rights and freedoms was expanded), but with the coming to power of V. Yanukovych (2010-2014), the situation deteriorated again (Dyczok, 2015; Školkay, 2020). Mass media were used as a means of propaganda and a tool for controlling public opinion in order to maintain political ratings. In the election campaigns of that period, the number of commissioned information materials was significant: according to the Institute of democracy, in the period 2014-2015, the number of paid publications accounted for more than 70% of the total amount of material (Kovalevsky, 2009). Moreover, there were persecutions of opposition media (Ukrayinska Pravda, Zerkalo Nedeli); as a response to such actions of the authorities, the "Stop Censorship" association was created in the journalistic environment, the main task of which was to promote the growth of the number of independent media resources (Ogienko, 2020).

In the early 2020s, the vast majority of media players were controlled by government and business representatives, who determined the format of presentation and the course of information flows in society from a position that was beneficial exclusively for their circle (Jaguessar, 2022).

However, even then there was an increase in the number of media resources and online publications, as well as the conduct of independent journalistic investigations. This has become an indicator of improving the quality of media activities by democratising relations between all participants in the area. With the beginning of a full-scale invasion of Ukraine in February 2022, the situation began to change dramatically (Matviienkiv, 2022). Due to the stressful situation and general shock in society, there was a demand for obtaining a fundamentally different type of information, in particular, data on the course of hostilities in the state, the state of the armed forces. Old scenarios and forms of manipulating citizens' minds have faded into the background, putting actually important events and transparent facts at the forefront. Entertainment content (talk shows, concerts, popular programmes on television and on the Internet) has practically disappeared from the media environment; instead, some social messengers (in particular, Telegram) have gained demand, which quickly, in real-time covered the most relevant events in Ukraine and the world (Alberti & De Serio, 2020). It is worth noting that the Internet media (web portals, social networks) compete on equal terms with traditional media (newspapers, television) in covering current news and informing society about important events (Fig. 1).

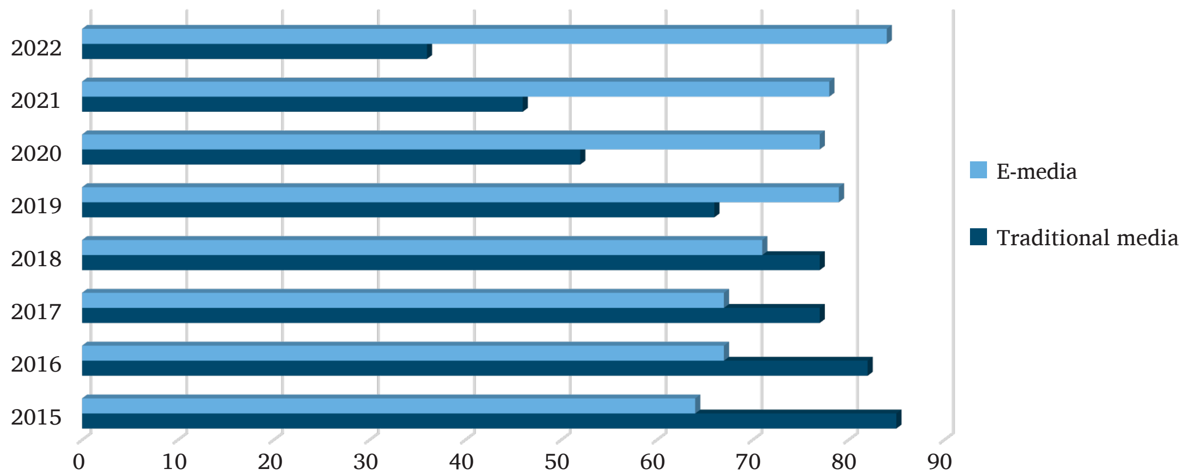

Figure 1. Use of media for receiving news in Ukraine for the period 2015-2022, %
Source: compiled by the authors based on Ukrainian media, attitude and trust in 2022 (2022); U. Bakan and T. Han (2019)

Very quickly, such drastic transformations became uncontrolled, and the situation began to require increased monitoring by the authorities. First of all, it was necessary to clearly form the regulatory framework of the area, giving specific definitions of terms and concepts in the field, and outlining the rights, obligations and reservations for all participants in the media industry in Ukraine. Thus, according to the Law of Ukraine "On Media" (2022) (the adoption of this document is an important element in the beginning of official negotiations on Ukraine's accession to the EU), the sphere of media activity should be significantly democratised in accordance with the norms adopted in the EU.

This law is the first since the beginning of the 1990s. A thorough review of the situation in the media sphere of Ukraine, a serious attempt to update existing schemes in the industry. Its main goal was to transform the role of the state – from a passive observer to an active partner (Gulatkan, 2023). The revision of the principles of fines and penalties, as well as the transition to electronic document management, are also among the priorities of the above-mentioned document. The draft law had several versions that differed significantly from each other. However, the latter option turned out to be the most optimal, because a number of innovative solutions and fundamental measures were announced. In particular, among them are the following:

1. Changing the essence of the concept of media and its components. Departure from the Soviet interpretation ("means" and "service") to the European one ("tool" and "form"), as well as differentiation of the terms "subject" (organisation, person) and "media" (TV channel, website) (Article 1 of the Law of Ukraine "On Media" (2022)).

2. Settlement of the issue of licensing and permits for the right to register and exit. From now on, for legal activities in the legal field, a license is necessary for all representatives of radio and television without exception. In other situations, registration will be required, for example, for entities with custom activities (with the exception of online media) (Article 9).

3. The first steps to regulating the activities of bloggers at the legislative level. This task requires the development of separate acts and regulations, in particular, specifically regarding the author's content of this type. Currently, the Law defines its responsibility over subjects in audiovisual, print, online media (Article 13).

4. Creation of a system of joint regulation of activities in the sector – to replace state control. It is planned to launch a "hybrid" dual monitoring structure in the form of "state-subjects of media activity", the basic function of which should be the development of criteria, mechanisms and methods for the functioning of all elements in the field of media (Article 89).

5. The transition to a "reasonable" system of fines is the division of liability in the industry. In particular, the concept of an order is introduced – a mechanism for warning a subject against repeated violation of existing norms and laws. A separate number of orders are planned for each category (Article 100), after which a fine is already received (Article 99) (the amounts differ depending on the level and degree of violations).

6. Increasing the powers of the National Council, in particular, in the field of monitoring the activities of subjects of relations, as well as licensing and granting permits. In

addition, the council may independently sue if such a need arises (Section VI).

7. Algorithmization of media content. The law does not explicitly specify this area, however, analysing the above innovations, it can be assumed that the ultimate goal is precisely the introduction of digital mechanisms for managing public information processes. The launch of algorithms for functioning in the media environment (using various digital platforms, messenger applications, and social networks) contributes to strengthening trends in meeting the individual needs of individual consumers, rather than activity for a wide range of citizens (Gentzkow, 2018).

An important issue of regulating the activities of world media is the problems of artificial intelligence and its capabilities for the field of information technology (Henry, 2019). This aspect is also relevant for Ukraine, because now, in the conditions of war, when the volume of information submitted in one day exceeds the figures for a week, it is extremely difficult to make high-quality materials about events and phenomena. Computerised systems and applications come to the rescue. For example, ChatGPT is an artificial intelligence-based chatbot that was introduced to the general public for free use in February 2023 (Haleem *et al.*, 2023). Immediately, the chatbot became an indispensable participant in the creative process in the media environment. Thus, it wrote a lengthy article about art, and then a release was presented in which the music, text, and graphic design were generated by ChatGPT (Krzynja, 2023). In these situations, fair and logical questions arise: who owns the copyright? How to regulate relationships in the context of artificial intelligence in the field of media? For example, recently Germany was stirred up by a scandal: the family of the famous racer M. Schumacher was accused by a local magazine of PR in his name (journalists printed an interview with him, the material for which was completely generated by artificial intelligence, and a note about this fact was placed in small print, which is why the vast majority of readers took the publication for the truth) (Voronich, 2023).

Ukraine has not yet begun to deal with this issue from the standpoint of the legal aspect, although the demand for this problem is quite significant: articles written by the same ChatGPT can compete in quality with publications prepared by real researchers (Haleem *et al.*, 2023). And in some cases, even surpass such works. This is an alarming sign for the scientific activity of not only Ukrainian, but also international specialists, who are already emphasising a significant restriction on the use of such chatbots and intelligent systems in the professional sphere.

Back in 2014, in the light of the military operations in Ukraine, which led, among other things, to mass migration of the population both within the state and abroad, the question arose of the correctness of media coverage of these events (Fengler *et al.*, 2018). Thus, at the beginning of 2023, a situation became public when an image of a child generated by a computer based on artificial intelligence was used to illustrate material about internally displaced persons and victims of military operations, in particular, during the shelling of a residential building in Dnipro (Melnik, 2023). There was immediately outrage in society: the aggressor constantly accuses Ukraine of fake tragedies during military operations, and this illustration can also be used to the detriment of the state. The photo was subsequently deleted. Currently, there are no clear tools and methods for the legal regulation of the mechanism for covering the tragedy of victims of Russian aggression; at the legislative level, monitoring of such activities is limited only to the ban on publishing photos with sensitive content.

However, individual acts and selected sections of some documents contain explanatory and updated information. In particular, the Law of Ukraine No. 48 “On Information” (1992) states that data on emergencies, military operations, and other events that threaten human life and security cannot be classified as restricted information. On the contrary, such information should be disseminated in all possible ways (first of all, in the media) in order to organise an early evacuation from high-risk areas. The main purpose of the media is to inform the population about possible threats to their lives; therefore, an Information Centre (press centre) is created to provide up-to-date data for prompt coverage of relevant events directly in the war zone or disasters.

At the same time, the Constitution of Ukraine states that the process of providing information may be restricted by law in the interests of national security, territorial integrity or public order in order to prevent riots or crimes, to protect public health (Constitution of Ukraine, 1996). In particular, it is prohibited to distribute in the media data on geolocations of enemy strikes, the exact location of evacuees, and disclose personal data of internally displaced persons from the disaster or combat zone. Unfortunately, due to the ongoing Russian-Ukrainian war, many representatives of Ukrainian and international media are directly in the war zone, and in the process of covering events in stories, unconscious disclosure of secret information (geolocation, evacuation routes) often occurs. However, it is extremely rare for these actions to bring the perpetrators to criminal responsibility.

Analysing the current state of the Ukrainian media, which are now functioning in conditions of war and a decline in interest in entertainment news, it can be summarised that the main features of this area. Like the world media, Ukrainian media follow general global development trends, such as regional division (increasing the role and influence of local media), the spread of monopoly (reducing the number of owners of media resources), the aspect of commercialisation and monetisation (making a profit as the main task of media activity), mass digitalisation (maximum transition of media resources to online format). Among the characteristic features of Ukrainian media as of 2022, the following can be distinguished (A guide to the Ukrainian…, 2022):

- electronic media (social networks, websites) have become the main source of news, but the dynamics of radio and television use is declining;
- the role of local and regional media is growing;
- social networks shape the public’s perception of current news, create a system for exchanging information;
- share of Ukrainian-language content in the media is growing;
- level of media literacy and the ability to recognise disinformation among Ukrainians continues to grow;
- confidence in the Russian media continues to fall.

Based on the conducted research and the analysis of the data obtained, the following solutions can be offered to the most acute issues of the sphere that are at the stage of solving:

1. For regulatory and legal regulation (Verkhovna Rada of Ukraine). The focus of lawmakers should be on

clarifying the mechanism for monitoring the implementation of reforms in the media sector, and on evaluating the activities of all players in this sector in Ukraine.

2. For state financing (Ministry of Economy of Ukraine). Appropriate support through grants will help accelerate the transition of Ukrainian media to the development of high-quality Ukrainian-language content. The process should be combined with an appropriate system of prescriptions and fines.

3. For the development of local and regional media (representatives of regional and regional authorities). Creating a high-quality product with local information resources is a sign of the democratic development of freedom of speech in the state.

4. To improve the level of media literacy (Ministry of Culture and Information Policy of Ukraine). In order to eradicate disinformation in Ukrainian society and develop skills to recognise manipulative actions in the submitted content, it is necessary to raise awareness among the population and media representatives by participating in international educational events (trainings, conferences, round tables).

5. For the activities of European and international media on the territory of Ukraine (Ministry of Foreign Affairs of Ukraine, Verkhovna Rada of Ukraine). Creating a favourable environment for comfortable activities of media representatives in other countries by improving the regulatory framework of the sphere.

6. To improve the international image of Ukraine in the international arena (Ministry of Foreign Affairs of Ukraine, other relevant bodies). Conducting journalistic investigations into corruption, local abuses, exposing fraudulent schemes and other criminal actions should demonstrate to the international community the independence and independence of the Ukrainian media. This will create favourable conditions for the media to continue their activities on the territory of Ukraine.

Discussion

Investigating the establishment and development of the media sphere in Ukraine, in particular, in the context of social communication and legal aspects of interaction in this area, as well as considering various stages of historical development of the area in order to form practical recommendations for improving the results of the work of Ukrainian mass media at the present stage, the following can be stated: the problem of the role and place of Ukrainian media at the present stage of the historical development of the state is quite widely studied and relevant. Thus, the most thorough results and conclusions were obtained by specialists and experts from Great Britain, Germany, in particular, regarding the history of the origin of such a process as the purposeful transfer of information from one subject to another. The contribution of Ukrainian media market scientists facilitated the enrichment of the theoretical and practical components of the issue of specifics and characteristic features of the development of this sphere in the information space, including in the context of military aggression against Ukraine. An important result of the research of Ukrainian and international experts was the comparison of traditional mass media with modern tools – artificial intelligence, chatbots – the main feature of which is the absence of the need to use a human resource to search for and prepare relevant content of high quality and correct content.

In this paper, it was emphasised that the concept of mass media has several interpretations; on the basis of the conducted research, it was found that they are distinguished by various features of the historical development of the industry in certain states, as well as the specifics of the influence on them by the official authorities. This conclusion continues the opinion of G.M.M. Haque (2020), which, as an explanation of the content of the term "Media" proposed to use such words as: means, method, form, channel, organ, tool, mechanism; the author suggested that this phenomenon is quite controversial for an unambiguous definition of the essence and content because it covers a huge number of consumers of the final product, includes many ways of transmitting content, spliced to different audiences, combines completely different goals, methods, cultural context.

The phenomenon of internet media, in particular, online platforms, interactive platforms, social networks, and other electronic information tools, as the main tool of social communication today, was considered in the presented study as a basic source of obtaining the necessary content. Scientific results of K.K. Kappor *et al.* (2018) were reduced to a similar stance on internet platforms and news web portals, noting that given the growing relevance of social networks to various interested consumers, they attracted considerable attention from both users of their product and researchers from various fields, in particular, from the field of information and communication technologies.

The determining influence of mass media on the development of public opinion, the processes of managing social moods and the focus on the political preferences of citizens in the right way were analysed in the presented paper as the defining role of media in society. Media activities among the intellectual elite, scientists, artists, and representatives of other related specialities that contribute to creating the right opinion on a particular issue in society were also considered by M. Shi (2019), who assessed the interaction and influence of the media and representatives of the cultural intelligentsia on the overall situation in the state and at the global level. The expert believed that in certain situations, the support of reputable representatives of civil society played an extremely important role in certain political, economic, social, and other types of interaction.

In developed countries, mass media are not only a source of information, but also a tool for building a legal democratic society; situations of using media as a promotion mechanism for "positive" propaganda were described in the context of various historical periods, which was analysed in this publication. Conclusions of A. Jaguessar (2022) contain a similar opinion; seeing media as a process of collecting, sending, and receiving information in society, and tools for them – mass media, the author highlighted their defining function – active promotion of further development of the state, based on the principles of freedom of speech, action, thoughts.

In recent years, traditional mass media have suffered greatly due to the rapid growth in the popularity of new types of media – social networks, online platforms, web platforms; this conclusion was voiced in the presented study, based on the results of statistical studies and analysing the activity of the main information channels in the state. The study by M.-F. De-Lima-Santos and W. Ceron (2021) also confirms the view that the third millennium is a time of

decline in print media, which has been replaced by high-tech electronic media based on artificial intelligence technologies and aimed at very specific categories of citizens. At the same time, experts defended the opposite opinion that in the medium term, such media can completely replace traditional means that function due to human intervention; artificial intelligence, high-precision technological solutions, automation and robotisation of processes, along with mass applications of the necessary logical algorithms, will become the basic factors of media work around the world in the future.

In the modern world, social networks play a huge role in people's lives, they have a decisive influence on processes on a global scale; this is the result that confirms the opinion of A. Alberti and L. De Serio (2020), was presented in this paper. The expert analysed the importance of online platforms for sharing news, opinions, and other information in the context of unpredictable changes in the world, in particular, based on military operations in Ukraine, noting that the influence of social networks, in particular Telegram, is difficult to overestimate and the further consequences of such influence are extremely problematic to predict. In contrast to the presented conclusions, the researcher points out that after the completion of the active phase of any intense events (military operations, mass protests), the popularity of social media will rapidly fall due to the lack of relevant content and low demand in society for this type of information.

Thus, having analysed the available scientific literature, the key attention in which was focused on understanding the essence and content of mass media as a phenomenon in the world and Ukraine, as well as providing effective options for the harmonious development of the industry in the conditions of dynamic transformation of established forms and structures of world development, it can be concluded that the trends of development in the media sphere will maintain their pace in the near future. Having analysed the features and characteristics of the information technology industry in Ukraine, which were actively developed from the beginning of the state's independence, it is worth noting that the process was distinguished by different dynamics, ideological orientation, and quality of the content offered in different historical periods of the state's development. However, at the same time, along with dependent state-owned mass media, free media actively operated, whose main task was to convey the truth about the real state of affairs in the country, in particular, coverage of corruption schemes, criminal confrontations. However, considering Ukraine's European integration aspirations, the general situation on the continent and in the world, and analysing the current legislation on regulating relations in the sphere, in the near future Ukrainian media will act on a more democratic basis, based on European law and standards of relations in the field of media activity and presentation of high-quality content.

Conclusions

In the course of research on the main trends in the development of the media sphere in Ukraine, the features of the process of establishment and transformation of this area at different stages of the historical development of the state were considered, and the activities of media subjects in the context of social communication and legal interaction were analysed. It was found that over the years of independence, Ukrainian media have come a long way – from existence in the form of post-Soviet information propaganda tools and means of preserving political ratings to effective elements of the global information market. The study showed that in recent years, the state has increased its activities aimed at defining basic concepts and terms in the field of mass media, in particular, in the field of regulatory and legislative fields. Analysing statistical data and indicators in the media area during the time when various presidents were in power, it was found that, depending on the presence of certain political forces at the head of state, the information vector of media resources changed; during the full-scale invasion of the territory of Ukraine, the situation changed dramatically – almost all representatives of the industry work in a single format without providing obvious advantages to certain political forces. In order to more successfully implement the already adopted proposals and rules specified in the latest regulatory document in the field of media, and to implement further plans within the framework of Ukraine's future membership in the European Union, responsible representatives should cooperate more fruitfully with international partners in the field in order to exchange experience and acquire useful and practical skills to fulfil their tasks.

The originality of the study is determined by the trends and specifics of the development of the activities of national mass media in Ukraine by analysing and characterising the specific features of the industry through the prism of social communication and legal cooperation. For a more meaningful discussion of the presented topic, namely, the definition of the practical content of the activities of Ukrainian media in the context of social communication and legal cooperation at the present stage, and for the development of a wider range of practical recommendations for improving activities and bringing all aspects to the standards of the European Union, it is appropriate to investigate the specifics of the activities of the media sphere in Ukraine in the context of the post-war restoration of the state through the prism of membership in international security organisations in the context of the emergence of a new geopolitical situation in the world.

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Тенденції розвитку медіа в Україні: соціальні комунікації та правові аспекти

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Анотація. Глобалізація та розвиток нових тенденцій призводять до появи інноваційних інструментів впливу на громадськість, одним з яких сьогодні є засоби масової інформації. ЗМІ є важливим елементом взаємодії влади та суспільства в контексті формування необхідної думки про події та явища, що відбуваються в певний історичний період. Метою дослідження є вивчення особливостей та специфіки функціонування засобів масової інформації в Україні шляхом аналізу соціальних комунікацій та правових аспектів діяльності ЗМІ в історичному контексті. Основним методом дослідження став системно-аналітичний метод, за допомогою якого розглянуто ключові характеристики та основні ознаки динаміки становлення і розвитку українських ЗМІ, окреслено специфіку процесу впливу ЗМІ на громадську думку в Україні, а також представлено перспективи розвитку напряму. Проаналізовано сутність і зміст поняття масмедіа, історію його виникнення та загальні світові тенденції розвитку напряму. Виявлено характерні особливості трансформації медіасфери в незалежній Україні, узагальнено основні риси та тенденції розвитку основних видів ЗМІ. Досліджено рівень та інтенсивність впливу окремих медіаінструментів на громадську думку в Україні. На основі отриманих результатів окреслено перспективи еволюції масмедіа в Україні в майбутньому; перелічено основні загрози та виклики подальшого розвитку в умовах трансформації соціально-комунікаційної сфери суспільного розвитку. Результати та висновки цього дослідження можуть бути використані як основа для подальших наукових розвідок за представленою тематикою, зокрема за спеціальностями «Соціологія», «Економіка», «Право», а також під час розробки та імплементації нормативно-правової бази у сфері регулювання діяльності засобів масової інформації в соціокультурному житті держави

Ключові слова: глобалізація; нормативно-правова база; засоби масової інформації; адміністративно-правове регулювання; соціокультурне життя

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The influence of social communications on the formation of public opinion of citizens during the war

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Abstract. With the development of information technology and the spread of social networks, communication has become more accessible and faster, and therefore, social communications are becoming an increasingly relevant and important issue for modern society. The research aims to study the current state of social communications in Ukrainian and global society, considering their transformation and identifying development trends. The research was conducted using the methods of analysis, systematisation, deduction, generalisation, and surveying. The research provides knowledge on the current state of social communications in Ukrainian and global society. Various aspects of communication processes, their transformation and development trends were studied and analysed, which allowed to understand their role and impact on modern society. The study revealed the peculiarities of social communications in different contexts, such as war, revolution, and pandemic. Particular attention was paid to the impact of social media platforms, such as Facebook, Twitter, Instagram, LinkedIn, and TikTok, on the formation of public opinion, cultural stereotypes, and types of users on social media. The study was conducted to investigate the social communications of Ukrainians, including their activity on social media. The study helped to establish how social communications affect the interaction of various social groups and institutions, including political processes, civic engagement, and youth culture, as well as trends in social communications. The results of the study of social communications can be used by researchers

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to expand knowledge in the field of communications, develop new theories and approaches, and understand modern communication processes in society

Keywords: interaction; virtualisation; globalisation; society; information space

Introduction

The study of social communication is of great importance for the development of society, improving the efficiency of communication processes and solving social problems. Relevant knowledge will help to create more balanced and inclusive communication activities, promoting cultural diversity and positive impact on society. The scope of this study is to examine the current state of communication tools, technologies, networks, and platforms that allow communication and information exchange in society, as well as their changes under the influence of technological progress, cultural aspects, and other factors.

This issue was studied by Ukrainian researcher I. Levchenko (2022), is convinced that social communication plays an important role in the modern information and communication space. The scientist notes the importance of social communication as the main mechanism of interaction and communication between people, social groups, and institutions. The researcher emphasises that this type of communication allows for the effective exchange of information, and transfer of knowledge, ideas, and emotions, creating a favourable environment for mutual understanding and cooperation. The author also focuses on the impact of social communication on the formation of public opinion, stereotypes, values, and cultural norms. The researcher considers social communication to be a powerful tool for influencing society and stimulating change and development. The study of social communication is an important task for understanding the modern information space and its impact on the lives of people and society as a whole, so it is worthwhile to study social communication issues more thoroughly to create more effective communication strategies and support positive changes in society.

D. Miller (2012) notes that social communications in the modern world are developing and transforming under the influence of digital technologies and social media, which is becoming an increasingly important aspect of cultural and social life. According to the researcher, social media and other online platforms have made communication more accessible, fast, and global, as people can easily communicate, exchange information, and share their opinions and experiences regardless of geographic location. The scientist is convinced that social media are becoming a platform for shaping public opinion and stimulating discussions on important topics and issues in society. It is necessary to study this issue in more detail to preserve the positive impact of social communication on life and communication.

H. Suprun (2020) claims that with the emergence and spread of digital technologies and social media, the mechanisms of forming and expressing an individual's identity have changed significantly. In particular, according to the scientist, the use of digital platforms has intensified communication, allowing people to create and maintain virtual images of themselves. According to the researcher, social communications in the digital era affect an individual's identity by providing them with the ability to create and reproduce their images in the online environment, which can lead to increased self-awareness and support for self-identity but can also pose certain challenges and threats. It is necessary to explore this topic in more detail to gain a deeper understanding of the importance of social media in the modern world.

A. Almaatouq *et al.* (2020) state that social communications influence the development of intellectual processes in group situations, contributing to the development of the "wisdom of crowds" through adaptive communication networks. Scientists have found that the adaptability of social networks, i.e., their ability to change and restructure depending on the context, increases the effectiveness of group decisions and ensures more accurate decision-making compared to traditional static networks. According to the researchers, the use of adaptive networks in communication allows the group to find solutions more easily by exchanging information and comparing different views, this approach ensures an optimal flow of information and promotes a broader consideration of the opinions of different participants, which contributes to the quality of decisions made. The role of social communication in social interaction processes should be studied more closely.

O. Melnikova-Kurhanova (2022) focused on the impact of social communications during the war in Ukraine, in particular, during the blockade of Mariupol, where social communications became particularly important and played a critical role in maintaining contact and informing the local population. The scholar focuses on the peculiarities of social communications during the military conflict when communication outside and inside the city was limited. The researcher notes the importance of alternative means of communication, such as mobile phones, social networks, radio, and other means that help to keep in touch with the world and receive the necessary information. More research is needed on social communication in difficult circumstances to understand its importance in keeping the community connected and acting together during dangerous and challenging times.

The research aims to study modern social communications in the Ukrainian and global contexts, as well as to analyse their transformation and identify development trends.

Materials and methods

The research employed the methods of analysis, generalisation, systematisation, and deduction to study the issue of social communications. The study also included a survey of social media users. These methods were used to collect and process vast amounts of information about the current state of social communications and their transformation. This comprehensive approach to the study allowed for an in-depth analysis of social communications, their transformations and development trends. The use of various methods was used to obtain objective and balanced conclusions that serve as a basis for further research and development of the social communications sector.

The analysis method used in the research was used to analyse the complex interrelationships and processes taking place in the field of social communications. This method was used to examine individual aspects and study their interaction with the whole society. The analytical method allowed

to thoroughly study the concept of "social communication", as well as to explore its various aspects and identify the key elements that make up social communication. The analytical method helped to understand how social actors interact, what means and methods of communication are used, and what goals and objectives social communication faces. In addition, the analytical method allowed to study in detail the impact of social media on social communication, in particular, how social media affects the dissemination of information, and the influence of certain opinions and cultural stereotypes.

The systematisation method was used to organise the information received into a clear and logical structure, identify the main topics and areas of research, and study the approaches and concepts of other researchers. This method was used to reveal the main aspects of communication processes and identify the main trends in their development. The information obtained through the use of the systematisation method became the basis for research and analysis of social communications in different contexts. The deduction method was used to move from general ideas about social communications to specific conclusions and identify the peculiarities of their functioning. This method was used to consider cause-and-effect relationships and study phenomena at a deeper level. The deduction method in the study of social communications in Ukrainian society was used to reveal several important conclusions about their changes and development over the past twenty years. Based on this method, trends and features of social communications were identified that reflect the significant impact of active and complex events on the social context of Ukraine, including revolutions, COVID-19, and war.

The generalisation method was used in this study to summarise the results and formulate general conclusions about the current state of social communications and their development trends in Ukraine and the world. The generalisation of the collected data was used to identify the main trends and directions of social communications development, which can be useful for further research and development of communication strategies in various spheres of life.

The study also included a survey of Ukrainians on various aspects of social media communications. The survey was conducted in Kyiv on 07.08.2023. The study involved 100 respondents from different regions of Ukraine. Among them were 52 women and 48 men. 25 people refused to participate in the survey. The age of the respondents who took part in the survey was as follows: 18-25 years old: 30%, 26-35 years old: 40%, 36-45 years old: 20%, 46-55 years old: 8%, 56 and older: 2%. As for the region of residence, the majority of respondents were residents of the capital (65), and 35 participants were internally displaced from the regions where active hostilities were taking place. The respondents answered questions that included "Yes", "No" and "Undecided". All participants were anonymous, which allowed for honest and open answers to the questions. In general, the use of the aforesaid research methods was used to gain a deep and comprehensive understanding of the current state of social communications, their transformation and development trends.

Results

Modern information and communication technologies (ICTs) have great potential for achieving the Sustainable Development Goals at the international level, as they can facilitate access to information, and effective interaction and contribute to the development of various spheres of society. The use of ICTs increases the efficiency of infrastructure, healthcare, education, and governance. Widespread access to the Internet and mobile technologies improves communication between people and organisations, increases access to knowledge and information, and facilitates participation in global initiatives (Wu *et al.*, 2018).

Modern ICTs are related to social communications and have a significant impact on the interaction and the way people communicate, namely:

1. Provide access to information sources, including through the Internet and social media, which allows them to study news, articles, research, and other resources to broaden their horizons.

2. Enable communication and interaction between people, including through social media and messengers. ICT-enabled communications facilitate real-time communication.

3. Social networks, including Facebook, Instagram, and many other platforms, are now effective tools for establishing social connections, as they allow users from all over the world to exchange information.

4. ICTs provide an opportunity to create public debate and discussion through social media and forums where important and relevant topics are discussed.

5. Information and communication technologies contribute to influencing the formation of public opinion, as they affect public perceptions related to various aspects of life, events and ideas.

ICTs are a significant factor in the development and change of social communications, helping to bring people together, expand access to information and influence public opinion. The term "social communication" is currently subject to various interpretations and interpretations. The definition of social communication includes the exchange of messages between people and other social actors through signified messages that include information, knowledge, ideas, emotions, and other aspects that are conditioned by social assessments, specific situations, communication spheres and communication norms that exist in a given society. In particular, the concept of "social communication" can be understood as the transfer of information, ideas, and emotions in the form of signs and symbols; a process that connects parts of the social system; a mechanism that allows you to determine the behaviour of another person (Kholod, 2013). Different interpretations of the term "social communications" reflect different scientific realities, which leads to semantic confusion among young scientists, as well as among those who seek to deal with this terminological "confusion". The lack of a common understanding and definition of the term creates an urgent problem that needs to be addressed.

Social communications can be viewed as a system of interaction in society that includes various ways and means of ensuring contact. These communications aim to develop, organise and improve relationships between different social institutions. The participants in such communications are both organised communities and social and communication institutions and services. These social communications are characterised by the fact that they take place between socially defined groups of people. They include interaction based on the laws of communication, as well as the use of scientific knowledge about communication and technologies used to organise social communication affairs. Social communication is an important tool for the development of society, as it

helps to strengthen ties between different social institutions and promotes mutual understanding between different social groups. Social communications allow for the effective exchange of information, ideas, and knowledge, which facilitates the perception of different points of view and promotes dialogue and cooperation (Rizun, 2012).

Social media are key tools for communication and information exchange in the modern world, as their impact on society and culture is hard to overestimate. Among several aspects of social communications, considerable attention is paid to their role in creating global networked communities, influencing political processes, shaping public opinion, and encouraging civic participation. In addition, the impact of social media on youth culture and their role in creating fashion trends and stereotypes has been studied (Pocheptsov, 2012). Today, social communications, in particular those carried out on social media platforms, have significantly expanded their influence, and have become a necessary component of society. There is also an increasing role of social communications in the formation of social capital, as social communications allow users to maintain and expand social ties, and facilitate the exchange of information, experience, and interests, which affects the increase in the level of social support and contributes to the creation and increase of social interaction (Burke *et al.*, 2011).

In today's globalised world, media communications play an extremely important role in shaping public opinion and cultural stereotypes. In particular, social media platforms such as Facebook, Twitter, Instagram, LinkedIn, and TikTok have a significant impact on the perception and understanding of various aspects of life, news events and cultural phenomena. Social media platforms select content based on algorithms that analyse users and their previous interests, which can lead to the formation of information bubbles where users receive mainly content that confirms their views and may reinforce existing stereotypes. Modern social media allow the public to quickly receive information about global issues and social inequalities. They can support movements for women's rights, equality, and anti-discrimination, which can help change cultural stereotypes. They are also a mass communication medium that allows for active discussion and commentary on current events, which helps to shape public opinion on various issues and promote changes in public consciousness. On the other hand, social media can reinforce existing stereotypes and perpetuate negative perceptions of various social groups. By disseminating a large amount of content that supports such stereotypes, they can become entrenched in the minds of users. Social media can influence the formation of new cultural standards, especially among young people. They can influence fashion trends, lifestyles, and social norms, which shapes cultural stereotypes in society. Given the general virtualisation of communication, the huge number of social media users and their activity, the impact of these platforms on shaping public opinion and cultural stereotypes is becoming significant. Given this, it is important to focus on critical thinking and the ability to analyse information disseminated online to understand its impact on our perception of the world.

Over the past 20 years, social communications in Ukraine have undergone a significant transformation, especially in the context of active and complex events in the country, such as revolutions, quarantine, and war, which have significantly affected the country's social landscape. In the early 2000s, the role of modern communication technologies, such as the Internet, mobile applications, and social media, was significant in promoting social inclusion and ensuring equal opportunities for all segments of the population. New communication technologies created a connection between people regardless of their geographical location, social status, or physical limitations, which reduced barriers to interaction and provided access to information and opportunities for all users. Thus, communication technologies became a means of promoting social inclusion (Phipps, 2000). For the society of that time, it was important to ensure wide access to these technologies, in particular among the less well-off. At the same time, it was important to address the specifics of different user groups, such as people with disabilities, the elderly, low-income groups, and to develop inclusive technological solutions. New communication technologies have contributed to the maintenance and development of social networks, which continue to play an important role in building social connections and supporting communities, as they create opportunities for the exchange of thoughts, ideas, resources, and emotions, which contributes to social cohesion and mutual support.

In the early 2000s, the first social networks began to appear on the Ukrainian Internet space, such as "Мой Круг" (My Circle) (the Ukrainian version of Odnoklassniki) and VKontakte (the Ukrainian version of VK), which were popular among users at the time. For Ukrainians, the phase that gave a new impetus to social communications was the 2004 revolution, known as the Orange Revolution, which played an important role in transforming social communications in the country. This revolution, which took place after fraudulent elections, was a decisive moment in the country's history and marked the transition to a more democratic society. During the Orange Revolution, people actively used traditional communication channels such as the media, print, radio, and television, as well as communicated directly in rallies and protests. However, the revolution also marked the beginning of the active use of the Internet and social media as a means of mobilising and coordinating protesters. Social media has become an important tool for sharing information, communicating, and mobilising citizens. Activist groups used Facebook, Twitter, and other platforms to disseminate news, organise meetings and rallies, and attract more people to participate in the protests. The Ukrainian revolution of 2004 changed the dynamics of social communications in the country and demonstrated the powerful influence of the media and the Internet on the events of the revolution. The use of social media became a key element in the organisation and success of social mobilisation. These transformations in social communications set the stage for further events, including other revolutions, quarantine and war, and significantly changed the way society in Ukraine communicates and organises itself (Dyczok, 2005).

By the early 2010s, with the widespread availability of fast internet access, social media became even more popular among Ukrainians. In addition to VKontakte and My Circle, other platforms such as Facebook, Twitter, Instagram, and YouTube emerged and quickly gained popularity. In the mid-2010s, with the widespread use of smartphones and mobile internet, access to social media became even easier, leading to an increase in user activity. Social networks became platforms for widespread advertising, marketing campaigns and the development of personal brands. In the late 2010s –

early 2020s Ukraine experienced political events, such as the Revolution of Dignity in 2013-2014 and the annexation of Crimea by Russia, which contributed to the active use of social media to organise actions and mobilise the public. The Revolution of Dignity enabled citizens to use social media and mobile applications to organise protests, share information and support national actions. Social media and mobile applications again played an important role in organising and communicating between activists and protesters (Shveda & Park, 2016). Facebook, Twitter, Viber, and other social platforms became important tools for disseminating information, coordinating actions, and organising rallies and actions. They allowed for quick news sharing, calling people to rallies, collecting signatures for petitions, and uniting citizens for joint protests.

The 2019 COVID-19 pandemic has had a significant impact on social connections, leading to quarantine conditions for communication in society. As a result, various social media and messengers have gained significant traction in Ukraine, used for both professional and personal communication. The use of ICTs has transformed communication but has also allowed it to continue in the face of difficult social distancing. ICTs, which have been actively used during the COVID-19 pandemic, have opened up new opportunities for society and contributed to the improvement and optimisation of professional activities (Mishna *et al.*, 2021).

The war in eastern Ukraine has added to the difficult situation in the country and posed new challenges for social communications. Information warfare and attempts to manipulate social media have become real threats to the stability and cohesion of society. As of 2023, social communications play an important role and are in a constant state of transformation. It is worth paying attention to the impact of social communications during the ongoing war in Ukraine, given the peculiarities of the armed conflict. In such conditions, social communications acquire new features and functions, and become a mechanism for supporting public consciousness, fostering patriotic spirit, disseminating information and coordinating actions between different social groups. It is important to understand the importance of using social media platforms such as Facebook, Twitter, and Instagram during military conflicts, as these platforms provide rapid information exchange, mobilise the public and contribute to the support of military actions (Krasnyak & Amons, 2023).

Popular culture, show business and subcultures in Ukraine also contributed to the development of social media. Show business stars, media influencers and famous personalities have attracted the attention of audiences by creating popular content and interacting with fans through social media. However, while social media has provided many positive opportunities for communication, connection, and information, it has also become a source of concern, such as the spread of fake news, insufficient data privacy protection, toxic content and addiction to digital platforms. The research study included a survey with 100 respondents (Table 1).

Table 1. The use of social networks and their impact on social communications in Ukraine

Question	"Yes"	"No"	Uncertain
Do you use social networks daily?	78%	15%	7%
Which social network do you use most of the time?	45% (Facebook)	30% (Instagram)	25% (Twitter)
Does social media affect your mood?	60%	25%	15%
Do you use social media for news and information?	90%	5%	5%
Does social media facilitate your communications with friends and family?	85%	5%	10%
Do you have any experience of participating in social media groups or communities?	70%	25%	5%
Do you use social media for job search or professional networking?	40%	55%	5%
Do you feel tired of being active on social media?	65%	25%	10%
Have you experienced any negative perceptions or conflicts on social media?	55%	35%	10%
Have you observed the positive impact of social media on society and social movements?	70%	15%	15%

Source: compiled by the authors

According to the survey, 78% of respondents said they use social media daily. The most popular platform among Ukrainians is Facebook, followed by Instagram and Twitter. A significant proportion of respondents said that social media influences their mood. At the same time, 25% of the answers were negative. The most useful use of social media for respondents is to receive news and information, with 90% of respondents using it. Communicating with friends and family has also become a significant aspect of social media use, with 85% of respondents confirming that they facilitate their communications through social media. At the same time, quite a few respondents (70%) said they had experience participating in groups or communities on social media. As for the use of social media for job search or professional networking, the responses were divided: 40% confirmed that they did, 55% did not, and 5% were not ready to answer. 65% of respondents feel tired of actively using social media. Negative perceptions or conflicts on social media have been experienced by 55% of respondents, while 35% have not. Regarding the positive impact of social media on society and social movements, 70% of respondents noted such an impact, 15% did not, and 15% had no clear opinion on the matter. Overall, the survey showed that social media has a significant and growing impact on people's lives in Ukraine and is becoming an integral part of modern society. Based on the results of the survey, some predictions have been made about the direction of development of social communications in Ukraine:

1. Mobile applications will likely become more popular in Ukraine than ever before, due to a significant increase in the number of users of mobile communication devices. As smartphone usage increases, so will the use of mobile applications, which facilitate easy access to social networks and communication between users.

2. As the global demand for influencer marketing grows, it is likely to increase in Ukraine as well, as influencers with large audiences on social media platforms can influence the preferences of their followers.

3. A likely area for expanding the functionality of social platforms is the creation of new tools for communication and collaboration on the Internet.

4. Another important aspect is digital security, which continues to grow in Ukraine and helps protect users. The increase in the number of cyberattacks and the spread of false information on the Internet increases the demand and importance of this type of security for Ukrainians.

5. Along with the growth of digital security, likely, the need for social responsibility on the Internet will likely also increase in Ukraine, which may contribute to the increased popularity of content related to environmental, social and communications issues and global issues.

6. These trends may become an additional incentive for the development of social communications in Ukraine and contribute to the formation of new innovative approaches to communication and information exchange in society.

Such changes in social communications during active events underline the importance of developing adaptive communication approaches that allow for effective communication and response to rapidly changing conditions. The study of social communications in the context of revolutions, quarantine and war can provide valuable insights for the development of information strategies and support for citizens in difficult situations.

Discussion

Social communications have been studied by Ukrainian and American researchers who have devoted their research to analysing various aspects of this issue in modern society. The research of these scholars helps to understand the current state of social communications, their transformation and development trends, which is of great importance for further improvement of communication processes, strengthening of social ties and building a favourable society. The study of social communications helps to unlock their potential and impact on various spheres of life, including politics, business, culture, education, media, and contributes to the development of effective communication strategies that meet the needs of modern society. It is worth paying attention to some scientific positions and comparing them with the results obtained in this study.

A.V. Roman *et al.* (2018) believe that e-leadership is a competence in using information and communication technologies to communicate and interact with others. In particular, the authors analysed how leaders in today's digital world use various social networks, email, chats, video conferencing, and other ICT tools to ensure effective communication with their subordinates, colleagues, and other stakeholders, which may include interacting with distributed teams, project management, decision-making, information exchange, and teaching relevant strategies. The study emphasised that e-leadership requires not only technical competence in ICT but also the ability to communicate effectively, as leaders need to be able to show empathy, maintain a positive communication style, communicate effectively, and motivate their team to achieve their goals. However, in comparison with the results of this study, it is worth noting that for the effective use of ICTs, it is necessary to consider the specifics of the country and develop appropriate infrastructures, ensuring the availability of technology for all segments of the population, especially given the ongoing war in Ukraine.

G. Shrivastava *et al.* (2020) argue that modern social communications face a serious problem of fake news spreading, which can negatively affect society, the information space and trust in the media. The researchers note that social media are becoming key platforms for the dissemination of information (as communication is increasingly moving to the virtual environment), and this creates opportunities for abuse and the spread of misinformation, as fake news can spread quickly through communities and followers, leading to inflamed emotions and divided opinions. The researchers note the relevance of introducing technological measures to help identify and filter fake news, such as artificial intelligence and machine learning algorithms, as such technologies can help identify and reduce the spread of disinformation by providing a more verified information space. Compared to the results of this study, it should be noted that social media in Ukraine, where the war continues, is experiencing a similar spread of fake news, so creating strategies for detecting false information is an important and relevant aspect of modern social communications within the country and abroad.

S. Vallor (2020) examined social communications from an ethical perspective, emphasising the importance of developing integrity in the context of using social media technologies. The scientist pointed out that social communication can contribute to both positive and negative impacts on people and society as a whole. The author analysed the ability of social media to support communication, information exchange and community building, which contributes to the formation of good relations and social understanding, as communication tools such as Facebook and Twitter can create a platform for joint action, creativity, and support for public initiatives. However, the researcher also points out the dangers and ethical challenges associated with the misuse of social media. The negative impact on privacy, the spread of fake news and the manipulation of information can have negative consequences for the public and democracy. Compared to the results of this study, it is worth noting that in Ukraine, social communications require special attention and increased critical thinking, given the active hostilities in the country and the likelihood of fake news spreading.

According to H.D. Duncan (1984), communication is defined as the process of transmitting and exchanging information that enables communication and interaction between people and plays an important role in creating shared meanings, norms and values that form the basis of social order. The researcher noted the role of communication in conflict resolution and social coordination, given the importance of communication mechanisms for building mutual understanding and problem-solving. Comparing with the results of this study, it is worth noting that during the war in Ukraine, social communication has indeed become one of the most important aspects of preserving internal order and the country's system, which confirms the author's model of interaction between them.

R. Wodak (2021) noted that social communications have played an important role in crises and their management during the COVID-19 pandemic. The researcher pointed

out that effective communication is an important factor in trustful interaction with the public during a crisis. Since the start of the pandemic in Ukraine and the world, she argued, social media has become an important tool for communicating information, educating the public about safety measures, disseminating relevant data, and responding to the spread of disinformation and fakes. The researcher also emphasises that in times of crisis, communication should be transparent, accessible, and evidence-based, as understanding and using the public's information needs and communication approaches can significantly improve mutual understanding and build trust between the government and citizens. Comparing the results of this study, it is worth emphasising that for Ukrainians, social communications are now becoming a key element in crisis conditions, helping not only to transmit information but also to ensure trust, support and understanding between the government and the public.

O. Oh *et al.* (2013) noted the role of collective intelligence and social media services, in particular Twitter, during social crises. The researchers are convinced that social media have become an important means of disseminating and exchanging information during crises. The researchers emphasise that during crisis events, social media can be very useful for the rapid dissemination of important information, and coordination of assistance and support, as people can quickly share important data and help each other in crises using Twitter and other social media. At the same time, according to the researchers, along with the favourable effects, social media can also affect the spread of rumours and misinformation, which can lead to increased chaos and panic. Compared to the results of this study, it is worth noting that in Ukraine, which has been experiencing crisis events over the past 20 years and is currently at war, social communications are an element of rapid response and informing the population about emergencies, which increases the importance of developing strategies for interaction and coordination during emergencies to ensure the effective use of social communications.

Overall, social communication is an integral part of any modern society, facilitating relationships, information exchange and the development of civil society. The study and understanding of social communication can improve its impact and ensure a more balanced and positive relationship between people and society.

Conclusions

The study of social communications in Ukrainian and global society has revealed important aspects of the current state of these processes and allowed to understand the role of social communications and their impact on modern society. The study revealed the peculiarities of communications in different contexts, including during revolutions, pandemics, and war, and allowed to better understand their impact on social relations. The study shows how social media platforms, such as Facebook, Twitter, Instagram, LinkedIn, and TikTok, influence the formation of public opinion and cultural stereotypes. The study traces the close relationship between ICTs and social communications, based on providing access to information, convenient communication and interaction, social media as a means of communication, public debate and discussion, and influence on public opinion.

The study also focused on the types of users on social media, considering the characteristics of their social communication and analysing trends in this area, including socialisers, activists, passive observers, professionals, information consumers, and social activists. The research involved a survey of Ukrainian citizens, which allowed to study social communication based on their activity on social media. The survey found that 78% of respondents actively use social media, with Facebook (45%) and Instagram (30%) at the top of the list of popular platforms. Most users perceive social media as a useful tool for obtaining information (90%) and communicating with loved ones (85%) but also note fatigue from active use (65%) and a negative impact on mood (15%). Overall, social media play a significant role in Ukrainian society and are an integral part of everyday life. The study highlighted several trends in the development of social communications in society that have a major impact on the way people communicate and exchange information, including the growing popularity of mobile applications and the influence of influencers, the growing importance of digital security, the expansion of platform functionality, and increased social responsibility.

Thus, based on the study of social communications, it can be concluded that they are an integral part of modern society and influence the development of its structure. The study and analysis of various aspects of communication processes help to understand their essence and role in shaping society. Future researchers in the field of social communication should study the impact of social communication on mental health, as the growing use of social media can affect the psychological state and mental health of users. Future researchers could investigate the relationship between media use and psychological well-being.

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Conflict of interest

None.

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Вплив соціальних комунікацій на формування суспільної думки громадян під час війни

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Анотація. З розвитком інформаційних технологій та поширенням соціальних мереж спілкування стало більш доступним та швидким, у зв'язку із чим соціальні комунікації стають усе актуальнішим та важливішим питанням для сучасного суспільства. Мета цього дослідження – вивчити сучасний стан соціальних комунікацій в українському та світовому суспільстві з урахуванням їхньої трансформації та визначення тенденцій розвитку. У науково-дослідній роботі використано метод аналізу, систематизації, дедукції, узагальнення, а також проведено опитування. У результаті дослідження отримано знання про сучасний стан соціальних комунікацій в українському та світовому суспільстві. Вивчені та проаналізовані різні аспекти комунікаційних процесів, їх трансформація та тенденції розвитку, що дало змогу зрозуміти їхню роль та вплив на сучасне суспільство. У результаті дослідження було виявлено особливості соціальних комунікацій в різних контекстах, як-от: період війни, революції та пандемія. Особлива увага була приділена впливу соціальних медіаплатформ, зокрема Facebook, Twitter, Instagram, LinkedIn, TikTok, на формування суспільної думки, культурних стереотипів та типів користувачів у соціальних мережах. У дослідженні здійснено опитування, у якому вдалося дослідити соціальні комунікації українців, зокрема їх активність у соціальних мережах. Дослідження дало змогу встановити, як соціальні комунікації впливають на взаємодію різних соціальних груп та інститутів, зокрема політичні процеси, активізацію громадянської участі та формування молодіжної культури, а також тенденції розвитку соціальних комунікацій. Результати дослідження соціальних комунікацій можуть використати науковці для розширення знань у галузі комунікацій, розвитку нових теорій та підходів, а також для розуміння сучасних комунікаційних процесів у суспільстві

Ключові слова: взаємодія; віртуалізація; епоха глобалізації; суспільство; інформаційний простір

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Marriage contracts in the post-Soviet states: Problem statement and prospects for further implementation

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Abstract. The relevance of the study is substantiated by the fact that a marriage contract is an extremely convenient tool for regulating property relations of spouses, and in modern realities, it is acquiring a new value, and this, in turn, requires a rethinking of this institution of family law (including theoretical). The purpose of the publication is to comprehensively study the specifics of legal regulation of marriage contracts in post-Soviet states and to identify trends in such regulation. The following methods were used in this study: comparative legal method, analysis method, synthesis method, formal-logical method, and systemic-structural method. The article provides a comprehensive analysis of the legal regulation of marriage contracts in the post-Soviet space, which allowed identifying trends in such regulation. The scientific novelty is characterised by the authors' proposal to distinguish three aspects of the specific features of the regulatory and legal regulation of marriage contracts in the post-Soviet space: the general legislative aspect; the aspect related to the type of family law relations, which include the relations arising from a marriage contract in a particular post-Soviet State; and the specific features of the regulatory and legal regulation of relations arising from a marriage contract. The paper consistently elaborates on the content of each of the proposed aspects. For the first time, the authors of the publication propose to interpret a marriage contract as a family law contract regulated by civil law instruments and provide arguments for such a proposal. Further research is required to define the concept of a "family law contract regulated by civil law instruments", the specifics of its content, legal nature and features, and the issue of changing the terms of a marriage contract, refusal to perform it, termination, and invalidation of a marriage contract in the post-Soviet states

Keywords: family law; legal regulation; marriage contracts; property relations; the content of the premarital agreement

Introduction

A marriage contract can be considered a relatively new tool for the legal settlement of marital property relations on the basis of a contract in family law. The introduction of the institution of a marriage contract in the Family Code of Ukraine (2003) has reinforced the minimal interference of the state in family relations and the voluntary and coequal nature of marriage and family ties. Nevertheless, this institution of family law raises many theoretical and practical questions for both lawyers and persons wishing to enter into a marriage contract. As a legal instrument for regulating property relations between spouses (husband and wife), a marriage agreement has many advantages (in particular, the ability to establish the legal regime of marital property by mutual agreement, which is of particular importance in

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the event of a divorce). Unfortunately, for a long time, a marriage contract has not been very common in Ukrainian realities. However, in 2020, the picture has changed for the better – according to the State Statistics Service and the Unified Register of Special Forms of Notarial Documents, almost one in 20 spouses entered into a marriage contract in 2020. This trend further draws attention to the issue of legal regulation of marriage contracts both in Ukraine and abroad.

As for the Ukrainian theoretical sources on the institution of the marriage contract, the authors would like to note, first of all, the dissertation by M.I. Bairachna (2018), one of the chapters of which is devoted to certain problems of legal regulation of the premarital agreement in Ukraine. Ukrainian researchers H. Lutska *et al.* (2020) published an article on similar and distinctive features in the most popular family property contracts. Ukrainian researchers have also studied this aspect of the marriage contract. As for foreign scientific sources, it is worth mentioning, first of all, the work by C.M.V. Clarkson (2011), devoted to the issues addressed by the draft Regulation on matrimonial property regimes published by the European Commission. Another interesting piece is the study by N.I. Hanifan (2019), in which the author focuses on the powers of a notary when certifying marriage contracts.

Experts in the field of Islamic law also paid attention to the issue of contracts in family legal relations. H. Yunus *et al.* (2020) published a study that examined some of the issues of the marriage contract. The researchers analysed theoretical sources and came to the conclusion that the agreement to enter into marriage is binding on both men and women. However, the authors would like to draw attention to the fact that the above-mentioned scientific publication is not devoted to a marriage contract, but to a marriage agreement. Obviously, these two legal institutions of family law are different and have different legal content. However, there is currently no comprehensive study of the legal regulation of marriage contracts in post-Soviet states. Most publications are devoted to specific features of legal regulation of a marriage contract within a single state. The authors have not encountered a comparative legal analysis of the topic of this publication.

The object of research is a set of normative legal acts of post-Soviet states devoted to the regulation of the marriage contract as an institution of family law. The purpose of the publication is a comprehensive study of the specifics of legal regulation of marriage contracts in post-Soviet states, and identification of trends in such regulation. To achieve the research goal, the authors identified the following tasks:

- to conduct a comparative legal study of the normative regulation of marriage contracts in post-Soviet states;
- to highlight the specific issues of the validity of a marriage contract in certain post-Soviet states;
- to determine the specifics of the legal nature of the marriage contract in Ukrainian, European and American legal doctrine.

Materials and methods

The study of the specifics of legal regulation of marriage contracts in post-Soviet states had three stages: preparatory, main and final. At the preparatory stage, the authors carefully studied the most significant theoretical publications on marriage contracts by Ukrainian, American, and British researchers and scholars from other countries (in particular, specialists in the field of Islamic law). At the preparatory stage, the authors also made excerpts from the legal acts regulating marriage contracts of all post-Soviet states (the Republic of Azerbaijan, the Republic of Belarus, the Republic of Armenia, Georgia, the Republic of Estonia, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Latvia, the Republic of Lithuania, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan, Turkmenistan, and the Republic of Uzbekistan). Such excerpts greatly facilitated the comparative legal study of the institution of marriage contracts in post-Soviet states. The main stage involved a comprehensive comparative legal study of the normative regulation of the marriage contract in the post-Soviet space.

The study was conducted according to the following criteria:

- the presence or absence of a statutory definition of "marriage contract" at the legislative level;
- the time of conclusion, form, and content of the marriage contract;
- issues of changing the terms of the marriage contract, refusal to perform it, termination and recognition of the marriage contract as invalid.

This approach made it possible to trace the trends in the legal regulation of marriage contracts in the family law of the post-Soviet states, and also to identify three aspects of the specifics of such regulation: the general legislative aspect; the aspect related to the type of family law relations, which include relations arising from a marriage contract in a particular post-Soviet state; and the specifics of legal regulation of relations arising from a marriage contract. Then the authors examined the issues of the validity of the marriage contract in certain post-Soviet states. Such issues are quite diverse, in particular, those concerning legislative changes to the normative legal marriage contract in family law, ambiguity of judicial practice in the aspect of declaring a marriage contract invalid, and even the binding nature of a family contract. Finally, the authors focused on the theoretical issues of the legal nature of the marriage contract in the Ukrainian, American and European legal doctrine. In the final stage, the author summarises and systematically outlines the specific features of legal regulation of marriage contracts in the post-Soviet space.

Overall, the hypothesis formed by the authors at the beginning of the study, that the legal regulation of marriage contracts in post-Soviet states, as compared to Ukrainian family law, has its own common and distinctive features, has been confirmed by relevant arguments. The publication uses a system of legal research methods, the main one being comparative legal research. It was this method that made it possible to identify common and distinctive features and trends in the legal regulation of marriage contracts in the post-Soviet space. The authors also used such methods of legal research as:

- method of analysis: in determining the issues of the legal nature of the marriage contract, its concept and features in Ukrainian, European and American legal doctrine;
- synthesis method: when forming a system of three aspects of the features of regulatory regulation of a marriage contract in post-Soviet states;
- formal and logical method: in distinguishing the specific features of the three aspects of legal regulation of marriage contracts in post-Soviet states from one another;
- systemic and structural method: in generalizing the issues of the validity of marriage contracts in certain post-Soviet states.

Results and discussion

Legal regulation of marriage contract in post-Soviet states: Comparative legal aspect

In this part of the study, the authors analysed the legal acts regulating family legal relations in the sphere of marriage contracts in all post-Soviet states – the Republic of Azerbaijan, the Republic of Belarus, the Republic of Armenia, Georgia, the Republic of Estonia, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Latvia, the Republic of Lithuania, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan, Turkmenistan and the Republic of Uzbekistan.

Having analysed the regulatory provisions of the family law of the post-Soviet states relating to the regulation of marriage contracts, the authors can distinguish three aspects of the specific features of such regulation: the general legislative aspect; the aspect related to the type of family law relations, which include the relations arising from a marriage contract in a particular post-Soviet state; and the specific features of the regulatory and legal regulation of relations arising from a marriage contract. The general legislative aspect of the normative and legal regulation of a marriage contract is related to the fact that, as it turned out, the legislator's approaches to the general regulation of family law relations are not uniform. The authors identified three types of such general legislative regulation:

1. Similar to Ukraine, there are special family codes in other states – Family Code of the Republic of Azerbaijan (1999), Family Code of the Republic of Armenia (2004), Family Code of the Kyrgyz Republic (2003), Family Code of the Republic of Moldova (2000), Family Code of the Russian Federation (1995), Family Code of the Tajikistan Republic (1998), Family Code of the Uzbekistan Republic (1998), Family Code of Turkmenistan (2012).
2. Family legal relations are regulated by a special law (Family Law Act, 2009).
3. Family law relations are regulated by the Civil Code (Civil Code of Georgia, 1997; Couples in Lithuania, 2023). However, even with this approach, there are some exceptions. Thus, in Belarus, family law relations are not regulated by a standard legal act called the Code of the Republic of Belarus about Scrap and the Family (1999). The situation in Kazakhstan is similar. There, family law relations are regulated by the Code of the Republic of Kazakhstan No. 518-IV "On Marriage (Matrimony) and Family" (2011). The regulatory framework for family law relations in Latvia also has specific features. In this country, the relevant legal relations are regulated by the Civil Law of the Latvia (1938), rather than the Code, which is considered a more standard form.

An aspect related to the type of family law relations, which include relations arising from a marriage contract, is to determine the name of the structural part of a special legislative act containing the rules governing the institution of a marriage contract. In Ukraine, the institution of a marriage contract is regulated by the section of the Family Law of Ukraine (2003) "Marriage. Rights and obligations of spouses". The chapter within this section is labelled "marriage contract".

Thus, the authors can state that the structural arrangement of the regulatory provisions governing the institution of the marriage contract in the post-Soviet states is very diverse, and it is almost impossible to divide this characteristic into at least several groups. Such a system is logical and justified since each state can and should have its specific features in terms of the structure of a legal act that regulates family law relations. As for the specifics of the normative and legal regulation of relations arising from a marriage contract, it is necessary to elaborate on this. The first point that the authors would like to draw attention to is the presence or absence of a definition of the concept of "marriage contract" in the family law of post-Soviet states, and, if it is present, whether such a definition is similar or different in the comparative legal aspect. The authors would like to point out that the Family Code of Ukraine (2003) does not contain a classical definition of the concept of "marriage contract" as such – Article 92 of this legal act is entitled "The right to conclude a marriage contract" and actually provides for the subject composition of a marriage contract.

In the post-Soviet states, the situation on this issue varies. For example, Azerbaijani family law contains a direct definition of a marriage contract as an agreement concluded by persons intending to marry, which establishes property rights and obligations of the spouses for the period of marriage and (or) upon divorce (Family Code of the Republic of Azerbaijan, 1999). The Armenian, Kazakh, Kyrgyz, Russian, Tajik and Uzbek family laws contain almost identical definitions of a marriage contract with one clarification – it is additionally stated that this agreement can be concluded not only by persons intending to marry, but also by spouses (Family Code of the Republic of Armenia, 2004; Code of the Republic of Kazakhstan No. 518-IV…, 2011; Family Code of the Kyrgyz Republic, 2003; Family Code of the Russian Federation, 1995; Family Code of the Tajikistan Republic, 1998; Family Code of the Uzbekistan Republic, 1998). This definition, with only one additional clarification – the voluntary nature of the agreement – is also contained in Moldovan and Turkmen legislation (Family Code of Moldova…, 2000; Family Code of Turkmenistan, 2012). The content of part 2 of Article 43 of the Family Code of Turkmenistan (2012) is particularly significant, as it stipulates that the standard form of a marriage contract is approved by the Cabinet of Ministers of Turkmenistan. Thus, this state even provides a standard form for this type of agreement at the legislative level.

Belarusian family law also contains a similar definition of a marriage contract, but an important note should be made here – Belarus is the only country in the post-Soviet space that has defined non-property rights and obligations as the subject of a marriage contract at the legislative level (Code of the Republic of Belarus…, 1999). Lithuania also contains a similar definition of a marriage contract, however, according to Lithuanian family law, only spouses are recognised as having the right to enter into a marriage contract, and the marriage contract extends its effect to cases of separate residence of spouses (separation) (Couples in Lithuania, 2023). Such an approach can be considered a feature unique to Lithuanian law, since in no other post-Soviet country have the authors found provisions on the extension of the marriage contract to cover the event of separation. Georgian law does not define the concept of a "marriage contract" but provides for the right of spouses to enter into a marriage contract that will determine their property rights and obligations both during the marriage and in the event of its dissolution (Civil Code of Georgia, 1997). Estonian family law defines a marriage contract in a rather interesting light. The Family Law Act (2009) states that the spouses may, by the marriage agreement:

- terminate the property regime in force between them on the basis of a choice made by them at the time of marriage or on the basis of a marriage agreement;
- establish another property regime provided for by law;
- change the property regime in cases provided for by law.

Latvian family law also does not contain a definition of the concept of a marriage contract. Instead, Latvia has a provision according to which "spouses may establish, change and terminate their property rights by means of marriage contracts both before marriage and during the marriage" (Civil Law of the Latvia, 1938). As for the moment of entering into a marriage agreement, the vast majority of post-Soviet states have provided, in accordance with Ukrainian family law, for the possibility of entering into a marriage agreement both before the state registration of marriage and at any time during the marriage. The provisions of the Belarusian family law look somewhat "vague" in this regard as a literal interpretation gives the impression that a marriage contract can be concluded at any time at all in this state (Code of the Republic of Belarus…, 1999). The authors also did not find any provisions in Latvian and Lithuanian legislation aimed at regulating this aspect of the marriage contract (Civil Law of the Latvia, 1938; Couples in Lithuania, 2023). As to the form of the marriage agreement (written with mandatory notarisation), this requirement is present in all post-Soviet legal acts regulating family relations, similar to the Family Code of Ukraine (2003). The authors wish to point out that in Belarus, Estonia and Latvia, the relevant family laws contain an additional requirement, which can be summarised as follows: "if the marriage contract concerns rights to immovable property, such rights are subject to mandatory state registration in the relevant registers" (Civil Law of the Latvia, 1938; Code of the Republic of Belarus…, 1999; Family Law Act, 2009).

The normative provisions of the family laws of the post-Soviet states concerning the content of the marriage contract are also quite diverse. In Ukraine, the legislator has structured this issue quite logically: there is a general rule entitled "Content of the Marriage Agreement" (Article 93 of the Family Code of Ukraine (2003)), as well as rules that detail it in some way – "Determination of the Legal Regime of Property in the Marriage Agreement" (Article 97); "Determination of the Procedure for Using Housing in the Marriage Agreement" (Article 98); "Determination of the Right to Maintenance in the Marriage Agreement" (Article 99)).

Firstly, the Family Code of the Republic of Azerbaijan (1999). This legal act provides for the following requirements for the content of a marriage contract: "By a marriage contract, the spouses may, by changing the joint ownership status established by law, apply a joint, shared or separate ownership status to the joint property, its individual types or the property of each spouse. In the marriage contract, the spouses have the right to determine their rights regarding mutual maintenance, the methods of participation in each other's income, the procedure for participating in each of their family expenses, and upon divorce to determine the property belonging to each of them and other provisions relating to the property relations of the spouses" (Family Code of the Republic of Azerbaijan, 1999). Similarly, the issue under study is defined in the family legislation of Armenia, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan, and Uzbekistan. The family law of Kazakhstan contains almost completely similar requirements to the content of a marriage agreement with one single clarification in that the state additionally provides for the possibility to determine in the marriage agreement "the property status of children born or adopted in this marriage" (Code of the Republic of Kazakhstan…, 2011).

The provision of Georgian family law on the content of a marriage contract can be considered similar to the above, but not identical: "by a marriage contract, spouses may change the rules for the joint property established by law. The spouses may combine all their property, including property acquired during the marriage ("common property"), or refuse to do so in whole or in part and establish shared or separate ownership of the property by each of them. Spouses have the right to determine by a marriage contract the terms of their participation in income, the procedure for each of them to carry out family expenses and the property to be transferred to each of them upon the termination of the marriage" (Civil Code of Georgia, 1997).

Moldova provides for the following requirements for the content of a marriage contract: "by concluding a marriage contract, the spouses have the right to change their marital property regime as provided for by law. A marriage agreement may stipulate that property acquired by each spouse during the marriage is their personal property. The spouses have the right to define in the marriage contract their rights and obligations related to mutual maintenance, the procedure for participation in the receipt of income by each of them, in bearing common expenses, to determine the property to be transferred to each in the event of division, as well as to include in the contract any other provisions relating to property, in particular, property sanctions for the spouse responsible for the breakdown of the marriage" (Family Code of the Republic of Moldova, 2000). And, perhaps, the family law of Belarus can be considered the most detailed in terms of the requirements for the content of a marriage contract. Such requirements are set out in a rather voluminous list. (Code of the Republic of Belarus…, 1999).

Finally, the authors would like to outline the issues of changing the terms of a marriage contract, refusal to perform it, termination and invalidation of a marriage contract. In most post-Soviet states, there is a tendency to regulate these issues by analogy with Ukrainian family law: unilateral changes to the terms of a marriage contract and refusal to perform it are not allowed; a mandatory notarial form of certification of changes to the terms of the contract is provided; a judicial procedure is provided for changing the terms of a marriage contract, its termination and invalidation. In some states, the grounds on which it is possible to apply to the court for the dissolution of a marriage contract or its invalidation differ in their wording. This subject matter is promising for further comparative legal studies of the normative regulation of the marriage contract in the post-Soviet space.

Issues of the validity of a marriage contract in certain post-Soviet states

Further, the authors propose to focus on the issues of problematic issues of the marriage contract in certain post-Soviet states. Such issues are quite diverse, in particular, those concerning legislative changes to the normative legal marriage contract in family law, ambiguity of judicial practice in the aspect of declaring a marriage contract invalid, and even the binding nature of a family contract. A closer examination of them is necessary. Currently, marriage contracts are not

very common in the post-Soviet states. For example, in Azerbaijan, a little over a hundred couples enter into a marriage contract, which is not even 1% of the total number of people entering into marriage (in 2017, 62923 marriages were registered in Azerbaijan) (Abbasova, 2018).

As a result, Azerbaijani society has even introduced a proposal to make it mandatory for spouses or brides to enter into a marriage contract. This idea belongs to Sadagat Veliyeva, a member of the Milli Majlis Committee on Family, Women and Children. The member substantiated this proposal with the following arguments: if the marriage contract becomes mandatory for spouses or brides, it will reduce the number of divorces in the country. According to Sadagat Veliyeva, the increase in the number of divorces in Azerbaijan is also affected by the lack of certain responsibilities. The member notes: "The conclusion of a marriage contract should not be voluntary. The absence of such a contract leads to a significant number of divorces. In such cases, children are raised only by the mother. And there are also cases when neither party takes responsibility for the parenting" (Marriage contract in…, 2009). Nevertheless, it is evident that the conclusion of a marriage contract on a mandatory basis contradicts the principle of freedom of entering into a contract. The legal basis of the contract is also much weaker than the law.

Azerbaijan also faces a problem with the notarisation of marriage contracts. Thus, the head of the Milli Majlis Social Policy Committee, Hadi Rajabli, emphasises that notaries do not exist in all districts of Azerbaijan, which poses challenges for citizens, as in order to officially certify a marriage contract, spouses or brides living in a district where there is no notary will have to travel to a neighbouring district. Hadi Rajabli sees a solution to this issue. The head of the Social Policy Committee of the Milli Mejlis suggests that, similarly to the delegation of functions of civil registration departments to local executive bodies, it should be possible to delegate such duties in areas where there are no notaries (Marriage contract in…, 2009).

Regarding the legal regulation of the marriage contract in Kyrgyzstan, the authors consider it necessary to reflect on the position of researcher A.T. Altybaeva (2014), which concerns the rights and obligations of spouses in relation to children, which cannot be the subject of a marriage contract. The researcher notes that, according to the Family Code of the Kyrgyz Republic (2003), spouses have the right to determine the procedure for each of them to bear family expenses in a marriage contract. The latter allows parents to establish or change the rights and obligations of parents with respect to child support. Thus, if the parents stipulate in the marriage agreement that the expenses for kindergarten and medical care are covered by one of the parents, this does not infringe on the rights of minor children but changes the nature of the subjective rights of the other parent, who is exempt from bearing the expenses for the child. Thus, the prenuptial agreement indirectly establishes restrictions on the rights of one of the parents in relation to their children. It should be borne in mind that the determination of the procedure for family expenses in a marriage agreement does not affect the relationship between parents and children at all. The mutual rights and obligations of parents who do not require financial expenditure remain unchanged, even if the parents have provided for sources of expenditure in the marriage agreement. For example, the right of a child to live and be brought up in a family; to communicate with parents and other relatives; to be protected; to express their opinion; to have a name, patronymic, and surname.

According to A.T. Altybaeva (2014), this group of rights of minor children cannot be changed even by the agreement of the spouses. Thus, the researcher proposes to amend paragraph 3 of Article 45 of the Family Code of the Kyrgyz Republic (2003), namely, after the word "children", to include the following text: "bound by the child's right to: live and be brought up in a family; to communicate with parents and other relatives; to be protected; to express their opinion; to a first name, patronymic and surname".

Studying the practice of legal regulation of marriage contracts in the Republic of Moldova, E. Braga (2020) raises the question: did the legislator of the Republic of Moldova act reasonably by limiting the subject matter of the marriage contract? The researcher believes that in this case, the legislator was right since such personal relations as affiliation to a particular religion, division of household duties. are spelt out in the Family Code of the Republic of Moldova (2003) and their repetition would be unnecessary. The researcher also examines the court practice of invalidating marriage contracts on the basis of Article 343 of the Family Code of the Republic of Moldova (2003), according to which an agreement with significantly unfavourable terms, which a person was forced to enter into due to a combination of difficult circumstances, which was taken advantage of by the other party to the agreement, should be defined as a bonded agreement, which may be invalidated by the court at the request of the injured person. E. Braga (2020) identifies the following signs of a bonded transaction: a combination of circumstances that are unfavourable to one of the parties to the transaction, actions of the other party to the transaction that took advantage of such circumstances. The researcher argues that the case law is rather contradictory on this issue. Thus, an extreme hardship as a ground for recognising a marriage contract as a bonded agreement is considered by the court only in the obvious case when it is established that all property acquired during the marriage and/or all income received is recognised as the property of one of the spouses. E. Braga (2020) reviewed several court decisions in the Republic of Moldova regarding the invalidation of a marriage contract and, despite the fact that the injured person in all cases under consideration was in extremely unfavourable circumstances, the court decisions varied.

The issue of the legal nature of the marriage agreement in Ukrainian doctrine

In this part of the study, the authors will examine the theoretical definition of a marriage contract, its features, and the issues of its legal nature, with due regard for the provisions developed by Ukrainian scholars. M.I. Bairachna (2018) formulates a system of features of a marriage contract. First, the researcher defines a marriage contract as a transaction. The scientist substantiates this feature with the focus of the marriage contract on changing marital relations. The second feature of a marriage contract, according to the author, is the special nature of its subject composition. The parties to a marriage contract are special subjects – not only the spouses but also the bride and groom, i.e., persons intending to enter into marriage. The third feature of a marriage contract is the presence of special requirements for its execution, namely, family law provides for a written form of a

marriage contract and its notarisation. Lastly, the researcher believes the fourth feature of a marriage contract to be the presence of a specific range of relations regulated by the marriage contract which is the property relations of the spouses. The legal doctrine has been actively debating the legal nature of a marriage contract for decades. The overwhelming majority of scholars believe that, despite its specifics and features, a marriage contract should be considered a civil law transaction, it is a type of civil law contract, and therefore the rules applicable to transactions also apply to a marriage contract.

M.I. Bairachna (2018) suggests that in legal theory, it is generally accepted that the nature of social relations is the main factor that affects the legal nature of a contract. The legal form of such relations is precisely a contract. A marriage contract is designed to regulate marital relations, which are characterised by their family law nature. The content of the marriage contract is determined by the meaning of the personal relationship between the spouses and the degree of their trust. Basic principles are the guiding concepts in the legal regulation of a marriage contract. However, according to the researcher, civil law means are the main ones when regulating family law relations by means of a marriage contract. The form of the contract, the grounds and procedure for its amendment and termination, and the grounds for invalidating a transaction are regulated by civil law, but they also apply to a marriage contract.

The authors would like to elaborate on the above stance by M.I. Bairachna (2018). The authors support the position that a marriage contract is a mixed (civil law and family law) contract by its legal nature. Nevertheless, there is some inconsistency in the arguments of the scientist. Initially, the researcher, pointing to the civil law nature of a marriage contract, refers to the fact that civil law rules on the form of the contract, the grounds and procedure for its amendment and termination, and the grounds for invalidation of a transaction are applied to a marriage contract. Later, she states that the civil law nature of the marriage contract is manifested in the regulation of the marital property relations by such a contract, ignoring the general requirements of civil law regarding transactions. The authors believe that this perspective on the civil law nature of a marriage contract should be elaborated upon. The researcher also does not disclose the nature of family law relations regulated by the marriage contract as an institution of family law. To elaborate on this aspect of the marriage contract, the authors have turned to the academic literature to identify the features of family legal relations. I.O. Dzera (2016) is convinced that family legal relations are characterised by a system of the following features:

- specific subject composition;
- long-term character;
- specific grounds for occurrence, amendment and termination;
- inalienability of rights and obligations;
- the ability of subjects of family legal relations to act as participants in several family legal relations at once.

The authors have attempted to analyse the family relations which a marriage contract is intended to regulate through the prism of the features identified by I.O. Dzera (2016), and came to the conclusion that the relations that the marriage contract is intended to regulate are somewhat consistent with family law:

- specific subjective composition of the parties to the marriage agreement – spouses or persons who have applied for marriage registration;
- article 96 of the Family Law of Ukraine (2003) provides for the possibility of fixed-term legal relations, so a long-term nature may not be inherent in the conclusion of a marriage contract;
- the specific grounds for the emergence of family legal relations when entering into a marriage contract may include the fact of marriage or the day of its notarization, while, according to the authors, the grounds for amendment and termination of a marriage contract are within the scope of general civil law;
- as for the last two features "inalienability of rights and obligations" and "the possibility of subjects of family legal relations to act as participants in several family legal relations at once", it is obvious that they are inherent in family legal relations that a marriage contract is intended to regulate.

Thus, the authors believe that a marriage contract should be considered a family law contract regulated by civil law instruments. In fact, this wording has not been found in legal doctrine, but the authors believe that it best reflects the specifics of the legal nature of a marriage contract. At the same time, the interpretation, and features of such a legal construct require further research.

Interpretation of the marriage contract in selected European and American sources

The research of the authors would be incomplete without an insight into the marriage contract in certain European and American theoretical sources. Therefore, to conclude, the article offers an examination of the features of this family law institution as considered by European and American legal scholars. C.J. Sager (1976) notes that when two people get married, they become part of a new social unit, the "marriage system". This system is different from its constituent parts – it is not just the aggregate of two individuals with separate expectations and needs, but a new and qualitatively different entity. A. Sanders (2010) is convinced that the very idea of private autonomy is the basis of marriage agreements and has enabled spouses to make their own decisions about the financial consequences of the breakdown of their relationship.

B.A. Atwood (2012) writes that although prenuptial agreements that change the property regime of spouses are widespread in Europe, the same cannot be said for prenuptial agreements on post-divorce maintenance and other financial consequences of divorce. The researcher points out that some European countries restrict maintenance agreements that were made at the time of divorce, while others do not recognise spouses' refusal to pay alimony in the future. Even if post-divorce maintenance agreements are permitted by law, the courts usually scrutinise them carefully and refuse to enforce them, stating that certain terms are "manifestly unfair, ridiculous" or "very detrimental to one of the spouses". The researcher continues by stating that contractual freedom in relation to other financial consequences of divorce, such as post-divorce compensation, is even more limited. In this context, M. Ryznar and A. Stepien-Sporek (2009) note that the laws of many continental European countries do not distinguish between agreements on essential terms reached before or after marriage. The researchers conclude that the legislation of the vast majority of continental

European countries imposes the same legal standards on spouses intending to enter into an agreement, regardless of whether the spouses intend to do so before or after marriage. N. Dethloff (2011) concludes: “European standards are less respectful of the freedom to contract marital agreements in order to achieve fairness and protect the family interests of the spouses in the disposition of property upon divorce”.

O. Goldstein-Gidoni (2019) examines the marriage contract through the prism of the concepts of “gender contract” and “sexual contract”. The researcher interprets the concept of “gender contract” not as a contract between two, so-called “gender opposite” subjects, but as a social policy and economic agreement. The researcher argues that the existing studies on the gender contract suggest that this type of contract is embedded in the idea of the welfare state and that this concept exists at the intersection between the family, the labour market, and the state (Rantalaiho & Julkunen, 1994; Hirdman, 1996; Gottfried, 2000; Sa’ar, 2009). The authors find this position of O. Goldstein-Gidoni (2019) somewhat surprising and more related to the socio-economic characteristic of contracts. The authors believe that a marriage contract can be characterised as a “gender contract but interpret this feature to mean that this contract is concluded by “gender opposite” subjects.

The approach by Y. Hirdman (1996), who defines the concept of “gender contract” as describing the rights and obligations of a man and a woman (in the case of a marriage contract, a wife) towards each other, appeals to the authors more. J.L. Potuchek (1997) interprets the concept of “gender contract” through the construct of “gender order”, in the maintenance of which both men and women participate through a dynamic process of social construction. An interesting perspective is that of S.J. Kessler and W. McKenna (1978), persuaded that there is no biological criterion that clearly divides people into two exhaustive and mutually exclusive categories, commonly referred to as “men” and “women”. The authors believe that this assertion needs to be elaborated, as it is quite evident that there is a biological difference between men and women. Another noteworthy argument is that of C. West and D.H. Zimmerman (1987). Researchers suggest that gender should be understood as a system of categories built as a result of social interaction.

As for the interpretation of the concept of “sexual contract”, the authors referred to the work by C. Pateman (2015). He argues that over the years, there have been three factors that have contributed to the neglect of the concept of a “sexual contract” in legal doctrine. The first factor is the dominance of the traditional notion of a patriarchal society (Filmer, 1991). The second factor is related to the long-standing failure of classical theorists to recognise women as free and equal individuals, and therefore they were not considered as a possible parties to a contract. This factor is illustrated by C. Pateman (2015) the question posed by M. Astell (2012): “Why, if all men are born free, are all women born slaves?”. The third factor, according to C. Pateman (2015), was conditioned by the long-standing neglect of private property as a subject of the marriage contract. Here he refers to the work of J. Locke (1988), who argued that the traditional marriage contract has long been an unremarkable part of a free democratic society. C. Pateman (2015) argues that the concept of the “sexual contract” has been redefined in the wake of the spread of feminist ideas. Classical theorists substantiated this concept with the ideas of natural freedom and equality of the individual. Of particular interest is the proposal of A.A. Marston (1997) regarding the mandatory consultation with a lawyer before entering into a marriage contract by each spouse.

Conclusions

The article provides a comprehensive analysis of the legal regulation of marriage contracts in the post-Soviet space. This analysis made it possible to identify trends in the legal regulation of marriage contracts in post-Soviet states. For the first time, the authors propose three aspects of the specific features of regulatory and legal regulation of marriage contracts in the post-Soviet space: the general legislative aspect; the aspect related to the type of family law relations, which include relations arising from a marriage contract in a particular post-Soviet state; and the specific features of regulatory and legal regulation of relations arising from a marriage contract. The paper consistently elaborates on the content of each of the proposed aspects. The publication also addresses the issues of the validity of a marriage contract in certain post-Soviet states (in particular, those related to legislative changes to the regulatory marriage contract in family law, ambiguity of court practice in terms of invalidation of a marriage contract, and the binding nature of a marriage contract).

The authors also propose to interpret a marriage contract as a family law contract regulated by civil law instruments. The arguments of the authors are based on the special nature of family law relations, which the marriage contract is intended to regulate. However, it is important to recognise that legal instruments enshrined in substantive civil law are also applicable (in particular, in relation to the understanding of the property institute in civil law, the form of a contract, the grounds and procedure for its amendment and termination, and the grounds for invalidating a transaction). It is established that European and American theoretical legal sources suggest that a marriage contract should be viewed through the prism of the concepts of “gender contract” and “sexual contract”. An interesting fact is that such concepts are interpreted by European and American researchers through a socio-economic perspective. The authors disagree with this approach and present their own arguments for defining a “gender contract” as one concluded by “gender-opposed” subjects. This position is also consistent with the provisions of the Family Code of Ukraine.

As further research, the authors suggest defining the concept of a “family law contract regulated by civil law instruments”, and the specifics of its content, legal nature and attributes. Researchers may also consider changes to the terms of a marriage contract, refusal to perform it, termination, and invalidation of a marriage contract in the post-Soviet states.

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Conflict of interest

None.

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Шлюбні контракти в пострадянських країнах: постановка проблеми та перспективи подальшої імплементації

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Анотація. Актуальність дослідження обґрунтовується тим, що шлюбний договір – надзвичайно зручний інструмент регулювання майнових відносин подружжя, а в сучасних реаліях він набуває нового значення, що вимагає переосмислення цього інституту сімейного права (зокрема, теоретичного). Мета публікації – комплексно дослідити особливості правового регулювання шлюбних договорів у пострадянських державах та виявити тенденції такого регулювання. У дослідженні використано такі методи: порівняльно-правовий, метод аналізу, метод синтезу, формально-логічний, системно-структурний. У статті здійснено комплексний аналіз правового регулювання шлюбних договорів на пострадянському просторі, що дало змогу виявити тенденції такого регулювання. Наукова новизна характеризується пропозицією авторів виокремити три аспекти особливостей нормативно-правового регулювання шлюбного договору на пострадянському просторі: загальний законодавчий аспект; аспект, пов'язаний з видом сімейних правовідносин, до яких належать відносини, що виникають на підставі шлюбного договору в конкретній пострадянській державі; особливості нормативно-правового регулювання відносин, що виникають на підставі шлюбного договору. У роботі послідовно розкривається зміст кожного із запропонованих аспектів. Уперше автори публікації пропонують трактувати шлюбний договір як сімейно-правовий договір, що регулюється цивільно-правовими інструментами, та наводять аргументи на користь такої пропозиції. Подальшого дослідження потребують питання визначення поняття «сімейно-правовий договір, врегульований цивільно-правовими засобами», специфіки його змісту, правової природи та особливостей, а також питання зміни умов шлюбного договору, відмови від його виконання, розірвання та визнання шлюбного договору недійсним у пострадянських державах

Ключові слова: сімейне право; правове регулювання; шлюбні договори; майнові відносини; зміст шлюбного договору

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Duration of annual basic leave for police officers serving in academic positions

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Abstract. In Ukraine, a steady trend is observed whereby public authorities violate the guarantees of the rights of academic staff. Providing academic staff with annual basic leave with different durations depending on the type of higher education institution is one such violation. The research aims to substantiate the mandatory extension of the guarantee of the duration of annual basic leave for academic staff to police officers seconded to serve in higher education institutions. The key methods of scientific research are systematic and structural analysis, which were used to study and summarize scientific sources, as well as regulations which determine the status of a police officer seconded to a higher education institution; regulate the duration of annual basic leave for research and teaching staff seconded to higher education institutions with specific conditions of study while remaining in the police service. The position that the content of the rights of a seconded police officer should be determined primarily by the tasks and functions which the employee directly performs at the main place of work is substantiated. It is proved that the provision on the duration of annual basic leave established by the Law of Ukraine "On the National Police" applies to police officers serving in police bodies and units. Concerning police officers seconded to higher education institutions with specific training conditions and appointed to academic positions, the duration of annual basic leave should be set with due regard to state guarantees following the Laws of Ukraine "On Higher Education", "On Education", and "On Leaves". The practical significance of the study is to substantiate the legal grounds for regulating the duration of annual basic leave for police officers seconded to state institutions (organisations)

Keywords: legal status; seconded police officer; retention in the police service; main place of work; research and teaching staff; higher education institution with specific conditions of study

Introduction

The research relevance is determined by the police officer, being in the status of a seconded official to a state institution (organisation) with the retention of service in the police, performing the duties of a research and teaching employee, while being deprived of certain rights of research and teaching employees guaranteed by the latest legislation on higher education, in particular, in the area of granting annual basic paid leave of a longer duration than other categories of employees, including police officers.

It is worth noting the most significant general theoretical studies, which, however, are only indirectly related to the study of the issues of exercising the rights, duties, and social guarantees of a police officer seconded to a state institution at the main place of work. At the foreign level, the issues of social protection of police officers are addressed in the works that most often consider the elements that directly affect the performance of police officers; identify, analyse, and summarise the factors that significantly affect the effectiveness of police duties (Vitkauskas, 2013; Sparrow, 2015). There are Ukrainian studies that analyse the basic labour rights and obligations of employees and employers, the legal status of a police officer, and labour legal personality (Ieryomenko & Bandura, 2019; Korolchuk, 2020; Yaroshenko, 2022); socio-economic and socio-legal guarantees of professional activity of police officers and police bodies (Kyslytska, 2017; Shvets, 2017; Senchuk, 2018); administrative and legal regulation of social protection of police officers and identification of ways to improve (Buhaichuk, 2019; Marusevych, 2021); problems of legal regulation of labour rights of police officers, their regulation and guarantees (Bortnyk, 2018; Kolomoiets, 2018); police officer's right to leave, the state of its implementation in Ukraine, legal regulation of annual leave, its duration and calculation procedure, problems of legal regulation of types of annual leave for police officers (Chornous, 2017; Kucher & Grin, 2018); foreign and Ukrainian experience of social protection of police officers (Hidenko & Vodopian, 2018; Marusevych, 2020); possibilities of implementing foreign practice of protecting the rights of educators in the legal system of Ukraine and the activities of trade unions as a form of control over the observance of

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social and labour rights of police officers (Lozynska, 2019; Bilous, 2020).

The result of the review of the presented scientific works is the conclusion that there is no fundamental research which would directly address the problematic issues of regulating the legal status of a police officer seconded to a state (interstate) body, institution or organisation related to the exercise of rights, duties, and social guarantees at the main place of work. This is because the subject matter of the study is new and has a purely applied nature, and the problem itself is a consequence of the erroneous application of certain provisions of the police legislation concerning police officers seconded to a state institution (organisation) and remaining in the police service.

The research aims to identify a unified regulatory and legal approach to understanding the state guarantees regarding the duration of annual basic leave for police officers who serve in higher education institutions with specific learning conditions (hereinafter – HEIs) and do not perform police tasks.

Given the topic and purpose of the study, the following methods were used. The sociological method was used to obtain primary information on existing violations in determining the duration of annual basic leave for police officers seconded to higher education institutions to serve in academic positions. The method of systemic and structural analysis was used to study a) the interrelation of Ukrainian legislation in the field of education and leave, its impact on determining the duration of annual basic leave for academic staff of higher education institutions, regardless of departmental subordination and legal status of the employee; b) the legal and regulatory nature of the duration of annual basic leave for academic staff in the status of a police officer seconded to a higher education institution. This method was used to process and summarise the regulations on the legal regulation of the duration of annual basic leave for employees of higher education institutions. Comparative legal, logical, and normative, and legal methods were used in the process of analysing the legal acts regulating the organisational and legal framework for establishing the duration of annual basic leave for a police officer who performs the duties of a research and teaching staff member of an HEI, and in formulating conclusions on the totality of rights and obligations of an employee depending on the position appointed at the main place of work. The structural-functional method (analysis) was used to study the legal framework for establishing the duration of the annual basic leave of a police officer seconded to a higher education institution. The dogmatic method was used to disclose the content of the legal status of an employee seconded to a state institution (organisation) while remaining in the service of the police and to establish the duration of annual basic leave in the legally determined amount, regardless of whether the legal status of a police officer applies to a research and teaching employee. The formal logical method contributed to the formulation of the conclusions of the scientific research.

Determining the duration of leave of a police officer seconded to a state institution through the prism of a hybrid legal status

The legal status of a police officer seconded to a state institution (organisation) while remaining in the police service has not been studied by scholars at all and is not sufficiently regulated in the legal plane, which creates preconditions for violation of social rights of seconded special subjects who perform duties not related to the implementation of police tasks at their main place of work. Police officers seconded to higher education institutions perform the functional duties of academic staff but are deprived of the opportunity to enjoy all the rights and state guarantees established by the legislation on education, higher education, labour, and leave for academic staff, which makes their position discriminatory concerning other (civilian) academic staff in similar legal relations. Controversial (disputable) legal relations arise concerning the establishment of additional payments for police officers in higher education institutions for academic degrees, academic ranks, allowances for teaching activities, determination of working hours and leave, etc., as a dilemma arises: which provisions of the law should be applied to a police officer at the main place of work acquired as a result of such a secondment while remaining in the police service. Therefore, it is necessary to resolve this dilemma.

The establishment of additional payments for academic degrees, academic rank, and allowances for pedagogical activity for police officers at their main place of work in higher education institutions has already been the subject of research (Kondratiuk, 2022; 2023), and the present article analogously considers the issue of regulatory determination of the duration of annual basic leave for a police officer serving in a scientific and pedagogical position in a higher education institution. The duration of police leave is regulated by the Law of Ukraine "On the National Police" (hereinafter – Law No. 580-VIII) (2015). However, an offence is committed against police officers who work at their main place of work in a higher education institution in academic and teaching positions, which should be understood as a misdemeanour consisting of a long and continuous failure of a higher education institution to fulfil its obligations under the legislation on higher education to exercise the right of academic staff to annual basic leave of 56 calendar days. The study focuses on higher education institutions which are under the jurisdiction of the Ministry of Internal Affairs of Ukraine (hereinafter – MIA of Ukraine), where, being appointed to academic and teaching positions, employees continue to serve in the police, but do not perform police tasks or use police powers. Seconded police officers perform the duties of research and teaching staff and use the rights of research and teaching staff to perform their duties but are deprived of certain state guarantees of social security established for research and teaching staff.

The opinion of K. Buhaichuk (2019), argues that the protection of police officers in the social sphere is interconnected with their specific legal status as representatives of the state; the level of authority and prestige of the public service, the effectiveness of the use of police powers to perform police tasks, etc, is noteworthy. The author concludes that such protection should compensate for the specific conditions of service, encourage the performance of duties and discipline police officers. O. Klypa (2020) argues that without a sound financial, economic and legislative basis with an effective mechanism for its implementation, effective social protection of police officers is impossible, therefore, increasing the level of protection of police officers in the social sphere and bringing it closer to the democratic level of the welfare state, there is a need to improve Ukrainian legislation in the social sphere more fully, with the involvement of best foreign practices, by enshrining at the highest

legislative level the following defining social categories of regulation "police officer's working time", "police officer's leave" to eliminate legal gaps and ensure proper administrative and legal regulation.

The concept of "legal status of a subject" implies a position in the legal reality, which is reflected in relations with the state and society; such relations establish a special set of rights and obligations. In essence, there is a hybrid model that combines two statuses: a police officer seconded to a state (interstate) body, institution, organisation, and a research and teaching staff member – each of the statuses is conditioned by a set of inherent professional rights, duties and social guarantees defined by law. The hybrid model (status) gives rise to hybrid rights, obligations, and social guarantees. To achieve legal certainty in solving the problem of the published issue, it is necessary to consider the content of each of these statuses.

An officer of the National Police is a citizen of Ukraine who has taken an oath of allegiance to the state, serves in the bodies and units of the Police and has been awarded a special rank of police (Article 17 of Law No. 580-VIII). Police officers on secondment to state bodies, institutions and organisations serve in the police (Article 59 of Law No. 580-VIII). The tasks of the police are defined in Article 2, and the main and additional powers of the police are defined in Articles 23 and 24 of Law No. 580-VIII. In addition, Article 24 of Law No. 580-VIII stipulates that the police may be entrusted with additional powers only by law.

The relations arising in connection with police service are regulated by Law No. 580-VIII and other police regulations (Article 60 of Law No. 580-VIII). Currently, there is no act regulating the service of a police officer seconded to a state (interstate) body, institution or organisation, but the law stipulates that the time of such a secondment is included in the insurance period (Article 59 of Law No. 580-VIII); a police officer, regardless of position, location and time, enjoys the powers established by Law No. 580-VIII, as well as guarantees of legal and social protection as defined by the said Law and other legal acts (Article 62 of Law No. 580-VIII).

It is impossible to establish to which legislative acts the legislator refers concerning a police officer seconded to a higher education institution with specific training conditions and appointed to a scientific and pedagogical position not related to the use of police powers and performance of police tasks. In addition, according to the established guarantees of professional activity of a police officer (Article 62 of Law No. 580-VIII), the latter cannot perform duties not inherent in the National Police that are not provided for by law. However, this law does not define the duties of police officers seconded to state bodies (institutions). Research and teaching staff are persons who carry out educational and organisational activities in higher education institutions, which are their main place of work (Article 53 of the Law of Ukraine "On Higher Education", 2014), which is not considered to be police activity.

Research and teaching staff of educational institutions are provided with appropriate conditions for rest (Article 59 of the Law of Ukraine "On Higher Education", 2014). Research and teaching staff of all forms of ownership of educational institutions have the right to organise recreation established by law; they are subject to the rights defined by law for employees of scientific institutions (Article 57 of the Law of Ukraine "On Higher Education", 2014); they have the right to a longer paid leave (Article 54 of the Law of Ukraine "On Education", 2017).

Considering the content (essence, nature) of both statuses, it is logical to assume that a police officer, being seconded with retention in the police service, acquires rights and duties for the position appointed in a state body or institution and is subject primarily to legislation, which regulates the activities of the state body or institution where the police officer is employed, although, in fact, temporarily in the context of the concept of "secondment" (the law does not specify the period of secondment of a police officer to a state/interstate body, institution or organisation while remaining in the service of the police). There is reason to believe that a seconded police officer partially retains the rights and duties of a police officer, given the provisions of Articles 18 and 62 of Law No. 580-VIII. However, both legislative provisions just mentioned are united by the concept of "position" in the wording "regardless of the position held".

Law No. 580-VIII defines the organisational and legal framework for the police in Ukraine, the status of police officers, and the procedure for their service. It refers exclusively to positions in police bodies and units, which allow a police officer to perform police tasks. A "position in the police" is defined as a primary element of management of the police (police body), which is vested with the relevant powers that determine its place in the police system, as defined by the staffing table (Melnyk *et al.*, 2017).

The analysis of the tasks and powers of the police enshrined in the legislation on the police allows us to state that scientific and pedagogical activities are neither the first (i.e. tasks) nor the second (i.e. powers) and are not assigned by the Law of Ukraine "On the National Police" (2015) to police officers seconded to higher education institutions, but the latter are guaranteed (for the duration of the secondment) all the benefits for police officers (Article 71 of Law No. 580-VIII). Therefore, a seconded police officer cannot perform the duties of a research and teaching staff member, as this is not directly defined by Law No. 580-VIII but can enjoy the benefits of a police officer during a secondment to a higher education institution.

In addition, a police officer seconded to a higher education institution for a research and teaching position is not a representative of the state, as the officer does not exercise police powers at the main place of work, while obliged to perform the basic duties of a police officer as defined in Article 18 of Law No. 580-VIII, which also obliges a police officer on the territory of the state, regardless of position, to take exhaustive measures to protect people. The legislator means any position in police bodies and units, not in state (interstate) bodies, institutions, or organisations to which a police officer is seconded while remaining in the police service. The duties of a seconded police officer in positions in state (interstate) bodies, institutions and organisations are mostly not related to the performance of police tasks and use of police powers.

The above considerations allow us to directly investigate the subject of scientific research. The granting of annual leave to police officers is an exercise of the right to rest guaranteed by Article 45 of the Constitution of Ukraine (1996), i.e., the right to leave is a state guarantee. All employees have the right to basic leave, while additional leave may be claimed by employees with additional (special) grounds. During the annual leave, employees who do not perform their duties in their positions retain their salary (allowance).

The grounds, duration, and procedure for granting employees leave are set out in the Labour Code of Ukraine (1971), the Law of Ukraine “On Vacations” (1996), etc. The minimum duration of annual basic leave is 24 calendar days. Certain entities have the right to a longer leave, in particular, up to 56 calendar days for pedagogical, scientific, and pedagogical, and scientific employees. The minimum duration of annual basic leave for a police officer is 30 calendar days (Article 93 of Law No. 580-VIII). Thus, the duration of annual basic leave is also a guarantee established by the state, which applies to certain categories of persons depending on the work they perform.

According to clause 12, part 1 of the Law of Ukraine “On the Collection and Accounting of a Single Contribution to Mandatory State Social Insurance” (2010), the main place of work is where an employee works based on an employment contract and is registered in the register of insured persons of the State Register. An HEI is an employer for a seconded police officer (this is not a business trip where a police officer is sent to perform police tasks). An employer is a labour law category that denotes a provider of work with all the rights and obligations that come with it (Melnyk *et al.*, 2017). Labour relations with police officers are considered to be a volitional bilateral relationship between their subjects through mutual obligations and rights in the field of public service (Melnyk *et al.*, 2017). The right to rest is a fundamental labour right (Zhernakov, 2012).

Paragraph 6-1 of Part 1 of Article 1 of the Law of Ukraine “On Higher Education” (2014) defines the essence of a higher education institution with specific learning conditions. Paragraph 4 of Article 13 of the Law of Ukraine “On Higher Education” authorises state bodies, which manage higher education institutions, to establish specific requirements for specific areas (spheres) of activity of such higher education institutions by their acts. It should be noted that this list is exhaustive.

From the systematic analysis of the legal provisions referred to in the above-mentioned articles of the law, it is clear that the legislation provides for the establishment of higher education institutions with specific conditions of education. The peculiarity of their legal status is that the state bodies under whose jurisdiction such institutions are located may establish special requirements for certain areas of activity of the institutions, including the implementation of the duties and rights of academic staff. At the same time, the main legal act in the legislation on higher education that regulates the activities of educational institutions and guarantees proper rest for academic staff of higher education institutions is the Law of Ukraine “On Higher Education” (2014), the Law of Ukraine “On Education” (2017), and not Law No. 580-VIII. It is worth mentioning that the HEIs to which police officers are seconded to serve in academic and teaching positions are under the jurisdiction of the Ministry of Internal Affairs of Ukraine, as stated in the statute of each HEI. Therefore, a police officer appointed to a research and teaching position works at his/her main place of work in an HEI that is under the jurisdiction of the MIA of Ukraine, not the National Police. An HEI does not belong to the bodies or subdivisions of the National Police. At the same time, it should be noted that the National Police has its educational institutions, which are also not properly regulated.

All guarantees defined by the legislation for research and teaching staff apply to research and teaching staff, including the duration of annual basic leave (extended paid leave) for research and teaching staff. According to part 6 of Article 6 of the Law of Ukraine “On Vacations” (1996) and the Procedure approved by Resolution of the Cabinet of Ministers of Ukraine No. 346 (1997), academic staff are granted an annual basic leave of 56 calendar days. A research and teaching staff member who serves in an HEI in the status of a secondee to a state (interstate) body, institution, or organisation and remains in the service of the police is entitled to an annual basic leave of 56 calendar days. The fact that a research and teaching staff member is also a police officer in the status of seconded to a state (interstate) body, institution or organisation and remains in the service of the Police and is subject to the legal guarantees provided for by Law No. 580-VIII does not negate right to annual basic leave of 56 calendar days, as established by the Law of Ukraine “On Vacations” (1996) and Resolution of the Cabinet of Ministers of Ukraine No. 346 (1997). At the same time, the provisions of Articles 92 and 93 of Law No. 580-VIII apply to all police officers serving in the bodies and units of the National Police. Thus, in the case of academic staff serving in higher education institutions with specific conditions of study, it is the Law of Ukraine “On Vacations” (1996) that is special and should be applied in case of legal competition of norms. Establishing different lengths of annual basic leave for employees appointed to academic positions while remaining in the police service can be considered discriminatory towards a separate category of persons who, while working at their main place of employment in an HEI, are deprived of the right of academic staff to an annual basic leave of 56 days.

It should be added that similar legal relations involving another special subject – military personnel – have long been regulated. Following the Decree of the President of Ukraine “On the Regulations on Military Service in the Armed Forces of Ukraine by Citizens of Ukraine” (2008), leaves of absence for academic staff of higher military educational institutions are granted mainly after the end of the academic year. Leaves of absence for servicemen seconded to state bodies (institutions, organisations) are granted on a general basis.

Similar relations regarding social (labour) guarantees for police officers seconded to state bodies, including the Verkhovna Rada of Ukraine and local self-government bodies, are also regulated. A Member of Parliament, who is a police officer, seconded to the Parliament during the period of parliamentary powers and remains in the service of the police for the period of parliamentary powers, is entitled to an annual paid leave of 45 calendar days during the intersessional period, as enshrined in Article 20 of the Law of Ukraine “On the Status of a People’s Deputy” (1992). A police officer elected to a position in the local council, employed at the main place of service, is seconded to the local council, and remains in the service of the law enforcement agency (Law of Ukraine “On the Status of Deputies of Local Councils”, 2002). Local self-government officials are granted an annual leave of 30 calendar days unless the law provides for a different duration of leave following parts 5 and 6 of Article 21 of the Law of Ukraine “On Service in Local Self-Government Bodies” (2001). To summarise, there are still areas and spheres of public relations in which the legal status of a seconded police officer is sufficiently and unambiguously defined, which is an undoubtedly positive experience worth extending to other areas of public life.

Regulatory justification of state guarantees on the duration of leave for police officers seconded to higher education institutions

The HEI is managed by the Ministry of Internal Affairs of Ukraine. The HEI is not under the jurisdiction of the National Police. First of all, the provisions of the Law of Ukraine "On Higher Education", the Law of Ukraine "On Education", etc. apply to higher education institutions. A research and teaching staff member in the status of a police officer who works at the main place of work in an HEI is subject primarily to the guarantees for research and teaching staff established by legislative acts, in particular, the Laws of Ukraine "On Higher Education", "On Education", "On Leave", etc. When justifying the legal position on the specifics of legal regulation of the duration of annual basic leave for a police officer seconded to an HEI, it is also necessary to refer to international law and case law. Ratified international treaties are part of Ukrainian legislation, and the case law of the European Court of Human Rights should be used as a source of law, including in the consideration of cases by Ukrainian courts.

According to the legal position of the European Court in the case of Yvonne van Duyn v. Home Office (Judgment of the European Court..., 1974), the principle of legal certainty means that a person can rely on state obligations, even if they are contained in a legislative act that does not have direct automatic effect. The above is related to another principle - the principle of state responsibility, which means that the state cannot violate its obligations to avoid liability. If the state (state body) has agreed on a certain concept, they will be considered to act unlawfully if they deviate from the approved policy, since the latter has given rise to legitimate expectations of legal (natural) persons regarding the public authorities' compliance with such a policy (Judgment of the European Court..., 1974).

The Ukrainian judicial practice has made a significant contribution to the protection of the rights of academic staff from among the so-called special subjects. The legal conclusion set out in the Resolution of the Administrative Court of Cassation of the Supreme Court of Ukraine in Case No. 380/24050/21 (2023) confirmed that concerning academic staff serving in military educational institutions, the Law of Ukraine "On Higher Education" (2014) is special and should be applied in case of competition of legal norms.

Given all the above, which is mostly of a purely applied (practical) nature, it is advisable to support the discussion on general theoretical scientific considerations regarding the expediency of considering the social protection of police officers as a complex concept implemented within the framework of state activities in various fields. The position of scholars is that the content of this category is the interdependent action of all components that purposefully and systematically ensure the exercise of the rights of each police officer. Scientists insist that the activities of public administration entities to protect the rights of police officers in the social sphere should be considered, which makes it possible to distinguish categories of social protection of police officers depending on the criteria and features, which allows to reveal their content and functional features in the context of the selected types of social protection of police officers (Anosienkov & Izbash, 2022). Before summing up the results of the presented scientific research, it is worth considering the opinion of researchers that a feature of social protection of police officers in the field of labour relations is the possibility of providing favourable conditions for the implementation of labour legislation to protect their health and ensure the necessary rest time for police officers (Antonenko, 2023). In addition, in the context of this study, a scientific conclusion on the structure of the administrative and legal status of a police officer, which should include, in particular, the right to rest, is quite relevant. Moreover, the author of this conclusion substantiates that this element is a primary component of an integral legal entity, which at the same time contains elements of its system and can be defined as a legal phenomenon in its own right (Dmytryk, 2021). In other words, the legal status of a police officer seconded to a state institution is an independent legal phenomenon with its legal nature.

Considering the above, it can be stated that the legal position on the issue under study, as well as the legal basis for its settlement outlined in the article, is fully consistent with theoretical research, general principles of international law, and judicial practice, and may serve as a basis for fundamental research into the legal status of a special subject seconded to a state institution (organisation).

Conclusions

The scientific novelty of the study is that for the first time, the author substantiates the mandatory application of the provisions of general legislation on leave to police officers seconded to higher education institutions for service in academic and teaching positions. The author's contribution is that, as a result of the systematisation and analysis of scientific literature and current legal acts regulating the definition of police officer status and the duration of annual basic leave for certain categories of persons, it is proved that the state guarantees for establishing the duration of annual basic leave for academic staff apply to police officers seconded to higher education institutions to ensure scientific and educational activities. The research provides a theoretical and practical basis for regulating the duration of annual basic leave for police officers seconded to higher education institutions.

The professional activity of a police officer is directly related to the performance of police tasks using the professional powers of a police officer defined by special legislation. Without such powers, it is impossible to perform police tasks lawfully. However, the powers of a police officer, as well as the tasks of the police, do not include legal relations related to scientific and pedagogical activities, which by their nature do not affect the performance of police tasks. Scientific and pedagogical activity and police activity are completely different areas of social relations, which, in the context of the study, have a common feature, a special subject - a police officer who is purposefully seconded to a higher education institution to engage in scientific and pedagogical activity, but remains in the police service, which allows him to enjoy police benefits. The legislation does not provide for the possibility of feedback – secondment of a research and teaching staff member (not a police officer) to police bodies and units to perform police tasks using the powers of a police officer. Therefore, the seconded police officer performs the duties of a research and teaching staff member at the higher education institution, which is considered a main place of work during the entire period of the secondment. The acquired academic position, as well as the duties of the academic staff member, are not related to the performance of police tasks and the use of police powers. A

seconded police officer appointed to a research and teaching position, along with duties, must acquire the relevant rights of a research and teaching employee, in particular the right to annual basic leave of 56 days.

The study has achieved the goal and solved the tasks of the presented scientific research at the scientific and practical level. In the future, it is necessary to discuss the motivational part of the study and its conclusions. It remains to be initiated by the Ministry of Internal Affairs of Ukraine, as the state body in charge of higher education institutions, to develop a regulatory act that will define the specifics of the rights and obligations of academic staff (police officers), as well as further amendments to Law No. 580-VIII, in particular Article 71, to objective legislative regulation, adhering to the principles of the rule of law and legal certainty, as published in the presented and previous studies of the issues.

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Conflict of interest

None.

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Тривалість щорічної основної відпустки поліцейського, який проходить службу на науково-педагогічній посаді

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Анотація. В Україні спостерігається стійка тенденція, за якої суб'єктами владних повноважень порушують гарантії прав науково-педагогічних працівників. Установлення науково-педагогічним працівникам залежно від виду закладу вищої освіти різних за тривалістю щорічних основних відпусток – одне з таких порушень. Мета дослідження – обґрунтувати обов'язковість розповсюдження гарантії щодо тривалості щорічної основної відпустки для науково-педагогічних працівників щодо поліцейських, відряджених для проходження служби в заклади вищої освіти. Ключові методи наукової розвідки – системний та структурний аналіз, які дали змогу вивчити та узагальнити наукові джерела, нормативно-правові акти, що визначають статус поліцейського, відрядженого до закладу вищої освіти; урегульовують тривалість щорічної основної відпустки для науково-педагогічних працівників, відряджених до закладів вищої освіти із специфічними умовами навчання із залишенням на службі в поліції. У статті обґрунтовано позицію, що зміст прав відрядженого поліцейського повинен визначатися насамперед завданнями та функціями, які безпосередньо виконує працівник на посаді за основним місцем роботи. Доведено, що положення про тривалість щорічної основної відпустки, установлена в Законі України "Про Національну поліцію", розповсюджується стосовно поліцейських, які проходять службу в органах та підрозділах поліції. Щодо поліцейських, відряджених до закладів вищої освіти зі специфічними умовами навчання і призначених на науково-педагогічні посади, тривалість щорічної основної відпустки повинна встановлюватися з урахуванням державних гарантій відповідно до Законів України "Про вищу освіту", "Про освіту", "Про відпустки". Практичне значення дослідження полягає в обґрунтуванні правових підстав для врегулювання тривалості щорічної основної відпустки поліцейських, відряджених до державних установ (організацій)

Ключові слова: правовий статус; відряджений поліцейський; залишення на службі в поліції; основне місце роботи; науково-педагогічний працівник; заклад вищої освіти зі специфічними умовами навчання

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Modelling information support for combating corruption in the economic security management system of the state

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Abstract. The premises of the study – the escalation of threats and negative factors in the management of the economic security of the state necessitates the examination of various issues, including the information support for combating corruption within the state's economic security management system. The purpose of the study is to enable contemporary information support for combating corruption within the state's economic security management system. To achieve this purpose, modelling of information support for combating corruption within the economic security management system was conducted. Key research method – graphical modelling based on Data Flow Diagrams, describing data sources, recipients, logical functions, data flows, and data repositories accessed in the context of information support for combating corruption within the economic security management system of the state. The outcome is the construction of a key model for information support for combating corruption within the economic security management system. The major functions of information support for combating corruption within the state's economic security management system are considered and presented. Innovation of the obtained results is demonstrated through the proposed methodological approach. The developed model enhances the efficiency of information support for combating corruption within the state's economic security management system. The paper elucidates essential functional aspects of information support for combating corruption within the state's economic security management system. The theoretical and practical value of the results lies in the provided methodological approach for ensuring anti-corruption measures within the state's economic security management system

Keywords: trend analysis; model formulation; data flow diagrams; security assurance; state-level security; monitoring; national competitiveness

Introduction

The prerequisites for the study are increased attention to the management of the economic security of the state. This leads to the actualisation of the investigation of such problems as information support for combating corruption in the state's economic security management system. In Ukraine, as in many countries of the world, the scale of corruption and the degree of its negative impact on the development of economic security require a new assessment of this phenomenon. This does not refer to individual cases of influence on management decision-making but to the formation of a system that becomes a serious threat to the national economic security of countries and a challenge to the bodies designed to ensure it. Corruption reduces economic growth, limits the potential of civil society institutions, is associated with human rights violations, and has other negative consequences.

One of the priority tasks of Ukraine was and remains its constant development, including economic, and, as a result, continuous provision of economic security, which provides, in particular, countering the negative impact of corruption threats. The Economic Security Strategy sets certain state priorities, which also include the fight against economic crimes. Therefore, countering corruption-related crimes has been and remains an actual area of activity of the internal affairs

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bodies, which are entrusted by the state with the task of preventing and suppressing threats of economic and corruption.

It is important to understand that the fact of transformation of corruption into one of the key internal threats to economic security requires re-understanding the place and role of its examination as a social phenomenon in criminology and other branches of science, from a broader, sociological point of view, to critically assess the effectiveness of traditional measures to prevent and combat corruption crime. Specialists need to try to move away from the usual but outdated schemes and simplified approaches to analysing this complex socially destructive phenomenon and determining the possibilities of countering it. This makes it possible to turn, in particular, to the tools of the economic approach.

Many papers have been written about corruption as a negative phenomenon in society. This is due to the fact that the phenomenon of corruption is too complex and multifaceted. In general, the literature (Navickas *et al.*, 2016; Shynkar *et al.*, 2020) describes that corruption within the state's economic security management is often the result of unclear and opaque procedures, rules, mechanisms, and legislative installations. This also applies to the system of anti-corruption prohibitions, restrictions, and obligations, the wording of which should be mutually agreed upon, clear, understandable by both officials and ordinary people, leave no room for free or ambiguous interpretation, the mechanisms for monitoring their compliance are clear, and the procedures for performing duties should be correctly regulated and transparent.

In scientific and practical literature (Melnyk *et al.*, 2020; Tytykalo *et al.*, 2023) it is often noted that there are currently many developments on ways and means of combating corruption. Most often, when covering anti-corruption issues, the importance of external control over the government and bureaucracy, both by the opposition and by the media, is emphasised. Moreover, this control should not be passive. The opposition should be able to make claims against the authorities, and the authorities should be forced to take into account the opinion of the opposition. The mass media should also be independent and, where necessary, conduct investigations and publish their results truthfully and independently of any factors.

Corruption in the management of the economic security of the state is not only a problem of society as a whole, it is largely caused by society (Mouselli *et al.*, 2016; Abramova *et al.*, 2022). citizens give illegal benefits to make life easier and simplify the passage of any procedures. If members of the society offer officials illegal benefits, they will likely accept it. There is no single universal method or technique to fight corruption, to minimise this phenomenon, it is necessary to use an integrated approach and systematic measures. Strengthening responsibility for illegal benefits is necessary to combine with the simultaneous improvement of the culture of society as a whole, and educate members of society to refuse to give illegal benefits. Only such actions can lead to a reduction in the level of corruption (Mihus *et al.*, 2020; Iskajyan *et al.*, 2022).

However, the problem of information support for combating corruption in the state's economic security management system is still relevant. The main purpose of the study is to form a model of proper information support for combating corruption in the state's economic security management system. The object of the study is the state's economic security management system.

To achieve this purpose, a simulation of information support for combating corruption in the state's economic security management system was conducted. The methodology is based on the DFD (Data Flow Diagrams) modelling method, a graphical structural analysis methodology that describes data sources and recipients, logical functions, data flows, and data warehouses that are accessed as part of information support for combating corruption in the state's economic security management system. The need to use DFD diagrams is to describe the existing data flows in the structure of information support for combating corruption in the state's economic security management system. In addition, a graphical method was used to visualise the results of the study. The abstract-logical method was used to form appropriate conclusions based on the results of the study.

Problems of creating economic security mechanisms in the world and in Ukraine

As noted in the scientific literature (Waller, 1993; Pushak *et al.*, 2021), corruption in the public sector is one of the key problems of the modern world within the framework of managing the economic security of the state. The concern of the international community with anti-corruption problems is caused by the multifactorial nature of this phenomenon, its spread to almost all spheres of society, which undermines the foundations of political, economic, and social structures of the state, reduces public confidence in the authorities, and hinders the development of the country. The perception of corruption and its specific manifestations varies substantially in different cultures, both from a moral and legal point of view, which leads to the lack of a single generally accepted legal definition of corruption. Ukrainian and international legislation most often criminalises certain actions or elements that constitute corruption (United Nations Convention Against Corruption, 2003; Law of Ukraine "On Prevention of Corruption", 2014). Considering the complexity of the corruption phenomenon and the specificity of its perception, it is anticipated that any successful anti-corruption strategy must be tailored to a specific country. The development of a standard package of anti-corruption measures at the international level is now a utopian idea.

The fight against corruption is becoming quite a difficult process, especially in the context of a large state. Moreover, a fairly effective way of combating corruption within the framework of managing the economic security of the state is to reduce the conditions for it, but this is a rather ambiguous and multi-faceted way, which involves many interrelated and mutually conditioned actions. Measures such as the declaration of income by officials have proven to be ineffective. This measure can be effective when combined with oversight over officials' expenditures, their lifestyles, and subsequent comparison of these indicators. As practice shows, increasing officials' salaries is also an inefficient measure to combat corruption, as higher salaries often lead to larger illicit gains. Corruption is almost always the result of inefficient and unwise management (Mouselli *et al.*, 2016; Abramova *et al.*, 2022).

The development of a mechanism for ensuring economic security at any level (individual, society, state) involves a series of stages: recognising and defining a problematic situation; formulating a specific problem; determining the desired state of the system; identifying threats and evaluating them based on various parameters (source of origin);

quantitatively assessing potential harm; crafting a security strategy; practically implementing the planned measures; establishing proper information support. In other words, to ensure the economic security of any socio-economic system, it is necessary to identify what poses a threat, the nature of these threats, and the probability (risk) of negative occurrences. To do this, there must be an appropriate information support system.

In the development of security problems, including economic ones, the issue of delineating the boundaries of security development is important. Information provision and quality analysis of the nature of changes in safety indicators in the monitoring process, which involves actual tracking, analysis and forecasting of these indicators, play a decisive role in this. The range of values for each security indicator can be divided into three areas: the security zone, the threat zone, and the zone of unacceptability. The security zone is an area of sustainable development, it is the area of the desired state of the system. This area is achieved only with proper information support. Discussing the desired state of Ukraine's economic security is highly complex due to challenges in countering corruption.

The COVID-19 pandemic, the climate crisis, and growing security threats around the world are fueling a new wave of uncertainty. In an already unstable world, countries that are unable to address their corruption issues exacerbate the consequences. The Corruption Perceptions Index (CPI) 2022 (2023) shows that corruption levels remained unchanged in 124 countries, while the number of countries experiencing a decline is increasing. This has serious consequences as the global situation deteriorates, with corruption being both a key cause and consequence of this trend.

Corruption and conflict fuel each other and threaten a lasting peace. On one hand, conflict provides a fertile ground for corruption: political instability, increased resource pressure, and weakened oversight bodies create opportunities for crimes such as embezzlement.

Most countries that rank at the bottom of the Consumer Price Index (CPI) are currently experiencing or have recently experienced armed conflicts. On the other hand, even in peaceful societies, corruption and impunity can escalate into violence, fueling social discontent. The extraction of resources necessary for security services deprives a country of the means to protect its population and uphold the rule of law. Consequently, countries with higher levels of corruption are also more likely to exhibit higher levels of organised crime and increased security threats. Corruption is also a threat to global security, and countries with high CPI scores play a role in this. Over decades, these countries have welcomed dirty money from abroad, allowing kleptocrats to increase their wealth, power, and geopolitical ambitions. The catastrophic consequences of developed economies' involvement in transnational corruption became evident following Russia's full-scale invasion of Ukraine. According to this index, Ukraine's positions are very low (Fig. 1).

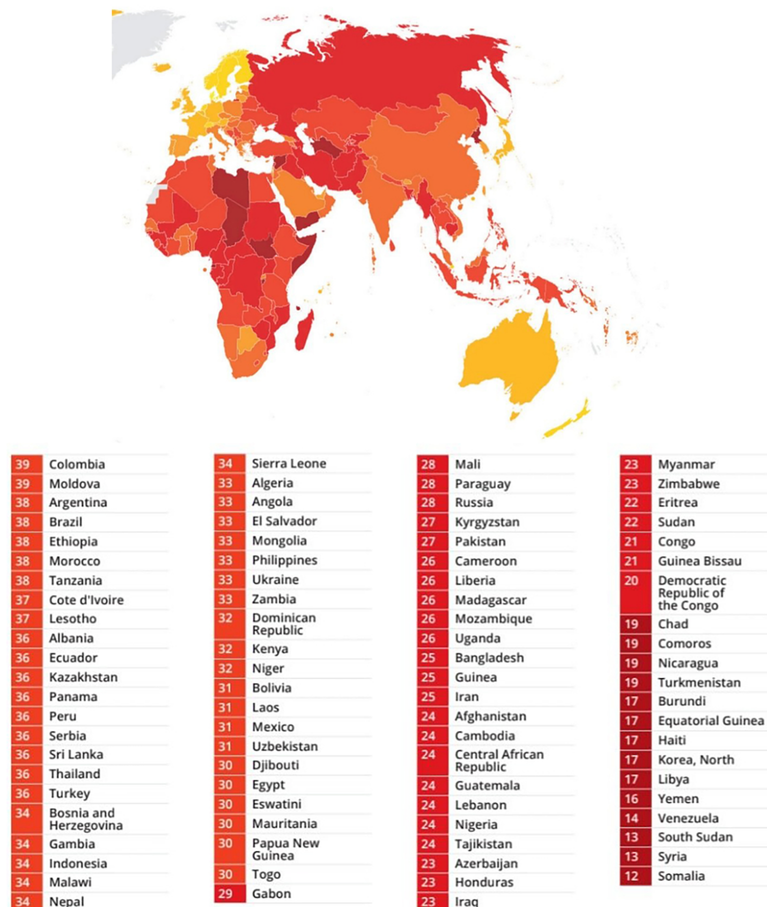

Figure 1. Corruption Perception Index in Ukraine and the world
Source: Corruption Perceptions Index 2022 (2023)

In Ukraine, during the years 2017-2021 (the analysis was conducted before the start of the full-scale war, as criticizing the government's actions within the framework of economic security management during this period would be inappropriate), there was an observed increase in registered offences in 2020, which are classified as corruption-related. However, since 2021, there has been a decline (Fig. 2).

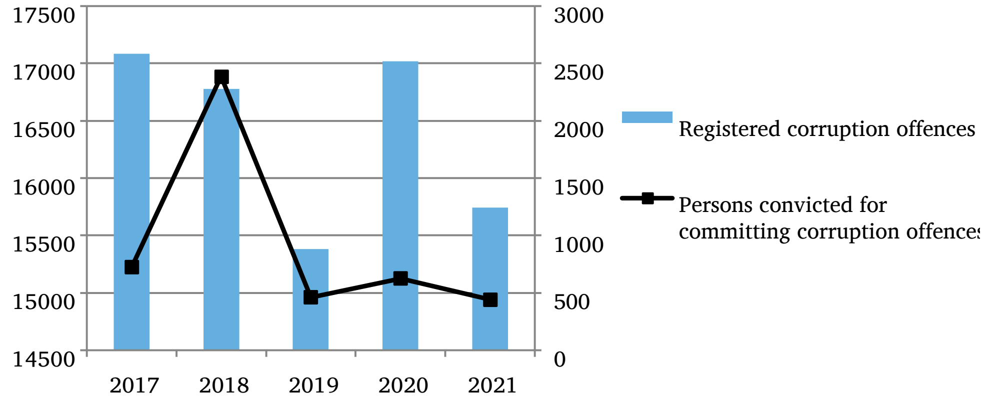

Figure 2. Dynamics of officially recorded corruption offences in Ukraine for the period 2017-2021, number of cases

Source: developed by the authors

Implementation of the information support model for countering and overcoming corruption

Based on the results of the conducted modelling, the anti-corruption information support model within the framework of state economic security management can be presented (Fig. 3). Furthermore, the key functions that enable the implementation of the anti-corruption information support model within the state economic security management framework are presented (Fig. 4).

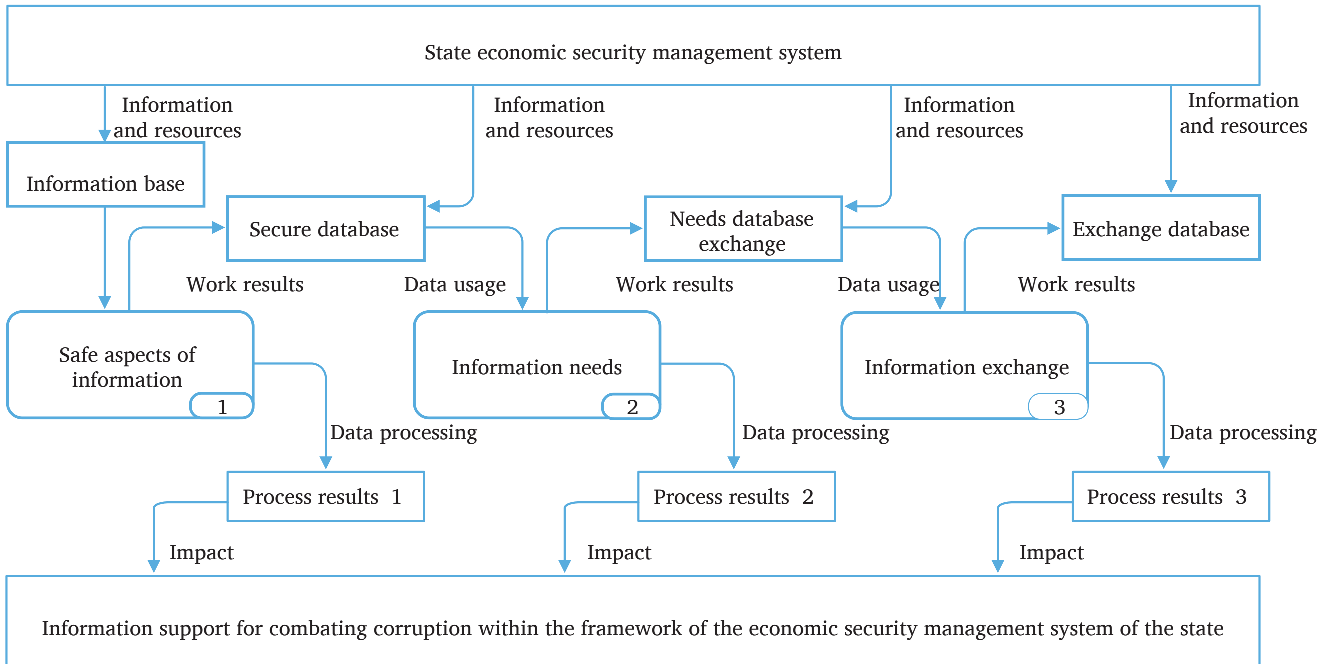

Figure 3. Model of information support for combating corruption within the framework of the state's economic security management system

Source: developed by the authors

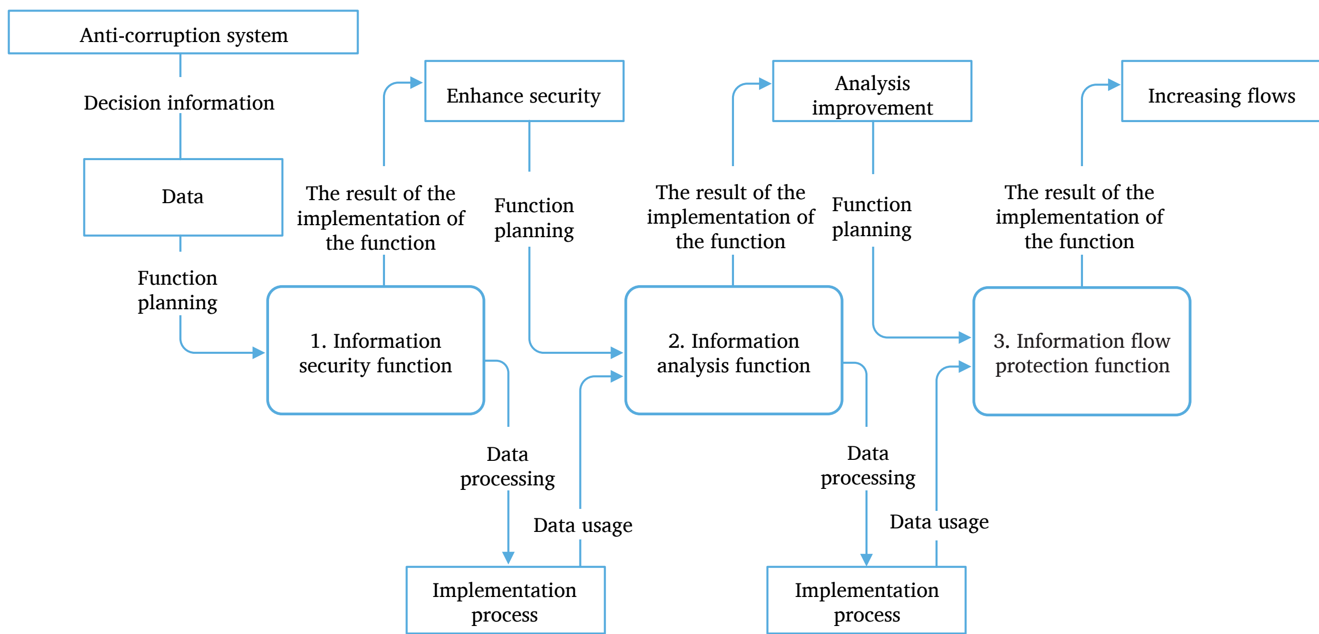

Figure 4. Key functions enabling the implementation of the anti-corruption information support model within the state economic security management framework
Source: developed by the authors

Thus, the core anti-corruption information support model within the state economic security management framework and the key functions that enable its achievement can establish a solid foundation for the flow of data that contributes to achieving the desired socio-economic impact.

When discussing the results of the study, it is advisable to compare them with similar ones. For example, a comprehensive examination of the essence of corruption, the reasons for its formation, transformation, evolution, and sustained reproduction, and the manifestations on a global scale and in Ukrainian society, along with the justification of measures that contribute to its overcoming, is an important issue for social-humanitarian and especially legal knowledge (Sylkin *et al.*, 2018). Manifestations of corruption in social life significantly diminish the value and effectiveness of laws, undermine the population's trust in institutions of power and the rule of law, contribute to increased social inequality through the redistribution of social goods in favour of narrow social groups, create discrepancies between ideal and actual values, fostering cognitive dissonance (double standards) of behaviour among society members (Rushchyshyn *et al.*, 2021; Zhavoronok *et al.*, 2022).

According to other researchers, corruption distorts the mechanism of market competition, as winners in economic competition often become participants in corrupt schemes. Corruption acts as a "hidden tax" for potential investors, deterring them from active investment activities. Corruption-related offences are one of the causes of inflation, as the increased financial burden on consumers of goods and services due to the inclusion of bribery of officials in the cost of production and sales leads to price and tariff increases. Moreover, corruption leads to inefficient allocation of budgetary funds, resulting in underfunding of various functions within economic security management (Shtangret *et al.*, 2021; Marhasova *et al.*, 2022).

As presented in the findings of other researchers, the goal of combating corruption must be a long-term perspective, as otherwise, by fighting against illicit gain, other sectors might suffer. Achieving long-term perspectives requires gradually raising societal well-being and the level of responsibility for corruption-related crimes (Ianioglo & Polajeva, 2017; Sylkin *et al.*, 2019). Such global problems cannot be instantly resolved but require a plan and its strict execution, which not only necessitates the creation of a fight plan but also tracking its implementation. For Ukraine, the attitude to corruption is a choice between long-term and short-term prospects. Today, corruption is convenient for many, which means that the fight against it increasingly does not have any long-term prospects. However, from a strategic perspective, corruption undermines the country's competitiveness, which is particularly crucial at present (Britchenko *et al.*, 2018; Shynkar *et al.*, 2020; Ilyash *et al.*, 2022).

In discussing the obtained results, it should be noted that they have certain differences. The originality of the obtained results lies in the proposed methodological approach. In general, the proposed processes for achieving this goal also deserve special attention. Thus, the formulated model enables the enhancement of the effectiveness of information support for combating corruption within the framework of the state's economic security management. The main distinction of this study lies in the methodological approach used for information support in combating corruption within the framework of state economic security management.

Conclusions

In summary, there are numerous anti-corruption mechanisms established by the state, which play a role in enhancing the effectiveness of countering corruption within the state's economic security management system. Among these, notable measures include improving the system and structure of government bodies, establishing a regime of public

oversight over their activities, implementing anti-corruption standards (i.e., establishing a unified system of prohibitions, restrictions, and permissions in relevant domains to prevent corruption), ensuring citizens' access to information about government activities, guaranteeing the independence of media, maintaining the principles of judicial independence, eliminating unjustified bans and restrictions, particularly in economic spheres, and optimising and specifying the authorities' responsibilities and those of their employees, which should be reflected in administrative and job regulations.

A major challenge in the path towards building a rule of law is the escalating level of corruption. The impact of corruption is so substantial that it diminishes the effectiveness of a market economy, undermines existing democratic institutions, erodes people's trust in the government, intensifies political and economic inequality, fosters organised crime, and poses a threat to the country's economic security. The issue of countering corruption within the economic security management system is relevant not only for Ukraine but for other countries as well. Many nations have amassed valuable experiences in combating this phenomenon, and depending on each country's circumstances, the approach can vary from soft management methods to stricter measures. Effective management of anti-corruption skills contributes to reducing corruption within public service, and since legislation evolves, continuous updating of knowledge and skill development in this field is necessary.

The originality of the obtained results lies in presenting a new methodological approach to information support for countering corruption within the framework of the state's economic security management system. In addition, the functions that contribute to this type of support were presented.

As a result, a key model for information support in countering corruption within the state's economic security management system was introduced. The primary functions of information support for countering corruption within the state's economic security management system were also considered and presented.

This study has limitations in terms of considering the specifics of information support for countering corruption within the framework of Ukraine's economic security management. Future research prospects will focus on expanding the modelling process of information support for countering corruption within the state's economic security management system.

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Conflict of interest

None.

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Моделювання інформаційного забезпечення протидії корупції в системі управління економічною безпекою держави

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Анотація. Передумови дослідження – посилення загроз та негативних чинників щодо управління економічною безпекою держави, що актуалізує вивчення низки проблем, як-от інформаційного забезпечення протидії корупції в системі управління економічною безпекою держави. Мета роботи – уможливити сучасне інформаційне забезпечення протидії корупції в системі управління економічною безпекою держави. Для досягнення поставленої мети проведено моделювання інформаційного забезпечення протидії корупції в системі управління економічною безпекою держави. Ключовий метод дослідження – графічне моделювання на основі діаграм потоків даних (Data Flow Diagrams), що описує джерела та адресатів даних, логічні функції, потоки даних та сховища даних, до яких здійснюється доступ в рамках інформаційного забезпечення протидії корупції в системі управління економічною безпекою держави. У результаті побудовано ключову модель інформаційного забезпечення протидії корупції в системі управління економічною безпекою держави. Враховано і представлено основні функції інформаційного забезпечення протидії корупції в системі управління економічною безпекою держави. Інноваційність отриманих результатів продемонстровано у вигляді запропонованого методичного підходу. Сформована модель уможливлює підвищення ефективності інформаційного забезпечення протидії корупції в системі управління економічною безпекою держави. У статті розкрито ключові функціональні аспекти інформаційного забезпечення протидії корупції в системі управління економічною безпекою держави. Теоретична й практична цінність результатів полягає в представленому методичному підході щодо забезпечення протидії корупції в системі управління економічною безпекою держави

Ключові слова: тенденційний аналіз; формування моделі; діаграми потоків даних; гарантування безпеки; безпека на рівні держави; моніторинг; конкурентоспроможність країни

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Critical thinking as an information security factor in the modern world

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Abstract. Access to information in today's world is unprecedentedly easy thanks to the Internet and social media. However, this also creates information overload and the threat of disinformation. Critical thinking is becoming a key skill for sifting reliable information from fakes and manipulations, which makes this topic relevant. The research aims to determine the role of critical thinking in ensuring the information security of the population in the modern world. The study used the methods of analysis, systematisation, synthesis, and generalisation. The study confirmed that critical thinking is an important factor in the field of information security of the population, and also examined the main aspects of critical thinking and its components, including analysis of information sources, fact-checking, contextual understanding, bias research, formulation of critical questions and self-assessment. The study also thoroughly analyses the key aspects of critical thinking skills and considers the concept of Team-Based Learning (TBL), which is an active approach to education aimed at stimulating students' critical thinking and engaging them in an active learning process. The results of the study highlight the peculiarities and importance of developing critical thinking skills in the Ukrainian population, especially in the context of the ongoing war with Russia, as the war manifests itself not only on the military front but also in the information space, and therefore the development of critical thinking becomes an important element in protecting national interests and information security. The results of the study can be used by researchers to develop specific recommendations and strategies to increase the level of critical thinking among the population and improve information security

Keywords: personality; reflection; development; individual and mass consciousness; cybercrime

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Introduction

In today's information space, there are threats of cybercrime, including fraud, phishing, and other types of attacks. Critical thinking helps to identify and prevent such threats. More and more attention is devoted not only to the study of facts but also to the development of critical thinking in the educational process, so studying this issue helps the younger generation prepare for the challenges they face in the modern information world. Modern society is characterised by the consumption of a large amount of information that comes to people every day. The ability to effectively process this information and determine its veracity is becoming an important issue today.

Ukrainian scientists M.A. Rozhilo *et al.* (2021) emphasise the importance of developing critical thinking as a key component of development. They note that critical thinking skills are essential for responsible and rational perception of information in an era of increased spread of fake news and manipulation. They argue that fostering critical thinking in the educational process and the education of society as a whole is an integral element of modern education. It is worthwhile to study in more detail the aspects of fostering critical thinking skills among the Ukrainian population.

The section highlights the current state of the problem under study at the global level, analyses the latest research and publications (7-10 works of other researchers) with links to scientific publications over the past 3-5 years. The relevance, purpose, objectives and the novelty of the study are substantiated. References to literature must be submitted in round brackets, example: "L. Wales (2022) mentioned…". One citation should not include more than 3 sources.

According to O.H. Rybchuk (2023), the history of the development of the concept of "critical thinking" covers more than 2500 years and is the subject of research in various sciences, such as logic, philosophy, pedagogy, and psychology. The scholar notes that during different historical periods, scientists have made a significant contribution to the development of the concept of critical thinking. The researcher emphasises that philosophers from different eras, from antiquity to modernity, have improved their views and interacted with each other, developed, supplemented, and sometimes contradicted the ideas of other philosophers, using critical thinking as a tool of analysis. Therefore, based on the above, it is necessary to study in more detail the features of critical thinking in the modern information society.

N.J. Alsaleh (2020) emphasises the importance of integrating critical thinking into curricula and teaching methods at all levels of the educational process. The scientist recognises that this orientation should become an integral part of learning so that students develop these skills in a quality and systematic way. In addition, the researcher draws attention to the technological aspect of critical thinking education and points to the need to introduce digital innovations in this area, as the use of modern technologies, interactive platforms, online resources, and other digital tools can improve the effectiveness of critical thinking education and provide a more interactive and dynamic form of education. It is important to consider this aspect in more detail, as the introduction of technological innovations in education can significantly expand the opportunities for young people to develop critical thinking and prepare for the modern challenges of the information society.

N.V. Dehriarova *et al.* (2022) are convinced that critical thinking is a key skill in modern society. The researchers believe that this skill is developed through systematic and continuous work in secondary schools and, later, in higher education institutions or during self-education. The researchers point out that teachers/educators and parents should share the responsibility for developing critical thinking in young people. The researchers emphasise that this process should be organic and purposeful in educational institutions of different levels, as the work of pupils and students must be meaningful, as this is the key to ensuring that any attempts to influence the opinion of an established personality will not be successful. According to the researchers, the teacher/lecturer should understand the appropriateness of using critical thinking development methods and avoid their excessive use, which can lead to the opposite effect. It is worth studying this issue in more detail within the framework of information security of the population.

N.N.S.P. Verawati *et al.* (2021) note that it is important to consider the cognitive criterion as a key aspect in the formation of critical thinking, as it helps not only to understand the structure of critical thinking but also to identify possible ways of its practical use. Considering the cognitive criterion as an important element of education, scientists believe that it is possible to prepare the younger generation for a more responsible and informed perception of information in the modern world. In the context of information security, this is even more important, so it is necessary to study this aspect in more detail.

H.V. Belenka (2020) notes that interactive teaching methods play a key role in the development of students' critical thinking, as they promote active participation of young people in the learning process and encourage them to analyse, discuss and critically evaluate information. The scientist emphasises that interactive methods create unique opportunities for students to express their thoughts, argue their views and communicate with fellow students, which contributes to the development of critical thinking, as students learn to analyse different points of view and understand the arguments of others. It is worth exploring the specifics of critical thinking development methods in more detail.

The research aims to reveal and define the key function, in particular the role, of critical thinking in shaping the security of the population in the modern global information context.

Materials and methods

A wide range of general scientific theoretical research methods were used to study critical thinking as a factor of information security of the population in the modern world. Analysis, systematisation, synthesis, and generalisation were employed. The analytical method was used to identify the key aspects of the concept of "critical thinking". The analytical method was used to study the main definitions, elements, and development of this concept. Based on this method of research, it was possible to identify the main aspects of critical thinking and its elements, including the study of information sources, fact-checking, understanding the context, researching bias, asking critical questions and self-criticism. This method of research allowed us to consider and analyse in detail the key aspects of critical thinking and identify their importance in the information processing process.

The systematisation method was also employed to study the features of critical thinking. This method was used to review and organise the key aspects of this skill, in particular the concept of Team-Based Learning (TBL), which is an active approach to education aimed at stimulating students' critical thinking and engaging them in an active learning process. The synthesis method was used to integrate and combine different aspects of the concept of critical thinking into one coherent concept. This method was used to systematise and summarise the various aspects and components of critical thinking, creating a theoretical framework for a deeper understanding of this concept. The use of the synthesis method allowed us to combine different aspects of critical thinking, which made it possible to consider this process from different perspectives and consider various factors that influence its development and use. The synthesis method resulted in a comprehensive concept of critical thinking that includes elements such as analysing sources of information, fact-checking, contextual understanding, asking critical questions and self-assessment.

The generalisation method was used to conclude based on the information collected and processed. This method was used to summarise the findings of the study of critical thinking and its importance in modern society. Using the method of generalisation, this research article analysed the peculiarities and importance of teaching critical thinking skills to the Ukrainian population, especially in the context of the ongoing war with Russia, not only on the frontline but also in the information field. This method allowed us to determine how patriotic education affects the development of critical thinking in modern Ukraine. Also, using the method of generalisation, the peculiarities of this issue in the context of internally displaced persons were identified. This method helped to emphasise the importance of developing critical thinking among the Ukrainian population, especially in times of war and information manipulation.

The above-mentioned scientific methods helped to study and analyse the concept of "critical thinking", its features and components, as well as to highlight the main aspects of the use of critical thinking in the modern information society, in particular through the prism of the hybrid war that is ongoing in Ukraine and requires relevant knowledge, skills and abilities of critical thinking.

Results

Modern life in the information society is characterised by extreme complexity and rapid changes in many areas. Every day, the population of Ukraine is bombarded with a huge flow of information that affects individuals and mass consciousness. This is a result of the work of modern media, which delivers information extremely quickly and mobilised. Sometimes even faster than people can absorb and assemble this information into a single picture of the world. In addition, the general public is also faced with the information war waged by Russia, which is trying to provoke discord within Ukrainian society. Therefore, the development of critical thinking skills is crucial for effective navigation in the modern information environment and the detection of disinformation and manipulative information. Critical thinking helps to comprehend, analyse, and evaluate information from various sources from an objective and prudent perspective.

Online learning, which is becoming increasingly popular today, both in the global educational environment and in Ukraine, in particular, has undoubted advantages, providing access to a huge amount of knowledge and the ability to study anywhere. Y. Tsekhmister *et al.* (2022), studying the efficiency of teachers' working time, including in the online format, proves that teachers working in the online format do not show the same productivity and efficiency of teaching activities as their colleagues who teach in the traditional offline format. However, it is worth noting that the use of teachers' working time to introduce new material is more effective in online learning, which indicates the important role of modern technologies and online resources in the pedagogical process. At the same time, it is important to remember that today's youth receive a large flow of information, and this information should be thoughtful and critically evaluated. In this context, educators, teachers, and parents have a huge responsibility in fostering critical thinking skills in the new generation. As I. Tolmachova and S. Bader (2022) noted, this will help them not only to acquire knowledge but also to analyse, understand and critically evaluate the information they encounter in the online world, making them more informed and independent citizens.

In today's Ukrainian society, the education of patriotism is a pressing task as it has a potential role in shaping the national identity and civic engagement of young people. In the context of the hybrid war that is taking place in Ukraine today, the issue of patriotic education is particularly important, as such a war can influence the worldview and perception of social events by young people. Patriotic education involves the transmission of valuable patriotic values, pride in one's country and readiness to participate in solving social problems. This process helps young people develop national consciousness and a sense of belonging to Ukraine. Researchers of the hybrid war in Ukraine S. Savchenko and V. Kurylo (2018) conclude that patriotic education, in particular, contributes to the development of young people's skills in analysing and evaluating information, understanding different points of view, and comparing them. Raising a conscious citizen involves the ability to recognise manipulation and fake news, as well as the ability to express one's thoughts and views in a reasoned manner. Patriotic education is essential in modern Ukrainian society and helps young people to adapt to the challenges faced by Ukraine in the context of hybrid warfare. Patriotic education can contribute to the development of critical thinking in young people, which will help them to be knowledgeable and responsible citizens, able to analyse complex social issues and make informed decisions.

An important aspect of modern Ukraine is the development of critical thinking skills among the population, as well as their ability to analyse and evaluate negative experiences, in particular in the context of internally displaced persons (IDPs). The response strategy, developed by mental health professionals and adapted to the conditions of war and displacement, is designed to promote not only physical but also psychological and socio-cultural recovery of citizens. It involves the use of multifaceted approaches, cooperation between different sectors, resource orientation and reference to the theory of preferences, which promotes critical thinking. The implementation of this strategy is intended to help the population develop important skills of self-analysis and self-reflection, as well as awareness of their capabilities and responsibility in solving complex social problems. At the same time, I. Trubavina *et al.* (2021) emphasise the family approach and innovations that promote the development of

critical thinking in young people and their willingness to actively participate in solving social challenges, which are provided by interactive teaching methods. In this context, the development of critical thinking and awareness are key elements for information security and the ability of an individual to meet the challenges of the modern information society.

In particular, reflection, which is based on the individual's ability to analyse and possess the properties of metacognitive analysis, is becoming a particularly important aspect in ensuring information security (Lukitasari *et al.*, 2019; Symonenko & Grek, 2022). This aspect helps individuals to better understand the structure of the information they encounter, as well as to distinguish true information from fake and manipulative information. Improving metacognitive skills allows to filter, analyse and respond to information in the information environment more effectively. Developing people's reflection and critical thinking are important factors in ensuring their information security and ability to respond adequately to the challenges they face in the modern information environment. The concept of information and psychological security implies the relationship between the psychological and information components in the system of ensuring human security. Another important aspect is the preservation of the system's integrity under the influence of information and psychological factors, the subject's readiness to act under threat and the use of protective mechanisms to ensure adequate conditions, contributing to the satisfaction of the individual's needs. Information and psychological security can also be seen as protection of the human psyche from negative information influences that can harm the normal development of the individual. Counteracting negative information influence goes through several stages: orientation in the situation, assessment of possible influence, identification of characteristic signs of psychological influence and implementation of protective mechanisms. Violation of information and psychological security can lead to various negative consequences, including mental health disorders, distorted perception of the world and changes in value orientations (Sweet & Michaelsen, 2023).

It is worth noting the components of critical thinking that contribute to an objective assessment of information and information security of the population (Table 1).

Table 1. Key aspects of critical thinking

No.	Aspect	Aspect description
1	Source analysis	It is important to check the authors and sources of information for veracity and objectivity. Whether the authors are qualified in a particular field and whether there are any conflicts of interest.
2	Fact-checking	Before accepting information as fact, check its veracity. Use reliable sources and fact-checkers.
3	Context comprehension	It is important to consider the context of the information. Information can be distorted if there is no information about the context in which it was presented.
4	Bias analysis	Consider the possible bias of the author or source. People and publications may have a particular bias, and this may influence the way they present information.
5	Critical questioning	Questions should be asked about the information that the individual receives. It is worth asking what evidence supports the statement and whether there are alternative points of view.
6	Self-criticism	Individuals need to be prepared to reconsider their views and beliefs and to respond openly to new information.

Source: compiled by the authors

The development of these skills will help an individual become a more informed and critical consumer of information in the modern information society. In this context, the concept of TBL, which is actively used in education to stimulate critical thinking and engage students in active learning, plays an important role. This approach allows students to develop analytical and critical thinking skills, which are important in an era of increasingly accessible information and the spread of fake news and disinformation. The skills acquired through teamwork help students to effectively identify sources of information, critically evaluate its veracity, and formulate informed conclusions. This approach not only enhances the quality of learning but also contributes to the development of important life skills that students will need in their future professional and personal lives. The concept of team-based learning is based on the principle of cooperation, interaction, and teamwork of students. The main aspects of TBL include teamwork, preliminary preparation of students for classes, active discussion of tasks, use of group decisions and responsibility for their learning (Whitman & Mattord, 2021).

TBL plays an important role in the development of students' critical thinking, as it encourages them to analyse information, develop arguments, make informed decisions, and apply their knowledge in practice. This approach actively stimulates students' cognitive activity. In addition, TBL helps to increase students' general awareness of a particular area as they work together on the material and discuss it. This helps them gain a deeper understanding of the subject. Furthermore, working together in groups helps to develop students' communication skills. They learn how to communicate effectively, listen to others, discuss issues, and come to common decisions. It is important to note that TBL can be useful not only for the academic development of students but also for their preparation for the practical application of information security principles in real-life situations, which is becoming an increasingly important skill in the modern world. Information security principles are the main directions and principles that determine approaches to information protection and security of information systems. The basic principles of information security include the following aspects:

1. Confidentiality. This principle is concerned with ensuring the confidentiality of information, i.e., preventing unauthorised access to sensitive data. This is usually achieved through various measures such as encryption, access restrictions and user authentication.

2. Integrity. The principle of integrity involves ensuring that information remains intact and is not damaged or lost without authorisation. This may include controlling changes to information and verifying its integrity.

3. Accessibility. The principle of accessibility means ensuring that information is available to users who are entitled to it following their roles and functions. This also includes

measures to prevent denial of service and restore availability in the event of disruption.

4. Authentication. The principle of authentication involves verifying and confirming the identity of users and systems. This may involve entering passwords, using biometrics or other methods.

5. Authorisation. Authorisation defines the rights and restrictions of user access after authentication. It establishes which actions and operations are allowed for a particular user or group of users.

6. Auditing and monitoring. the principle of auditing and monitoring includes logging events and analysing system activities to identify potential threats and track user actions.

7. Physical security. This principle refers to the physical protection of information resources, such as server rooms, equipment, and storage media.

8. Threat and attack protection. Threat and attack protection principles cover measures to detect, prevent and respond to potential threats and attacks, such as viruses, hacker attacks and other threats to information security.

These information security principles are fundamental to the development of strategies and measures aimed at ensuring information security. They are guiding principles that determine the general direction of action in the field of protecting confidential information and ensuring the reliability of information systems. However, it is important to keep in mind that information security is a dynamic process, and these principles may change in line with growing threats and technological developments. Therefore, their constant updating and adaptation to new challenges is a necessary component of ensuring effective information security in the modern world.

Discussion

Numerous researchers have studied the peculiarities of using and educating critical thinking to form information security in modern society. It is worth comparing the results of studies conducted by different scholars with the results of this work to study the contribution of other researchers to understanding the principles of information security by developing critical thinking in the group and individual consciousness of the population.

Z. Alkhalil *et al.* (2021) note that with the growing popularity of the Internet, people are increasingly sharing their personal information in the online environment, which leads to vulnerabilities in a large amount of personal data and financial transactions, which become a tasty morsel for cyber criminals. Phishing, according to scientists, is one of the most effective forms of cybercrime that allows attackers to deceive users and gain access to important information. Since the first phishing attack was recorded in 1990, scientists are convinced that this type of attack has grown into a sophisticated and dangerous tool. Scientists emphasise that phishing is now considered one of the most common types of online fraud, as phishing attacks can lead to serious losses, including the loss of confidential information, identity theft, and sources of confidential business information and even national secrets. The researchers emphasise that the development of critical thinking is an important tool for preventing phishing and ensuring people's information security. Comparing the results of the study, it is worth agreeing that modern society requires awareness and a high level of critical thinking to ensure the safety of the population in the modern world.

I. Warsah *et al.* (2021) emphasise that collective learning in groups has a significant and beneficial impact on the development of critical thinking skills among young people. The researchers point out that group cooperation helps to preserve and maintain these skills, improves emotional literacy, motivation to learn, cognitive development, and broadens knowledge. Compared to the results of this study, it is worthwhile to agree that collective learning in groups does have a positive impact on the formation and development of critical thinking, as this approach to learning not only strengthens critical thinking skills but also forms the overall readiness of young people to actively participate in solving social problems and challenges.

S.L. Jackson (2015) points out the importance of critical thinking. The scientist emphasises that critical thinking is an integral part of a modern personality, as it allows analysing and evaluating information objectively, considering possible distortions and subconscious biases. The researcher emphasises that critical thinking helps to identify weaknesses in the information flow, and therefore, the ability to think critically is an important tool for the development of individual and mass consciousness of the population. Compared to the results of this study, it is worth noting that critical thinking is a really important tool for the development of society and ensuring information security in the modern world, in particular for Ukrainians who are experiencing massive information attacks by the aggressor, Russia.

M. Mackay and A. Tymon (2013) emphasise the importance of developing critical thinking and analysis skills under conditions of uncertainty. Scientists point out that modern society and professional activities often face complex situations and uncertainty, where there are not always clear answers or solutions. Scientists view critical reflection as a tool that helps individuals analyse and evaluate different opportunities, risks, and alternatives in the face of uncertainty. They emphasise that developing these skills becomes especially important in the modern educational process, where students must learn to work with uncertainty and develop the ability to adapt to changing conditions. Thus, the researchers emphasise that learning critical reflection and dealing with uncertainty contribute to the development of flexible thinking and readiness to solve complex problems in various spheres of life and professional activity, which should be agreed with, since in the modern world, where change and uncertainty have become the norm, and individuals must be ready to adapt to new conditions and seek creative solutions to solve complex problems, critical thinking and reflection skills are especially important.

M. Stamp (2011) notes the basic principles and practices of information security and emphasises the importance of protecting information in the modern information environment and the dangers associated with cybercrime and violations of confidentiality, integrity, and availability of information. The scientist emphasises that information security requires an integrated approach that covers technical, organisational, and human aspects. The researcher draws attention to such key topics as information security in networks, encryption, authentication, incident management and information security policies in modern society. In comparison with the results of this study, it should be noted that information security is indeed critical for most spheres of life and society as a whole.

M. Rarita (2022) points out that the independent development of critical thinking in young people is not an automatic process, and, therefore, this skill should be systematically nurtured and supported by the appropriate educational environment. The scientist points out the need for active learning and cultivation of critical thinking, especially in the current conditions of digital progress. This notion should be compared with the results of this study, which emphasise the importance of teaching critical thinking to the younger generation, especially in the context of the current educational paradigm, particularly in the context of Ukraine, which is at war and also faces the spread of disinformation and provocations in the digital space sponsored by Russia.

T. Tang *et al.* (2020) note that the formation of students' critical thinking is impossible without considering the motivational component. The researchers emphasise that motivation is an integral part of the process of teaching critical thinking, and it is important to consider it. In this context, according to scientists, the use of modern digital technologies and, in particular, game-based learning methods is becoming an important means of stimulating student motivation. The researchers note that the use of technological innovations makes learning more exciting and attractive to the younger generation, which, in turn, contributes to a more successful formation of critical thinking. In addition, the use of digital learning tools, according to the researchers, allows for tracking students' progress and development, which enables teachers and educational institutions to effectively analyse the results and improve teaching methods aimed at developing critical thinking in young people. Comparing the results of this study, we should agree with the position of scientists that considering the motivation and use of digital technologies in the process of forming students' critical thinking is an important element, as it contributes to improving the learning process and development of young people.

Critical thinking is an essential element of information security in the modern world. Research conducted by Ukrainian and international scholars, as well as the results of this study, indicate a significant impact of the development of critical thinking skills on the overall level of information security in society. This demonstrates the need for active implementation of initiatives aimed at developing critical thinking among the population of Ukraine, especially in the context of the spread of disinformation and hybrid warfare waged by Russia. It also underlines the need to integrate modern methods and technologies into the education process to ensure more successful development of critical thinking among the Ukrainian population and make society more resilient to the impact of disinformation and manipulation. In this context, it is crucial to understand and implement the principles of critical thinking as a key element of information security that helps people to be more aware, cautious, and responsible in the digital environment.

Conclusions

The development of critical thinking skills is essential in today's information environment, as it allows one to effectively evaluate and analyse information, as well as distinguish between truthful data and disinformation and manipulation. Critical thinking is becoming a key skill for an objective perception of the world around us in situations of information overload and rapid change.

This study highlighted the importance of critical thinking in the modern information world and its key role in ensuring the information security of the population. The study examined various aspects of critical thinking, including important elements of this skill, such as the ability to analyse information sources, verify facts, understand context, identify biases, formulate critical questions, and the ability to independently evaluate one's thoughts and conclusions. This expanded perspective helps to better understand how critical thinking works and how it can be developed. This study also included an exploration of the concept of team-based learning (TBL), which is actively used in education to stimulate critical thinking and engage students in active learning, which allowed us to understand how modern teaching methods can support and develop this skill. A particularly important aspect of the study is its use in the context of the Ukrainian population, especially in the context of the war with Russia. War in the modern world begins not only in the military field but also in the information space. In this context, the development of critical thinking becomes an important factor in protecting national interests and information security.

Future researchers in the field of critical thinking and information security should pay attention to studying the impact of cultural characteristics, values and beliefs on the development and expression of critical thinking in different cultures, as well as analysing the ethical issues related to the use of critical thinking to protect information security, including privacy and ethical compliance in the online environment.

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Conflict of interest

None.

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Анотація. Доступ до інформації в сучасному світі безпрецедентно простий завдяки інтернету та соціальним мережам. Однак це також створює перевантаження інформацією та загрозу дезінформації. Критичне мислення стає ключовим навиком для відсіву достовірної інформації від фейків та маніпуляцій, що робить цю тему актуальною. Мета дослідження – визначити роль критичного мислення в гарантуванні інформаційної безпеки населення в сучасному світі. У дослідженні використовувалися методи аналізу, систематизації, синтезу та узагальнення. Дослідження підтвердило, що критичне мислення – важливий фактор у сфері інформаційної безпеки населення, а також розглянуло основні аспекти критичного мислення та його складники, зокрема аналіз джерел інформації, перевірку фактів, контекстне розуміння, дослідження упередженості, формулювання критичних питань і самооцінки. Дослідження також ретельно аналізує ключові аспекти навичок критичного мислення та розглядає концепцію командного навчання (TBL), яка є активним підходом до освіти, спрямованим на стимулювання критичного мислення студентів та залучення їх до активного процесу навчання. Результати дослідження висвітлюють особливості та важливість розвитку навичок критичного мислення в українського населення, особливо в умовах війни з Росією, оскільки війна проявляється не лише на військовому фронті, а й в інформаційному просторі, тому розвиток критичного мислення стає важливим елементом захисту національних інтересів та інформаційної безпеки. Результати дослідження можуть бути використані дослідниками для розробки конкретних рекомендацій і стратегій для підвищення рівня критичного мислення серед населення та покращення інформаційної безпеки

Ключові слова: особистість; рефлексія; розвиток; індивідуальна та масова свідомість; кіберзлочинність

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Constitutional and legal principles of building a welfare state in Ukraine

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Abstract. The rapid development of Ukraine towards European integration implies the existence of a high-quality and effective legal framework that guarantees the safeguarding of fundamental rights and liberties. Given this, it is necessary to clarify the essence of building a social state and the principles underlying it. The objective of the study was to investigate the main postulates of building a social state and their normative consolidation in national legislation. The following methods were used in the study of the issue: historical, system, modelling, analysis, and synthesis, comparative, statistical. The study's findings were intended to ascertain how the idea of creating a social state developed on the territory of Ukraine and other states, and how this concept was reflected in modern countries. The paper examines the basic principles underlying the construction of a social state and their constitutional consolidation; which essential liberties and rights of an individual or citizen are protected by the way the idea of a social state operates, etc. Statistical data on life satisfaction indicators of people in different countries are also provided in light of different methods of social policy implementation. Various models and options for further building a social state on the territory of Ukraine are presented, considering the current situation associated with a full-scale war. The paper describes the experience of European countries in successfully reforming the social sphere, in particular, Denmark, Switzerland, etc. The authors also present a model of the social state of the future, taking into account the changing needs of society, digitalisation, well-being, etc. The outcomes can be applied to further enhance Ukraine's social policy legislation by lawyers, sociologists, and scientists

Keywords: social policy; reform; social security; economic freedom; legal guarantees

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Introduction

An important basis for building a social state is the Constitution, which establishes the fundamental principles, rights and freedoms of individuals and guarantees their observance. Coordinating and directing all measures to accomplish the political, legal, economic, and social objectives and ideals enshrined in the Ukrainian Constitution is the primary objective of the constitutional construction approach. (Constitution of Ukraine, 1996). These days, law is viewed as a justice institution that represents the interests of social groups and functions as a mediator in relations between the state and civil society, either cooperatively or antagonistically. The Ukrainian Constitution governs the creation, growth, and reform of significant public relations, including the socioeconomic domain and the advancement and operation of democratic, legal, and social institutions of the state depends on the effectiveness of its implementation.

In Ukraine, the need to emerge from the internal social crises and move towards sustainable economic development – which guarantees the establishment of a social state and civil society – conditions the need of bolstering the state's socioeconomic role. The state faces new social problems as a result of the shift to a market economy based on property and economic pluralism, which can only be resolved by comprehensive economic and sociocultural change. Therefore, considering the above, the main tasks in this study are to find out how the Basic Law of Ukraine affects the construction of the social state; to identify models for the development of the social state, based on constitutional principles and the experience of other countries; to determine further ways to develop and improve social policy and rulemaking in the area under study.

V. Antoshkina *et al.* (2022) investigated the concept of a welfare state or a social state and its role in ensuring human and citizen access to tangible and intangible benefits. The definitions and models of such a state, as the authors note, are different. Although the welfare state bears a certain resemblance to liberalism, it is not its embodiment, because it does not favour private property. The existence of social inequality is natural and unavoidable, which makes any attempt to redistribute goods through social means potentially dangerous. Therefore, the role of the social state here is not to mistakenly distribute these benefits, but to fight social injustice in legitimate ways, in particular, based on provisions and principles that are consolidated in the Constitution and other laws, and prohibit the commission of illegal actions, creating equal conditions, etc.

S. Kosharnovska (2022) studied strategies for the development of a social state, in particular, she points out the main functions of such a country, which differ depending on the model of building social policy. Thus, the state can direct forces to redistribute national wealth, which includes socio-cultural and other benefits; direct efforts to protect vulnerable segments of society and improve their lives; and hold non-governmental organisations accountable.

V. Sokurenko (2020) clarified the significance of the social state's guiding principles through their interpretation by the judicial authorities, in particular, the Constitutional Court of Ukraine. The author points out that a problematic issue in the scientific doctrine is to clarify a clear list of principles that characterise the social state, because they are not constitutionalised. However, the Constitutional Court of Ukraine in its acts highlights the importance of social justice as a fundamental tenet of the idea of creating a social state. Additionally, the author, drawing from the analysis of judicial practice, points out that there is also a statement about the principle of socio-market economy, according to which economic freedom should become a guarantee of the security of individuals and social groups in the social sphere and guarantee their independence from the state, ensure free and equal development.

V. Kostrov (2021) points out the importance of the Constitution as the basis for building a social state. It is worth noting that the content of the Constitution allows interpreting it in several senses: judicial, legal, and social. Consequently, the basis for the state's ability to function and guarantee people's social security and economic independence is the shared responsibility of the state and its citizens, as well as the principles of humanism, social justice, and protecting individual rights and freedoms.

I. Falovska (2019) analysed the issue of the constitutional principle of equality and the problems of its implementation. The author notes that the norms and principles that the Constitution proclaims are not a reflection of real social relations, but form an understanding of how the interaction between the state and society should take place in order to avoid discrimination and ensure equal conditions for all. Thus, as I. Falovska (2019) points out, it is the compromise that individuals reach with each other that is the key to equality, which should be based on respect for each other's dignity. Equality is not only equal opportunities, but also equal responsibilities. Thus, without favouring any particular group over another, the author claims that equality is also a means of showing the existence of a legal balance between the interests of various social groupings. And in such provision, the main role is played by both the Constitution and the activities of state authorities.

This study aims to explore the characteristics of social policy development in light of the aforementioned studies' analysis and the social state and the constitutional consolidation of the foundations that affect the corresponding development. It is also worth adding that the necessary tasks in this work should be defined as follows: finding out what the social state can look like on the example of Ukraine, considering the principles that the Constitution of Ukraine proclaims; what are the ways to develop such a vision in the future.

Materials and methods

The study was conducted using several methods of scientific cognition. The historical method was used to clarify and analyse the origins and development of the concept and concept of the social state both on the territory of Ukraine and abroad. A distinction was made between the social state by its types and models, as well as the definition of such a state in the normative legal acts of countries, in particular, in the constitutions. The method of legal hermeneutics, in turn, helped reveal the development of the regulatory framework that defines the "social state" and the principles that are the basis for building such a state, etc. The features of implementing the concept of the social state are also more widely studied on the example of the Scandinavian countries.

The systematic approach formed an expanded concept of the social state, taking into account the constitutional interpretation of norms-principles, as well as those functional features that characterise this state. The key benefits and

drawbacks of creating this state, as well as the challenges state officials, people, and social organisations confront in putting the social state's tenets into practise, were also examined. By using the analytical method, difficulties pertaining to the constitutional consolidation of social state principles were examined using Ukraine as an example, and potential solutions were put forth. The synthesis allowed combining all the important characteristics and elements of the social state to highlight the prospects for the development and improvement of the corresponding structure. The modelling formed the most suitable models of the social state for Ukraine in order to effectively balance the interests of individuals and the state, establish the principle of social justice, etc.

It is also worth highlighting the comparative method, which in scientific research revealed the distinctive and similar features between the models of the social state implemented in different countries, including Denmark, Finland, etc. The comparison criteria were the legal basis for implementing social policy, the quality of life of various social groups, etc. The examination of scientists' contentions about the fundamental tenets of the social state's constitution on Ukrainian territory made good use of the comparative technique, their implementation and further development, considering the current geopolitical situation, economic indicators, and military confrontation.

The statistical method was also quite important, which allowed understanding the advantages of implementing such a social policy that would establish equal opportunities for access to tangible and intangible benefits, etc. The source of statistical information in this paper is the State Statistics Service of Ukraine (2023), the Ministry of Social Policy of Ukraine (2023), Gallup World Poll (2022), etc. A general conclusion regarding the research topic is formed based on certain identified elements of the welfare state, principles, etc.

Results and discussion

Historical aspect of the social state: Concept and features

A social state is a type of public administration structure where the state takes on the duty of offering social assistance to its people in the form of social services, which include health care, education, social security, housing, labour relations, culture, economic freedom, etc. Historically, the concept of the welfare state has been discussed and was the subject of philosophical reflection since the Roman Empire, Ancient Greece and China, in the thoughts of Plato, Cicero and others (Gallup World Poll, 2022). The very same terminological definition was proposed already in the first half of the 20th century by German scientist G. Geller, such a concept of a social state, or welfare state, received normative consolidation precisely after the World War 2 against the background of mass discontent of citizens with living conditions and the state of their legal status. Compared to American society, which prioritised preserving the private owner and the individual in general, European society embraced the idea of the social state comparatively earlier.

Thus, the active process of developing and implementing the basic principles of the welfare state in European countries dates back to the post-war period. Thus, the Constitution of Spain and the Federal Republic of Germany and the Republic of France proclaim that these states are social (Busemeyer *et al.*, 2022). The same provision exists in the Constitution of Ukraine (1996). In general, the construction of a socially oriented state was based on the following main postulates: the development of social insurance and an increase in state budget expenditures for its provision, furthermore for the social protection and education of the population's most vulnerable sections; regulation of the ratio in the incomes of the poor and rich population; increasing wages and social payments, etc. The social state of the 1950s and 1960s directed its activities to prevent the existence of significant inequality in the material support of various segments of the population, to provide socially vulnerable segments of society with proper social assistance, a decent equal life and access to free economic activity, education, culture, etc. (Garritzmann *et al.*, 2023).

The main features of a social state are the following: the presence of a social protection system, which includes various types of support, such as pensions, unemployment benefits, medical protection, etc. These measures help ensure social justice and equality by helping the most vulnerable segments of the population; ensuring human rights, which are the foundation of civil society and include both the right to life, freedom of choice and preservation of religious beliefs, economic freedom, etc.; a social state provides its citizens with access to high-quality medical care and other healthcare services, this may include free medicines and vaccination against various diseases and other gratuitous measures; providing economic support and freedom of economic activity; moreover, such a state guarantees equality for its citizens, especially when it comes to the allocation of opportunity and riches, this may include the fight against poverty, creating opportunities for education and career development, and also protection from discrimination and the like. The concept of the social state is a natural consequence of the struggle for equality of people in society; it is an indicator of the rule of law in the state, and the constitutional consolidation of the fact that a particular state is social, acts as a guarantor of the observance of inalienable human rights.

Models of the social state

It is worth noting that there is no single approach to classifying models of the social state, and this is explained by the fact that each country that implements the principles of the social state has its own history, culture, and political system. There is also no unified approach to what is appropriate to understand under the concept of a social state and what specific functional obligations the state has to society. Moreover, the problem of defining uniform models of the social state is related to the fact that society is constantly changing and improving, in accordance with the economic, cultural and other conditions that exist in a particular period of the state. Under these conditions, there are several approaches to classifying models of the social state, each of which focuses on different aspects and characteristics of this phenomenon. In other words, during a period of economic growth or decline, countries can change the direction of social policy. However, despite this diversity, all models of the welfare state share common features, such as: protection of human rights, equality, solidarity, support for the weak, investment in education and health, etc.

There are several main models of the social state that are often discussed among scientists, in particular, it is a liberal model based on the idea of individualism and one's own responsibility. The liberal social state pursues minimal interference in the economy and social sphere by the state

authorities, so the main functions of the government, in this case, are to protect the private owner, preserve economic stability and freedom of choice. The corporate model is founded on the concept of collaboration between the state, employers and workers, employers and workers, so the state provides a level of social protection that depends on the income and status of a person.

The role of the authorities in the social-democratic model of building a social state is to ensure equal living and development conditions for all citizens. The state actively intervenes in the social sphere, providing a wide range of social services and assistance, based on the ideas of social justice and solidarity, ensuring the highest level of social protection.

There is also a model of a socialist state, which provides for almost complete state ownership of fixed means of production and active state regulation of the economy in order to ensure equality and social justice. This model is characterised by a high level of social protection and state participation in the lives of citizens, but may have restrictions on the freedom of entrepreneurship and other personal freedoms of citizens.

In addition, there are hybrid models that combine elements of different models. For example, the Scandinavian model, which includes elements of social-democratic and liberal models and is characterised by a high level of social protection and a balanced approach to relations between the state and the market (Öktem, 2020).

There is also a classification divisions according to some scientists regarding the models of the social state, so attention is paid to T. Tilton and N. Furnis, who in 1977 proposed the following division: a positive state of social protection, which is obliged to guarantee the availability of equal opportunities for people, to protect corporate interests, while a relatively small part of state funds is allocated to social protection; the state also acts as a mediator in conflict resolution; the social security state provides citizens with jobs and guarantees the availability of incomes that are not lower than the subsistence minimum; the social state of general welfare or prosperity is similar to the previous model, but also creates state structures that are obliged to control and supervise the vulnerable sections of society (Enli & Syvertsen, 2020).

There is also a division according to V. Goiman, which is based on the level of income and identifies four models of the social state: the megalitarian, where citizens are equal because they receive an equal amount of material goods; the Rawlsian model allows for the existence of economic inequality if such inequality is an incentive for obtaining a higher income; the social state, which is built according to the rules of the classical model of a market economy; and the utilitarian model, according to which more material goods are received by those members of society who bring greater social benefits (Greve, 2019).

Each of these models has its own advantages and disadvantages, but an individual state implements these models based on economic, cultural, and other conditions that prevail in society, minimising risks and maximising benefits.

Principles of the social state: Constitutional consolidation

The Constitution is a fundamental law of the country, which defines the legal basis of the state structure, and establishes the basic rights and freedoms of citizens, as well as the state's obligations to protect them. In the context of forming social policy and building a social state, the Constitution plays an important role. In many countries, the Basic Law contains provisions on social protection, health care, education, housing and other social services, and defines the fundamental rights and freedoms of citizens that are necessary to ensure human dignity and personal development. These rights and freedoms include the right to work, social protection, health care, housing, education, culture, and others.

Article 1 of the Constitution of Ukraine (1996) states that: "Ukraine is a sovereign and independent, democratic, social, legal state", but it does not specifically specify what is appropriate to understand in the context of a social state, as well as the basic principles and principles that define the construction of a state as social. It is necessary to understand the provisions of the Constitution of Ukraine as norms and principles that should be interpreted not in a vacuum, but in accordance with modern conditions and in conjunction with other provisions of the Basic Law.

Thus, in particular, it is worth paying attention to Article 3 of the Constitution, which states that a person, their life and health, as well as dignity, honour, security and inviolability, are recognised in Ukraine as having the highest social value (Constitution of Ukraine, 1996). Human rights and freedoms, as well as guarantees of these rights and freedoms, determine in general the line of activities of state authorities that are responsible to a person for it. It is important in this article to recognise the rights and freedoms of individuals as a priority, and their observance as a vector of effective state activity. Thus, the social state, within the meaning of both Article 1 and Article 3 of the Constitution, should be formed around a person, their life and health, as well as rights and freedoms. It is also advisable to determine which rights and freedoms are recognised as fundamental in the context of the social state. These are directly inalienable rights such as the right to life, health and others. However, in the context of the social state itself, it is worth paying attention to Article 13 of the Constitution, which indicates that the natural resources of the Ukrainian state are owned by the Ukrainian people. Important in this Article is also the statement that it is the state that ensures the protection of the rights of those entities that have relevant property rights or act as business entities, and ensures the social orientation of the economy; asserts the equality of subjects of property rights before the law. These provisions, together with Articles 1 and 3, should also be interpreted in the context of an individual's economic freedom, which is an important component of social progress and support for the country's economic development. It consists in the ability of citizens to freely dispose of their own property and income, freely work and engage in entrepreneurial activities, as well as freely choose consumer goods and services. The social state, in turn, provides the necessary conditions for the realisation of economic freedom of citizens by ensuring social protection and guarantees of social protection; provides legal protection of citizens from any form of economic violence and administrative obstacles in the exercise of their economic rights.

It is also important to analyse Article 46 of the Basic Law, which states the right of persons to receive the necessary social protection from the state if such a person needs appropriate protection in case of disability, unemployment, old age and other cases that are provided for by the law (Constitution of Ukraine, 1996). Regarding the establishment of a social state, social insurance and protection play

an important role in ensuring equal opportunities for all citizens, regardless of their social and economic status. This allows reducing the percentage of poverty, providing more equal conditions for all and contributing to the development of the country's economy as a whole.

In general, the study of the Constitution of Ukraine allows forming and proposing the following principles that are appropriate for considering the construction of a social state: the principle of universalism is that a social policy that is universal provides services and benefits to all citizens, regardless of their socio-economic status; a social policy based on the principle of solidarity recognises that people bear collective responsibility to each other, emphasises the importance of social unity and mutual support; the construction of a social state and social policy should also be based on general principles of human rights, which include the rule of law, democracy, respect for dignity and honour, and provides access basic services and protection from social risks, such as poverty, unemployment and disability; the principle of social justice, which guarantees a fair distribution of resources and equal access of citizens to relevant benefits, is also important; the principle of ensuring the involvement of citizens and organisations in the decision-making process that directly concerns the rights and freedoms of the communities concerned, it is worth noting that this also resonates with the principle of equality proclaimed by the Constitution and gender equality in general, which can only be guaranteed by the involvement of women in the decision-making process that concerns the immediate situation of women (Bertogg & Strauss, 2022).

Therefore, the pertinent principles guarantee that people and communities have access to essential services and are shielded from social hazards, while also highlighting the significance of social justice, equality, and the advancement of human dignity. High-quality and effective social policies are an integral part of the welfare state, and their development and implementation require a cooperative and participatory approach that takes into account the needs and priorities of individuals and communities. These principles are not unified and absolutely defined, but they are based on a number of provisions of the Constitution of Ukraine, which creates and forms a general social policy, in particular, determines the directions for building a social state.

Social state: Foreign experience for Ukraine

Given that Ukraine is constitutionally recognised as a social state, it is advisable to illustrate by the example of how social policy is ensured on the territory of the country, as well as the principles on which the authorities should rely when ensuring the social protection of vulnerable segments of the population (Fig. 1).

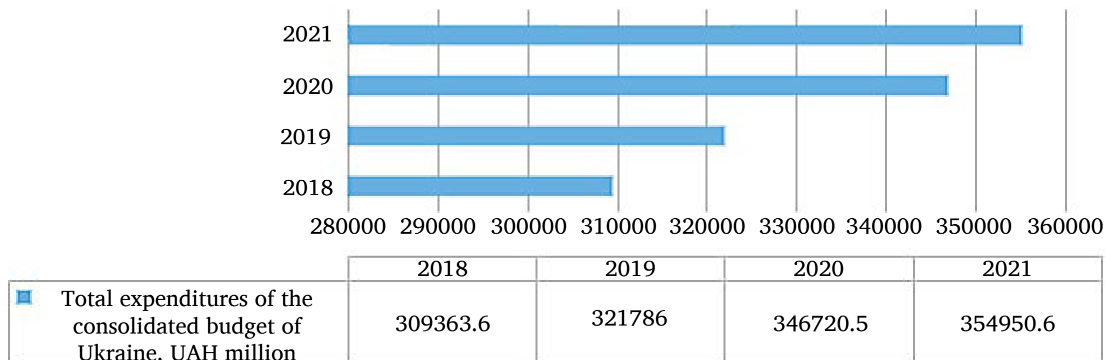

Figure 1. State expenditures of Ukraine on social protection and social security of the population 2018-2021
Source: State Statistics Service of Ukraine (2023)

Considering statistical information, social security expenditures of the population on the part of the Ukrainian state are growing, but as a percentage of total state budget expenditures for 2018, this amount is 24.7%, 2019 – 23.4%, 2020 – 21.7%, 2021 – 19.2% (State Statistics Service of Ukraine, 2023). Data on the minimum social security and the standard of living of the population as a whole are also indicative (Table 1).

Table 1. Key indicators of the standard of living of the population of Ukraine

Indicators	Reference: January 2021	2022	
		January	February
Minimum wage, UAH	6000	6500	6500
Minimum pension, UAH	1769	1934	1934
The level of providing the subsistence minimum (guaranteed minimum) for assigning state social assistance to low-income families, UAH:			
➨ for able-bodied persons	794.50	1116.45	1116.45
➨ for persons who have lost their ability to work, and disabled people	1769	1934	1934
Subsistence minimum (SM) on average per person per month, UAH	2189	2393	2393
SM for able-bodied persons, UAH	2270	2481	2481
SM for persons who have lost their ability to work, UAH	1769	1934	1934

Source: Ministry of Social Policy of Ukraine (2023)

The main function in the field of social policy is to ensure effective protection, equality and justice of participants in public relations. The relevant principles should be practically implemented, based on the importance of their guarantee by the Constitution of Ukraine, but it is with a practical implementation that difficulties arise, which form a low level of social security and protection, which is illustrated in Figure 1 and Table 1, in particular, the low standard of living of vulnerable segments of the population eliminates the constitutional provisions on the recognition of human dignity and honour and the need for social protection in conditions of disability, old age, etc., which provokes an increase in poverty among the population, marginalisation, etc. This issue is particularly acute in the context of a full-scale Russian invasion, when again a number of rights and freedoms guaranteed by the Constitution of Ukraine are under threat of violation.

In order to find ways to overcome the problem and suggest ways to develop Ukraine as a successful model of a social state, it is necessary to pay attention to the positive foreign experience, based on the research of Andrian White, who used data on surveys and indices on the level of happiness and sense of security in a particular country. Thus, according to this classification, Denmark takes the 1st place, Switzerland is the 2nd, and Austria is the 3rd. Ukraine ranks 174th out of 178 among this rating (University of Leicester, 2006). It is also worth considering the study that was conducted under the supervision of the United Nations and based on the collected data from the Gallup World Poll on the happiness index of the population of a particular country. In particular, for the period 2020-2022, Finland ranks 1st in this rating, Denmark – 2nd, and Iceland – 3rd. Ukraine ranks 92nd out of 137 (Gallup World Poll, 2022).

Thus, it is worth studying the peculiarities of the social policies of Denmark, Iceland, and Finland. In general, all these states belong to the so-called "Scandinavian model" of socio-economic development, in which the economic sphere is closely intertwined with the social sphere and is designed to ensure balance and improve the standard of living of citizens.

As for the historical aspect of the development of the Scandinavian model states, it consists in an early transition to the path of industrialisation, the production of necessary equipment on their own, the development of shipping, etc., due to which a stable middle and working class was formed. This stage began in the pre-war period – in the early 1930s. An important role was played by the creation of cooperatives in the first half of the 20th century, and in the post-war years, the successful policy of the government through granting greater economic freedom and civil rights, which gave rise to the search for a more comfortable model of the country's existence – intermediate between socialism and capitalism. This intermediate model was based on the search for an effective compromise between the principles of capitalism and the principles of the welfare state, whose policies should be based on the equality of citizens. It is also important that the population of these countries is mostly homogeneous, with the same linguistic, cultural, social and economic needs, so it is easier for the government to make political decisions and the course of general public policy. The final stages, which date back to the beginning of the 21st century, are marked by the crisis of the Scandinavian model of the social state due to the beginning of the collapse of the centralised system of collective management and regulation and due to the reduction of the role and influence of the state on the formation of fair wages. Thus, the economic development of countries was rapidly declining, and the creation of the European Union in the early 1990s played a significant role in this decline. However, this influence of the European community did not negate the importance and attempts of the Scandinavian countries to introduce a successful model of the social state, but became an incentive factor for the modernisation of the corresponding model (Iqbal & Todi, 2015).

Due to the high level of security of citizens and the effective use of the achievements of the capitalist system, states impose high taxes, due to which they provide broad social opportunities and assistance to vulnerable segments of the population. This model is also characterised by free access to education, medical care, clear legal grounds for entrepreneurship, democracy, free trade, implementation of effective social projects and programmes, and ensuring economic freedom (Pförtner *et al.*, 2019). Indicators of Economic Freedom of Denmark, Iceland, and others remain important, in particular, as of 2022, they are among the top thirty as "mostly free" countries in the economic sphere (Index of economic freedom, 2022). Overall, the success of the welfare state in these countries is conditioned by their commitment to universal access to social services, a strong social protection network, and a commitment to equality. This policy is funded by a combination of taxes and social security contributions, which ensures a high level of public investment in social programmes; for example, the basic income tax rate in these countries ranges from 48% to 57%. Due to the high rate, a large amount of funds is allocated for education, healthcare, and social assistance (Tax Foundation, 2022).

It is also important to describe the shortcomings of the relevant system, which are worth paying attention to. In particular, these are high taxes that citizens of the respective countries are required to pay, which, on the one hand, are a guarantee of protection from the state, and on the other, they tend to constantly increase. The next factor is the abuse of a high level of social security and protection. Thus, due to high social payments and effective protection of the non-working population, the risk of "reverse incentives" remains, when it is more profitable to be unemployed than to engage in a particular activity (Iqbal & Todi, 2015). Thus, for the qualitative integration of fundamental ideas into social policy, both good and bad aspects of the growth of the Scandinavian model of the social state should be taken into account.

Researchers' considerations and comparison of results

The paper by O. Lehto and J. Meadowcroft (2021) argues that a constitutional welfare state based on the principles of limited government, individual rights, and a focus on results rather than contributions would be effective and less prone to systemic violations of equality. According to the authors, traditional social security programmes often lead to political manipulation and wastefulness. It is indicated that the problems that often arise during the performance of social policy functions can be solved in the context of building a constitutional social state by providing a fair distribution of support benefits for those citizens who need it most. The authors' results partially coincide with the results of this study, in particular in the context of fair distribution of benefits and increasing the level of support for vulnerable segments of the population, which should be based on common constitutional provisions and principles.

It is also worth paying attention to the book by F. Ewald (2020), which explores the history of the French welfare state and its principles. The author argues that the concept of solidarity, which concerns the mutual obligations of individuals to each other and to the state, is at the heart of the French social state. Ewald traces the origins of the French welfare state back to the aftermath of World War 2, when France faced significant social and economic challenges. The book explores the evolution of the French social state from its early days, when it focused on providing social protection for workers, to its current form, which is more comprehensive and includes a wide range of social programmes and services. The author also considers the role of the French constitution in the establishment of the welfare state. He argues that the principles of the social state consolidated in the Constitution, which guarantees the right to social security and the right to health, are an important prerequisite for a successful social state, if they are effectively implemented in practice. In general, the study contains a comprehensive overview of the history and principles of the French social state. The author offers to understand the problems and opportunities associated with the provision of social security to citizens, and emphasises the important role that the constitution can play in shaping social policy, establishing a number of values and ideals that should guide public authorities.

The author's results coincide with the best practices of this research, due to the emphasis on the outstanding role of the constitution as a reference point for the qualitative implementing of the basic concepts of human rights protection and security, taking into account, first of all, the rights and freedoms of citizens.

S. Holmes (1988) considers the concept of "liberal guilt", which concerns the theoretical origins of the conception of the welfare state and the idea that liberal political philosophy, with its emphasis on individual freedom and limited government intervention, creates a sense of guilt or responsibility for the plight of the poor and disadvantaged in society. There is a claim that this guilt drove liberal governments to enact laws intended to lessen inequality and poverty, which in turn contributed significantly to the creation of the welfare state. However, the study also notes that the welfare state is criticised for excessive paternalism and creating a culture of dependence. The author also points out that the feeling of guilt of liberal governments prompted the creation of an effective legal framework to consolidate the defining principles of further balancing the position of individuals in the country, fair distribution of benefits, etc.

The author's results do not coincide with the results of this study, but it is impossible to deny their value and an interesting approach to understanding the prerequisites for the creation of a social state and the role of the constitution in this process. Although in this study it is proposed to consider the prerequisites for the creation of a social state in their relationship with the oppressed situation and legal status of citizens of different countries after the World War 2.

N. Barr (2020) discusses the economic principles and policies of the welfare state. The paper covers the historical development of welfare states, including the principles of creating a welfare state and the role of the state in ensuring social protection. The book also discusses trade-offs related to the development and implementation of social policies, including issues related to funding, targeting, and public or private service delivery. The author also provides an analysis of various social security systems around the world, including their strengths and weaknesses, and indicates that the main challenges for effective social policy management are constant globalisation changes and technological progress, which cannot always be taken into account.

H.K. Anheier (2019) discusses the evolution of the role of civil society organisations (CSOs) in the development of the welfare state. It is argued that now there is a transition to a new model – the state of social investment on the example of Germany, which consists in the fact that the state cooperates with civil society organisations to provide social services. It examines the current challenges facing the welfare state, including demographic changes, globalisation, and economic pressures. The author argues that these challenges require a new approach to social policy that is more flexible, innovative, and sensitive to changing social needs. In the state of social investment, as noted by G.K. Anheier (2019), the focus is on investing in human capital and promoting social engagement, rather than simply providing social services. The author argues that CSOs can play a crucial role in providing social services, promoting social justice, and promoting social innovation. However, this requires a new partnership between the state and civil society, where CSOs will have more autonomy and flexibility to respond to social needs. Although the authors' findings do not coincide with the results of this study, they are important for further consideration and drawing conclusions.

N. Waldhör (2022) examines the impact of social assistance policies on work and labour market flexibility on two models of welfare states: Austria and the United Kingdom. The author analyses the historical development and main characteristics of social security systems in both countries, including their labour market policies. The study discusses how social security policies are being implemented in Austria and the United Kingdom in relation to the current state of the employment market, as well as assesses its impact on the welfare state. It is argued that although social security policies in relation to the current state of the labour market have been successful in reducing unemployment and increasing individual participation in the work process, they have also led to increased inequality and job insecurity and undermined aspects of social protection and solidarity of the welfare state.

The author's results do not coincide with the results of this study, but it is worth disagreeing with such considerations by N. Waldhör (2022), because according to the statistical studies given in this paper, Austria is one of the leading countries in terms of the living standards of the populace, and the social policy of the UK is aimed not only at providing people with jobs, but also at expanding the social aspects of providing vulnerable segments of the population.

It is also interesting to consider the work by M. Ala-Fossi (2020), which examines the concept of a "media welfare state" in the context of Finland and its digital era. The author argues that the welfare state of media is a way of thinking about the role of media in society outside of market perspectives, and it includes the provision of media as a public service. The study examines how this concept has been implemented in the Finnish media landscape, where media policies have focused on ensuring universal access to media and supporting the diversity of media content. They also discuss the challenges that the digital age poses to the welfare state for media, like as the development of digital platforms and changing media consumption patterns. In general, the

paper provides insight into Finland's unique approach to media policy and the potential of the welfare media state to support a more diverse and inclusive media environment.

Although the author's results do not coincide with this study, it is interesting to pay attention to them in the context of globalisation and technological progress, and how different countries react to it. Thus, Finland, according to the author, chooses the approach of subordination to appropriate changes and their implementation in the general concept of the welfare state. This experience is also useful for Ukraine to consider.

It is advisable to point out that the social state in the future should adapt to the changing needs of society and introduce, for example, a digital infrastructure that will include high-speed internet access, digital identification systems that protect privacy and prevent fraud, etc.

Conclusions

The major components of the social state were emphasised by the conducted study. These components relate to the historical conditions that led to the concept's emergence, as well as its features, classification, constitutional consolidation of principles, fundamental models of the social state, and ongoing development of the model of the social state of the future.

It is found out that the concept of the social state was formed in the first half of the 20th century, but the practical implementation turned out to be relevant after the World War 2, when the issue of human and civil rights and freedoms and their observance was under significant threat, and the levelling of the right to life and peace and security caused the need to make effective political decisions to meet the corresponding basic needs of individuals.

It is also indicated that the classical construction of a social state is based on preventing inequality, ensuring minimal social assistance, and access to education, medicine, and culture. Thus, the signs of the social state turned out to be the presence of social protection, various types of material support, economic freedom, protection of individual rights and freedoms, a non-discriminatory approach, etc.

The emphasis is placed on the absence of a cohesive strategy to the classification of models of the social state. Thus, this paper presents the following proposed division models: corporate, Scandinavian, and socialist. The paper also presents the models by V. Goiman: megalitarian, Rawlsian, social state, which is built according to the rules of the classical model of the market economy; and utilitarian model. A particular model of the welfare state primarily depends on the cultural, economic, social, and historical factors of a particular state that implements social security and protection based on the needs of society.

Considerable attention is paid to the role of the Constitution of Ukraine in the establishment and development of the social state. It is indicated that, although the Basic Law does not directly consolidate the basic principles of the welfare state, however, the provisions are issued precisely by norms and principles that can be interpreted in different ways. Thus, Articles 1, 3, 13 and 46 are analysed and it is indicated that the priority directions for the development of social policy in Ukraine should be based on respect for human rights and freedoms, ensuring human dignity and honour, free market, and economic freedom of the individual. Thus, the Basic Law provides for mandatory social security for vulnerable segments of the population, but this provision should be interpreted in the ratio of the obligation to respect the rights and freedoms of a person, honour and dignity. However, the statistical data provided in the study, in particular regarding the standard of living of the Ukrainian population and minimum social security, indicate the lack of such compliance and disregard for the provisions of the Constitution as guiding for the development of social policy.

The paper presents the successful experience of other countries in building a social state. It is pointed out that it is necessary to take into account the provisions that underlie the Scandinavian model of the welfare state and integrate them into Ukrainian society, considering the socio-cultural conditions of Ukraine. Such provisions relate to the reform and improvement of economic freedom, simplification of the conditions for conducting business, small and medium-sized businesses, gender equality, social justice, etc.

The paper also presents a model of the social state of the future, which will be based on the changing needs of society, digitalisation, mental well-being, etc. In the future, it is advisable to study the following related topics: the impact of technological achievements on the social state; the role of social law in protecting vulnerable segments of the population; the effectiveness of social programmes in promoting social equality; gender equality and inclusivity as a key to the success of the social state.

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Conflict of interest

None.

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Анотація. Стрімкий розвиток України в напрямі європейської інтеграції передбачає наявність якісної та ефективної правової бази, яка гарантує захист основних прав і свобод. З огляду на це необхідно з'ясувати сутність побудови соціальної держави та принципи, що в її основі. Мета роботи – дослідити основні постулати побудови соціальної держави та їх нормативне закріплення в національному законодавстві. У вивченні питання використано такі методи: історичний, системний, моделювання, аналізу та синтезу, порівняльний, статистичний. Результати дослідження показали, як розвивалася ідея створення соціальної держави на території України та інших держав і як ця концепція знайшла відображення в сучасних країнах. У статті розглядаються основні принципи побудови соціальної держави та їх конституційне закріплення; які основні свободи та права особи чи громадянина захищає те, як функціонує ідея соціальної держави тощо. Статистичні дані про показники задоволеності життям людей у різних країнах також наводяться з урахуванням різних методів реалізації соціальної політики. Представлено різні моделі та варіанти подальшої побудови соціальної держави на території України з урахуванням сучасної ситуації, пов'язаної з повномасштабною війною. У статті описано досвід успішного реформування соціальної сфери європейських країн, зокрема Данії, Швейцарії та ін. Представлено модель соціального стану майбутнього з урахуванням мінливих потреб суспільства, цифровізації, благополуччя тощо. Отримані результати можуть використати юристи, соціологи та науковці для подальшого вдосконалення законодавства України щодо соціальної політики

Ключові слова: соціальна політика; реформування; соціальне забезпечення; економічна свобода; правові гарантії

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Systemic analysis of gender relationship formation in the context of national and religious identity of the feminine topic in modern Uzbekistan

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Abstract. In the light of globalization, gender equality is increasingly becoming an important social issue. Gender equality in Uzbekistan has improved as a result of rapid urbanization and globalization. Gender relations in Uzbekistan have a number of unique aspects due to historical, cultural, religious and national factors. This calls for a study of gender equality issues and the search for appropriate and useful administrative, political and legal frameworks to incorporate this idea into the Uzbek legal system. The creation and ratification of relevant national and international legal mechanisms in Uzbekistan's law enforcement practice is one of the possible ways to address this issue. The purpose of the study is to examine the international and national legal framework for the principle of gender equality that has already been incorporated or will be incorporated into the political and legal system of Uzbekistan in the near future. To achieve this goal, the author used a combination of special legal research methods (legal modelling, systemic and structural, formal legal, comparative legal) and philosophical, general scientific and special scientific methods (analysis and synthesis, induction, deduction, abstraction and generalization). The problems of observance of the principle of gender equality were considered in the light of national, religious and historical traditions of Uzbekistan. The study of the problems of gender imbalance in Uzbekistan made it possible to analyses the key areas of its implementation through regulatory and law enforcement activities. Practical proposals for improving existing laws and policies aimed at ensuring gender equality have been identified. The problems of gender equality of women in Uzbekistan were identified in connection with the country's unique social formation and religion. On this basis, the directions of their eradication from science have been identified

Keywords: legal system; legal equality; natural rights and freedoms; disbalance; equality

Introduction

The Constitution of the Republic of Uzbekistan (1992) guarantees equality to all of its citizens. United Nations (2020) estimates state that not all of the Beijing Declaration on Women's Rights' (UN Women, 1995) provisions, which guaranteed equal rights, freedoms, and opportunities for women everywhere, were successfully implemented. As a result, the United Nations (UN) estimates that just 25% of administrators and government officials worldwide are women. The COVID-19 pandemic has worsened conditions for women in most countries. For instance, experts predict that the

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COVID-19 pandemic-related economic crisis will push about 47 million women worldwide into poverty (United Nations, 2020). According to the World Bank Group (2020), Uzbekistan is one of the 27 nations that has significantly changed the laws protecting women's rights. As a result, Uzbekistan's ratings increased by five, moving it up to 134th place out of 190 countries. This status proves the global gender imbalance, which is also present in Uzbekistan. This predefines the relevance of research on possible legal, economic and political means to overcome the latter.

A complex study of the gender equality implementation issues in Uzbekistan is impossible without a study of the genesis of the latter. The development of women's rights and gender equality during the Soviet Union, which was a unique experience, was examined by A. Gök and T. Kodaman (2022). The authors list the following stages in the development of the gender equality principle:

- from the end of 1917 to the end of the 1920s – the formation of the Soviet gender order after the October Revolution;
- from the late 1920s to the mid-1950s, a modernization of the gender order was underway;
- from the mid-1950s to the late 1980s, the reform of these matters.

The research enabled scholars to establish correlations between gender relations and the existing political regime in a particular territory. The post-Soviet past has had a direct impact on the formation of the current gender imbalance in Uzbekistan. L. Memesheva (2020) notes that since 1991, when the Republic of Uzbekistan gained independence, they were able to join more than sixty international legal treaties that provide fundamental human rights and guarantee the principle of gender equality. The main international legal acts and their effects on Uzbekistan's legislative and law enforcement practices were examined by L. Shayusupova and I. Alizhonov (2021).

N.B. Rajapova (2020) investigated the history of gender equality and the concept of "gender" in Uzbekistan. She also determined the objectives of women's participation in the nation's active public and political life, as well as the patterns in the development and evolution of the discourse surrounding women's place in the modern world. B.M. Qandov and S.B. Kholmakhamatova (2022) suggest methods to increase women's value in public life. At the same time, the scientist defined suggestions on economic support for women, as well as minimization of risks of involving them in dangerous and hard work. The authors point out that, given the socioeconomic stage of development of New Uzbekistan at this time, there is a dearth of comprehensive approaches to solving this problem.

The research aims to study the problems related to the legal provision of gender equality in Uzbekistan. This aim was achieved considering the historical, national, and religious traditions and the result of the research in a form of recommendations for improving the means of the legal protection of women's equality in modern Uzbekistan.

Literature review

The social role and status of women in the Central Asian countries have been discussed by the scientists listed below. The social and legal standing of Soviet women in the Central Asian countries is examined by M.K. Gafarova (1987). M. Makhmudov (1998) examines the issues surrounding gender discrimination against women in Central Asian nations, as well as the challenges associated with maintaining the family and law enforcement. The contribution of women to the establishment of socialism in the East is examined by R. Nabiyeva (1973). After examining the challenges of establishing family ties within the framework of national and religious identity, A.D. Tartakovskiy (1989) concludes by highlighting the unique position and function of women in this process.

S.I. Islomov (1988) analyzes the problems of women's status in family and society, spiritual, moral, and gender issues in the countries of Central Asia. Modern scientific research in the sphere of ensuring and implementing women's rights in Uzbekistan were carried out by the following scientists. N.Y. Alimukhamedova (2021), studying the peculiarities of the cultural and religious development of Uzbekistan in the conditions of globalization, has analyzed the peculiarities of gender imbalance and the reasons for its development in the country. L. Shayusupova and I. Alizhonov (2021) attempted to analyze and systematize the current legislation of Uzbekistan to determine the legal framework for ensuring gender equality in the country. Scientists have consistently analyzed the basis for ensuring the principle of gender equality in the constitutional, civil, family, and labor laws of Uzbekistan.

L. Memesheva (2020) conducted a fundamental study of the category "gender equality", defining the author's definition of the latter. Following the scientist, the implementation of the gender equality principle is a necessary condition for the effective socio-economic development of Uzbekistan. S.M. Mirziyoev (2020) emphasizes the special role of women in the formation of the New Uzbekistan. The author emphasizes the need to implement gender equality in key areas of society and the need to overcome the stereotypes prevailing in society regarding the role of women (Shavkat Mirziyoyev..., 2018). B.M. Qandov (2021) scientifically substantiates the necessity of ensuring gender equality in the society of Uzbekistan, ensuring the rights and freedoms of women in the context of globalization. The author emphasizes the need for women to be particularly active citizens in key areas of the formation of civil society in Uzbekistan.

It is also worth noting the contribution of the international scientists V. Lomazzi and I. Crespi (2019), C. Alonso *et al.* (2019), G. Ferrant and A. Thim (2019), H. Kleven *et al.* (2019), N. Teasdale (2020), S. Smith (2020), M. Krishnan *et al.* (2020), A.-K. Nylin *et al.* (2021), A. Webster *et al.* (2022) to the study of gender equality. Kazakh potential in this aspect is represented by the following researchers E.T. Kalkanov (2021), whose work are devoted to understanding the causes, conditions and overcoming gender imbalances in Uzbekistan. In general, the problem of the gender equality principle implementation in Uzbekistan has been the subject of research by various scientific schools and branch sciences, which made it possible to form a comprehensive, interdisciplinary approach to combating gender imbalance in the country.

Materials and methods

During the research, the problems of ensuring gender equality for women in Uzbekistan, related to national and religious features of society formation, the key provisions of the national legislation, as well as the fundamental acts of international law in the field of ensuring women's rights, were analyzed. This allows us to define the basis of scientific research, and the problems of ensuring gender equality in

Uzbekistan and define the objectives and aims of research to overcome the gender imbalance in the country. During the research, an analytical study of local and international normative legal acts adopted to ensure gender equality, prevent psychological and physical violence against women and minimize the risks of infringement of Uzbek citizens' rights based on gender in the future was carried out.

The dialectical (complex) method, as well as the provisions of philosophy, are the basis and methodological foundation for the gender equality problems of women in Uzbekistan research in the context of the national and religious formation of society. From the position of dialectical logic (complex thinking) the interconnections between the specifics of religion, history, and mentality of Uzbekistan and the current state of gender equality implementation in the country were revealed. It has been proved that the causes of gender imbalance in Uzbekistan are the cultural, religious, and political-legal heritage of the country. The following philosophical categories were applied as gender equality issues in Uzbekistan and international law research methods: a systematic approach, content, and form, necessary and accidental, causes and consequences, general, specific and singular, causes and consequences, essences and phenomena.

Researching issues pertaining to the legal protection of women's gender equality under Uzbek and international law requires a particular focus on general scientific methods such as formal logic, generalization, abstraction, analysis and synthesis, induction and deduction, analogy, modeling, etc. The systematic method was used to trace the quirks of scientific understanding of the term's properties while researching the concept of "gender equality". The methodical approach entails taking into account Uzbekistan's national legislation regarding women's equality rights in relation to international legal regulation of this matter. In the process of studying individual elements that make up the mentioned system, methods of analysis and synthesis were applied, which allowed us to determine scientifically substantiated ways of improving the national legislation.

Gender equality issues in Uzbek and international law were investigated using both general and specialized scientific methods. These knowledge-gathering techniques included interdisciplinary, statistical analysis, formal-legal, system-structural, comparative-legal, and logical approaches. We were able to examine the intricacies of establishing measures to guarantee equal rights for women from the perspectives of international law and national legislation of the Republic of Uzbekistan thanks to the comparative-legal method. In this regard, the historical research methodology was employed to identify patterns and trends in the process of guaranteeing women's equal rights. This allowed us to evaluate the efficacy of Uzbekistan's current legal framework regarding this matter. We were able to determine the crucial areas for guaranteeing women's gender equality in Uzbekistan through the use of the formal-legal method. We were also able to sketch the potential directions for future research aimed at resolving gender inequality issues.

Results

Based on information from the Human Development Report (UNDP, 2022), Uzbekistan was ranked 101st out of 190 nations with high human development in 2021. Keep in mind that Uzbekistan's human development index is -0.727. Uzbekistan belongs to the third category of nations, which is distinguished by an average parity in the accomplishments of men and women on the Human Development Report (UNDP, 2022). These indicators demonstrate that, as an independent nation, Uzbekistan complies fully with international legal standards that shield women from discrimination and harassment in the workplace, in society, and in the marketplace. The index of gender inequality between men and women in Uzbekistan was computed by looking at the indicators of reproductive health and employment opportunities. Uzbekistan is ranked 56th overall and has a gender inequality index of -0.227 as a result.

In the political, legal, and socioeconomic arenas of modern Uzbekistan, one of the main concerns is the realization of human rights and freedoms while maintaining the equality principle. According to the aforementioned rating, Uzbekistan is improving its standard of living and increasing its population, including by taking steps to implement the gender equality principle. Constitution of the Republic of Uzbekistan (1992) Article 48 guarantees equal rights for men and women in the country. Applying the gender equality principle and ending all forms of discrimination against women is a crucial part of the process of defending and upholding universal values and natural human rights. To address gender-based discrimination, the state needs to enact comprehensive socioeconomic, political, and legal protection measures.

The United Nations Charter (1945) lists promoting belief in fundamental human rights, individual worth and dignity, and gender equality as among the pertinent tasks. As stated in Article 1 of the UN Charter (1945), the UN works to promote respect for human rights and fundamental freedoms for all people, regardless of race, language, religion, or gender. According to the Universal Declaration of Human Rights (1948), men and women have equal access to inalienable human rights without facing discrimination. In today's society, it is critical to acknowledge that gender discrimination affects both men and women. This study is not concerned with the details of gender discrimination against men.

In general, it should be noted that Uzbekistan has ratified several international legal instruments to ensure gender equality, namely the Forced or Compulsory Labor Convention (1930), the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), Convention on Equal Remuneration for Men and Women for Work of Equal Value (1951), Maternity Protection Convention (1952), Convention on the Political Rights of Women (1954), Convention for the Abolition of Forced Labor (1959), International Covenant on Civil and Political Rights (1966), Convention on the Elimination of All Forms of Discrimination against Women (1979), Convention on the Civil Aspects of International Child Abduction (1980), Convention on the Rights of the Child (1989), and other normative legal acts. The real implementation of the provisions of the above-mentioned supreme acts is a matter of systematic monitoring by international nongovernmental organizations (World Bank Group, 2020; UNDP, 2022; Fillo & Negruta, 2020; International Labour Organization, 2020; Gender inequality in…, 2020; World Economic Forum, 2021; UNICEF, 2021). As a result of monitoring, suggestions to improve certain provisions of national legislation, including those of Uzbekistan, are defined.

New Uzbekistan is actively improving legislation to provide and ensure equal rights for men and women in various spheres of life in the country. To ensure gender equality,

Parliament has adopted more than twenty-five normative legal acts with key provisions in the area of gender equality, among which the following laws should be mentioned: Law of the Republic of Uzbekistan No. LRU-562 "On Guarantees with Respect to Equal Rights and Opportunities for Women and Men" (2019); Law of the Republic of Uzbekistan No. LRU-561 "On the Protection of Women from Harassment and Abuse" (2019); Law of the Republic of Uzbekistan No. LRU-528 "On the Protection of the Reproductive Health of Citizens" (2019) and others.

Law of the Republic of Uzbekistan No. LRU-562 (2019) has provisions that ensure equal rights and opportunities for women and men both in labor and domestic environments, as well as in regarding social guarantees. The law does not allow direct or indirect discrimination based on gender, not only women but also men. It should be noted that all draft laws in Uzbekistan undergo gender-legal expertise, which allows for minimizing discriminatory risks for the population in the future.

Under Decree of the President of the Republic of Uzbekistan No. PP-5116 "On Additional Measures for the Rehabilitation of Women Victims of Violence" (2021), a system of support and assistance for women who have suffered physical or psychological violence is introduced in Uzbekistan. Decree of the President of the Republic of Uzbekistan No. PP-5116 (2021) was adopted to implement the Strategy for Action and the current national human rights strategy and to provide social, legal, and psychological assistance and targeted support to women in difficult social circumstances. Under the Ministry for the Support of the Mahalla and the Family, the National Centre for the Rehabilitation and Adaptation of Women and its regional branches were established to accomplish these aims. The 197 existing centers for the rehabilitation and adaptation of victims of violence have been optimized to create twenty-nine centers for women's rehabilitation and adaptation, including one national, fourteen regional, and fourteen interdistrict model center. The centers' operations are guided by the values of professionalism, safety, confidentiality of information, and anonymity. The aforementioned centers provide women with emergency medical, psychological, social, pedagogical, and legal assistance in an anonymous form to victims of violence, those who have attempted suicide, and women who find themselves in difficult social situations due to family problems.

It is worth noting that women in need of support and assistance are registered in the "Women's Notebook", which is aimed to consolidate confidential information about victims of violence, discrimination, and suicide attempts. The centers created are aimed to gather information on conflict situations, domestic violence, and suicidal behavior, and identify the causes and conditions contributing to these. This information is used to develop recommendations for preventing and eliminating negative consequences for women. Moreover, generalized and non-personalized information should be made public to carry out explanatory work among the population, as well as to be researched to prevent discrimination against women in Uzbekistan. In this aspect, the interaction of the centers with representatives of law enforcement agencies and medical institutions is essential for effectively overcoming gender inequality in Uzbekistan.

A unified interactive national platform "Aziz-Ayol" was created in Uzbekistan to prepare young women for family life and help develop parenting skills, protect women from violence, and prevent suicide and family breakdown. This platform is the outcome of social innovations and contemporary technology working together to address discrimination and gender inequality in Uzbekistan. In addition, there is a constant 24-hour hotline in Uzbekistan. The goal of the helpline is to give victims of discrimination and violence as well as those who have attempted suicide the most support and assistance possible. The helpline's mission is to assist those in need by offering them legal and psychological support along with other essential information. Consolidation and transmission of pertinent information about offenses to law enforcement agencies and healthcare institutions regarding the need for individual medical, psychiatric, or psychological assistance is a secondary outcome of the helpline.

The Resolution No. PS-297-IV of the Senate of the Oliy Majlis of the Republic of Uzbekistan, "On Approval of the Strategy for Achieving Gender Equality in the Republic of Uzbekistan until 2030" (2021), was passed during the fifteenth plenary session. The Strategy seeks to address the implementation of gender equality in the social, economic, and political spheres in a way that gives both men and women equal opportunities to exercise their rights. In the process of establishing labor-law relationships and assuming official positions in governmental bodies and institutions, the Strategy declares gender equality. The elimination of gender inequality in Uzbekistan through the introduction of temporary quotas and state supervision over their implementation is a secondary benefit of achieving this goal. It is noteworthy that over 15,000 female employees make up the staff reserve in Uzbekistan's departmental and ministerial institutions (Senators approved the Strategy..., 2021). The women's personnel reserve is intended to support women's continued career advancement, professional and personal development, as well as their nominal presence in specific institutions and ministries.

The goal of the strategy is to guarantee that everyone, regardless of gender, receives an equal and excellent education. The strategy should also protect women who are socially vulnerable, such as those who reside in rural areas, and stop instances of workplace restrictions on women's freedoms and rights, as well as the stereotypes that have long existed against women in Uzbekistan. In order to support the implementation of educational programs for foster girls and single women without a provider, Uzbekistan has established a system of social and financial compensation. Additionally, Uzbekistan is implementing a number of initiatives to boost the amount of grants available to girls from low-income families when they enroll in universities. For the first time in ten years, there are 32% more women than men serving in the Uzbek Senate. There are approximately 44% of women in political parties, 40% in education, and 35% in business. In Uzbekistan, just 27% of women occupy senior positions within the government. For example, only six women hold the post of hokim, and one woman is an ambassador. Women in Uzbekistan are widely represented in innovation, information and communication, engineering, and energy (Senators approved the Strategy..., 2021).

It should be noted that proper attention is devoted to the representation and development of women in business in Uzbekistan. Women's entrepreneurship centers are organized and operate in fourteen regions of Uzbekistan. To improve women's entrepreneurship in Uzbekistan, more than 224 thousand women have been allowed to obtain credit funds on special terms. More than 6.9 trillion soums have

been allocated for the implementation of these goals. Proper funding of relevant programs is a prerequisite for achieving gender equality in the future. It should be noted that Uzbekistan has achieved significant results in implementing the gender equality principle and introducing it in the current legislation. It should be noted that the gender equality index among other countries demonstrates the effectiveness of political and legal measures taken by the Government of Uzbekistan to minimize and eliminate gender inequality. Nevertheless, further work towards improving the current legislation of Uzbekistan is a relevant area for scientific research.

Discussion

The term "gender" was coined by Robert Stoller in 1968 and by the 1970s was in widespread use. Discrimination in the home, workplace, and family has sparked a number of scientific investigations as well as a distinct humanitarian field known as gender studies (Rajapova, 2020). Several scientists have conducted research on the legal regulation of issues pertaining to the implementation of the gender equality principle in the Republic of Uzbekistan. It should be noted that numerous scientists, including B.M. Qandov and S.B. Kholmakhamatova (2022), L. Shayusupova and I. Alizhonov (2021), L. Memesheva (2020), and others, have studied the key issues related to Uzbekistan's reform in relation to the implementation of gender equality.

In Uzbekistan, the majority of the population is Sunni Muslims (90%) and Orthodox Christians (less than 4%). A particular problem in this context is the low social activity of women, including in the educational sphere (Rajapova, 2020). The author stated that a Muslim woman lives by the canons of Islam and the patriarchal system, obeying the requirements of religion, family, society, and spouse at the same time. The ethical norms of a woman's behavior dictated the need for acceptance and humility in daily life, which contributed to the woman's subordination to society. Religious and traditional norms dictated these requirements. A woman's fate was not decided without a man's conscious approval and consent. Thus, from the birth of a girl, it was the male father, brother, or uncle who made the key decisions in the family and domestic, educational, and labor issues concerning women. After marriage, this function was transferred to the spouse, who had total control over the woman and children. All domestic issues were decided by the woman with her husband's consent.

N.B. Rajapova (2020) explains that from a religious perspective, Shariah taboos were aimed not so much at infringing on women's rights as at protecting their rights, honor, and dignity of them. Islam requires men to provide financial and domestic support for women, children, and families. It should be noted that as a result of religious influence, a society built a relationship with women in which they were not involved in hard work. As a result, women were generally engaged in domestic issues, children's upbringing, household, and self-education. Despite stereotypes prevailing in society, women were not completely isolated from society. For example, women were allowed to study history, literature, music, sewing clothes, etc. collectively. The woman was the creator, and the man sold the products she produced. The author contends that because social norms governing women's behavior were accepted without question and were not questioned by the latter, gender inequality and stereotypes against women became entrenched in Uzbekistan. The late 19th-century Jadid movement in Central Asia laid the groundwork for women's equality in society. It promoted the rights of women in Islam and Shariah. As a result of this research, the author states that during the Soviet Union, religious movements and organizations were subjected to oppression by the state and the policies of the ruling party. The situation with confessions began to change only in the late 1980s. The communist system required women to be active in the social sphere, to build a communist society, without regard to their national and mental peculiarities.

But modern women in Uzbekistan have significantly changed the country's living conditions. Modern Uzbekistan has been defined by its transition from an atheist state with religious-spiritual laws to a secular-legal nation, which has aided in the advancement of gender equality in the country. However, discrimination against women persists in contemporary Uzbekistan on the grounds of age, income, marital status, ethnicity, and religion. As evidenced by the country's current laws, gender programs, and policies, Uzbekistan places a high priority on integrating women in the economy across all regions (Toshturov, 2022). However, more modernization of laws and regulations is required to address the issues of unpaid care and labor as well as ensuring the duration of their employment. The primary barrier to attaining gender parity and actualizing women's economic and social entitlements is unpaid labor. In addition to being ignored when determining gross domestic product (GDP), unpaid labor is also not taken into account when formulating policies and making management decisions that guarantee socioeconomic support and gender equality.

Nevertheless, the author believes that further rule-making and law-enforcement improvement requires the issues of paid domestic care and labor, and guaranteeing their length of service to be solved. It should be noted that the discriminatory component in the extremely negative expression of women is reflected in psychological, physical, and sexual violence. This requires proper political and legal reactionary measures to stop and prevent illegal activities against women. One of the proper legal measures should be the criminalization of citizens' equality violations, including those based on gender. Social and cultural gender norms regarding unpaid care work are still firmly entrenched. Special attention is needed in the area of developing state programs to protect entrepreneurial activity at the micro and macro levels.

It is worth agreeing with the position of L. Memesheva (2020), who explains that the gender inequality in the labor sphere is provoked by the fact that in the society of Uzbekistan it is common to start a family after finishing school or completing secondary vocational education. The author believes that the reason for this approach is, first of all, the historical and religious stereotype persistently formed in society that a woman is the home keeper and her main goal is to give birth and raise children. In this way, the author believes that in order for the gender equality principle to be implemented in Uzbekistan, special attention needs to be paid to dispelling these stereotypes. Women must be mentally and financially independent, highly skilled, educated, and capable of competing in the political, social, and labor arenas in today's dynamic world.

The author explains that as a result of this trend, vertical segregation in the sphere of labor relations occurred. The result is that leadership positions in Uzbekistan are mainly

given to men, as well as higher wages for skilled labor (for example, in industry, construction, financial and insurance activities, and others). Nevertheless, the government of Uzbekistan is taking measures to ensure the availability of education in various higher educational institutions for all citizens (Memesheva, 2020). The author believes that the evening and part-time forms of education open up great opportunities for married women and mothers to successfully combine family responsibilities, raising children with studies, and work. It should be noted that women dominate in education and health care, but the payment in these sectors remains low. According to the author, this situation necessitates the creation of a distinct state program to raise the Republic of Uzbekistan's state budget's expenditure portion in the fields of science and education, as well as the imposition of managerial position quotas in order to achieve gender equality.

Conclusions

Uzbekistan has taken several effective political, legal, and socio-economic measures and programs aimed at overcoming gender inequality in the country. Thus, men dominate in the family and domestic sphere, professional and labor, and political and management spheres. Stereotypical social and cultural-religious norms determine the formation of various gender inequality means. Thus, in the family and domestic sphere, a woman has more responsibilities for home keeping, children, and relatives as compared to a man. This circumstance provokes inequality in the professional and labor sphere since women do not have the necessary financial and time resources to get an education, improve their qualifications and acquire new skills. This makes women less competitive in comparison with men. Accordingly, women's labor is less qualified and less paid. In the political and legal sphere, it can be stated that in Uzbekistan, equality in the process of voting in elections in the country is guaranteed. Special attention should be devoted to women's participation in leadership positions in Uzbekistan, both in the civil service and in business, through gender quotas. Further activities should be carried out through the prism of socio-economic support of these women and improvement of their qualifications.

In this regard, it is recommended to intensify efforts not only to adopt legal and policy frameworks and programs to ensure gender equality but also to monitor their implementation of them in education, health care, law enforcement, and socio-economic activities. This includes determining priority areas of interaction between state authorities and nongovernmental or civil society organizations to overcome gender inequality in Uzbekistan. The transformation of socio-cultural norms in Uzbekistan requires effective public education and information policy on the causes and conditions of gender inequality. Educating girls, young women, and women on the diversity of role models of behavior in society, the existing system of education and self-development is a separate essential area. The prestige and effectiveness of women's social, labor, political, and business activity must be communicated through positive propaganda and education from an early age in school and preschool institutions. Ensuring gender equality without a focused budget in Uzbekistan will be a difficult task. Therefore, it is recommended that integration processes of state support through budgetary allocation mechanisms be implemented, which should help to ensure women's economic rights and equal opportunities. Particular attention should be devoted to the implementation of international legal and labor standards that are designed to help women acquire highly skilled jobs and conduct effective business activities (e.g., access to finance, productive resources, skills). The development and implementation of statistical and management control over the accumulation of statistical information on gender imbalances in Uzbekistan require proper attention. Monitoring key information is required to analyze opportunities to improve gender equality mechanisms in Uzbekistan and monitor the effectiveness of measures and programs undertaken.

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Conflict of interest

None.

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Системний аналіз формування гендерних відносин у контексті національної та релігійної ідентичності жіночої теми в сучасному Узбекистані

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Анотація. У світлі глобалізації гендерна рівність стає все важливішим соціальним питанням. Гендерна рівність в Узбекистані покращилася в результаті швидкої урбанізації та глобалізації. Гендерні відносини в Узбекистані мають низку унікальних аспектів, зумовлених історичними, культурними, релігійними та національними чинниками. Це вимагає вивчення питань гендерної рівності та пошуку відповідних і корисних адміністративних, політичних і правових рамок для включення цієї ідеї в узбецьку правову систему. Створення та ратифікація відповідних національних і міжнародних правових механізмів у правозастосовній практиці Узбекистану – один з можливих шляхів вирішення цього питання. Мета дослідження – проаналізувати міжнародно-правові та національно-правові засади принципу гендерної рівності, які вже інкорпоровані або будуть інкорпоровані в політико-правову систему Узбекистану в найближчому майбутньому. Для досягнення поставленої мети автор використовував сукупність спеціально-юридичних методів дослідження (правового моделювання, системно-структурний, формально-юридичний, порівняльно-правовий) та філософських, загальнонаукових і спеціально-наукових методів (аналіз і синтез, індукція, дедукція, абстрагування та узагальнення). Проблеми дотримання принципу гендерної рівності розглядалися з урахуванням національних, релігійних та історичних традицій Узбекистану. Дослідження проблем гендерного дисбалансу в Узбекистані дало змогу проаналізувати ключові напрями його реалізації через нормативно-правову та правозастосовну діяльність. Визначено практичні пропозиції щодо вдосконалення існуючих законів і політик, спрямованих на забезпечення гендерної рівності. Виявлено проблеми гендерної рівності жінок в Узбекистані у зв’язку з унікальною суспільною формацією та релігією країни. На основі цього визначено напрями їх викорінення з науки

Ключові слова: правова система; правова рівність; природні права і свободи; дисбаланс; рівність

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Internal migration and displaced persons in Ukraine: Governing policies and protections by the administrative courts

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Abstract. The relevance of the study lies in the fact that Ukraine is in a state of military conflict, which has caused an increase in the number of internal migrants, as well as the need to update the current legislation to regulate their status in accordance with the new realities of life. The purpose of the study was to study the main provisions of the state policy regarding internal migrants in Ukraine, the basics of legal regulation of the status of this category of population, the determination of the potential and consequences of internal migration for the post-war reconstruction of Ukraine, as well as its development trends and reasons for its spread at the current stage, highlighting the features of internal migration on based on the conducted analysis. In accordance with the set goal, the task of the research was to study the general positions on the settlement of disputes in Ukraine on the protection of the rights and freedoms of internal migrants in the aspect of administrative and procedural law. General methods (analysis, synthesis, dogmatic, dialectical) and special methods (formal-logical, legal hermeneutics) were used during the research in order to achieve its goals and objectives. In addition to the methods of scientific knowledge of the theoretical orientation, empirical methods of research (description, comparison) were used. The result of the study was the substantiation of the proposition that the analysis of the general dynamics of the legal regulation of administrative responsibility for violations of migration legislation indicates the existence of two most common trends: the strengthening of punishments for offences in the context of armed aggression against Ukraine, as well as the systematic criminalization of acts, an increase in the number of administrative offences and crimes. The conclusion of the study was the argumentation of the position that internal migration in Ukraine at the current stage has a hybrid nature, caused by a combination of factors of different directions, a combination of military, economic and social factors, which must be taken into account when reforming the policy of public administration in the specified area. The practical significance of the research is that there is currently a military conflict in Ukraine, which causes complex processes of internal migration, and its results are effective for use in developing practical recommendations for updating legislation in the specified area in order to reduce or eliminate the negative consequences that may be caused by internal displacement of the population

Keywords: public administration; executive authorities; military conflict; displacement processes; legal guarantees

Introduction

One of the problems of today is the growing scale of internal migration, the resettlement of people within a particular country, and the issue of protecting the rights of persons who carry out such movements without crossing the state border is also considered to be no less relevant. The significance of studying the legal status of internally displaced persons is primarily due to the quantitative indicators of this category of persons, since at the present stage there are approximately 260 million of them worldwide. Among this category of persons, more than 60 million people have been forcibly displaced. However, the legal status of internally displaced persons, as compared to that of refugees, has not become a major topic of discussion by the international community. It seems possible to explain that it is the status of refugees, not internally displaced persons, that has become the main area of concern for countries in the past, from the point of view that this category of population is primarily subject to the protection of their country of origin, i.e., it is carried out at the national, not international level. The concept of the status of internally displaced persons was understood after the creation of the Office of the United Nations High Commissioner for Refugees (UNHCR) in 1950. This organization was established to provide assistance to refugees who had been forcibly removed from their homes during the Second World War. It was the first initiative of the UNHCR to classify internally displaced persons as refugees who were forced to flee their homes to avoid persecution but did not cross internationally recognized borders. This definition is based on two key aspects: forced displacement and displacement of persons

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within the borders of the state concerned (Leaders' Summit on Refugees, 2016).

The phenomenon of internally displaced persons (IDPs) appeared in Ukraine in 2014 due to Russia's attack on Ukraine and subsequent hostilities and occupation, and with the beginning of the full-scale invasion, the number of this category of population increased significantly. As of the beginning of April 2023, the UN recorded more than 8.1 million Ukrainian refugees in Europe, and the number of those with temporary protection or similar status has increased by 185,000 since the end of January to approximately 5 million (The Ukrainian refugee…, 2023). At the same time, as of 23 January 2023, the International Organization for Migration (2023) estimates that 5.4 million internally displaced persons have been displaced throughout Ukraine, a decrease from 5.9 million as of 05 December 2022, and the estimated number of IDPs in Ukraine has been steadily decreasing since August 2022. The latest indicates a decrease in the total number of internal migrants in Ukraine and an increase in the number of people migrating outside Ukraine, which is confirmed by the results of a survey among this category of the population: among all respondents who have already considered moving, 57% were focused on moving within Ukraine, and 26% were moving abroad (compared to 20% in December 2022). In addition to the objective reasons for the growth of external migration, there are also latent subjective factors that influence it, which are both necessary to identify and study. Identification of these latent factors is possible through a detailed study of internal migration and the motives that encourage internal migrants to change their place of residence.

M.O. Lohvynova (2019) studied the issue of internally displaced persons in Ukraine, in particular, she classified this category of persons, identified the main features of internally displaced persons, namely that they are citizens of Ukraine, and their connection with the state is combined with the right to permanent residence, they have a certain reason for leaving the administrative-territorial unit, their place of residence due to hostilities on its territory or its temporary occupation, and therefore need to protect their rights and freedoms, while they do not leave its borders, which are recognized at the international level. The above is also confirmed by T.R. Kulchytskyi (2019), who in his scientific work notes the importance of guaranteeing the implementation of social protection of human rights in Ukraine, which is provided for and enshrined in the current domestic legislation. Firstly, it is the Law of Ukraine No. 1706 "On Ensuring the Rights and Freedoms of Internally Displaced Persons" (2023), which is connected with the importance of a person as the highest social value in Ukraine and the priority of the tasks of the executive authorities on migration issues to improve this type of activity, increase the level of accessibility and quality of services for this category of population provided by the state. I.V. Shulzhenko (2020) emphasizes the urgent need to improve the legislation of Ukraine to ensure the effectiveness of social and labour relations with internal migrants, in particular, scientific and pedagogical workers. T. Tsymbalistyi and A. Blashchak (2019) emphasize the need for effective interaction between executive authorities and internal migrants to ensure their rights in the field of social direction, including payments, services, and restoration of documents.

The purpose of the study was to study the basics of public administration in Ukraine regarding internal migration issues in the context of armed aggression against Ukraine. In accordance with the purpose of the research, his task was to analyse the judicial practice of the appellate administrative courts of Ukraine regarding cases of violation of the rights of internally displaced persons as internal migrants in order to identify the cause-and-effect relationship between the protection of the rights and freedoms of internally displaced persons and their migration within Ukraine.

Materials and methods

To achieve the research goal and solve its tasks, the author used philosophical methods: dialectical, analytical and dogmatic; general scientific methods, in particular, analogy, synthesis, and systematic analysis of socio-economic and political processes. For a more in-depth and detailed study, to obtain more objective results, the tools of special legal methods were used: comparative legal, formal legal, and legal hermeneutics. The statistical method was also used to comprehensively cover the subject of the study and substantiate its results. The dialectical method of research was used to study the status of internal migrants in Ukraine and its enshrining in domestic legal acts. The analytical method was used to identify the main causes and consequences of internal migration in Ukraine, and to determine the impact of the ongoing military conflict in Ukraine on internal migration processes. The dogmatic method was used to study the role of the executive branch in implementing the State policy in the field of internal migration, its provision of administrative services in this area, as well as the importance of the judiciary in Ukraine as one of the main elements of the system of protection of human and civil rights, including in relation to internal migrants as a special category of the population.

By using the methods of analogy and synthesis, the study identifies specific tasks that need to be addressed in order to eliminate the shortcomings of legal regulation of the status of internal migrants in Ukraine, as well as the mechanism of public administration in this area. The method of systematic analysis of socio-economic and political processes has led to the conclusion that the sphere of internal migration is primarily closely related to internal (social, economic, political situation in certain regions or in the whole country) factors that directly affect it. In addition, the application of this method allowed the study to formulate a justification for the position that internal migration has its own peculiarities, in particular, there is a peculiar specificity in the application of various types of punishment to those who violate migration rules. The special comparative legal method used in the study allowed for a more detailed examination of its subject, and for identifying the distinctive, specific characteristics and content of such a category as "internal migrant". With the help of a special formal logical method used in the study, further directions of transformation processes of internal migration in Ukraine after the end of the ongoing military conflict were identified. The use of the classical methodological apparatus in combination with a special method of legal hermeneutics helped to form the research field for the development of universal approaches to understanding public administration in the field of internal migration.

In order to achieve the goal and objectives of the study, the statistical method was also used to analyse and study the problems of internal migration in more detail, to identify the cause and effect relationships between internal migration and social, political and economic phenomena that are currently

taking place in Ukrainian society. This method was also used to clarify the peculiarities of the mechanism for protecting the rights of internal migrants in administrative proceedings and to formulate more accurate research results for the analysis of available data in the field of internal migration.

Results

Since 2003, the number of IDPs has been on the rise in the world, as evidenced by statistics on internal displacement in the Middle East and in a number of other countries, such as Colombia. The scale of these processes around the world confirms the tendency for the number of internally displaced people to continue to grow in the future. These processes, in many cases, in addition to the process of displacement itself, cause severe psychological and emotional distress for internally displaced persons who are affected by armed conflicts or wars, political repression or economic crises, which may be accompanied by acts of violence and gross human rights violations. Thus, in almost all cases, the social phenomena of internal migration are accompanied by negative mental and emotional events and experiences. It is important to note that the process of internal displacement is often accompanied by the destruction of family structures. In many cases, social and cultural ties are interrupted or disrupted, stable labour relations are terminated, and access to education and other social services is lost. This is especially evident in the low or inadequate level of food and medical supplies for internally displaced persons, as well as in the insufficient provision of medical and other vital services. This situation leads to massive illness among the most vulnerable groups of internally displaced persons, including children, women, the elderly, and persons with disabilities. This can result in a deep social crisis.

Obviously, the fundamental principles in the field of human rights protection, which are reflected in the annual UN appeals to states, provide a mechanism for addressing these strategically important issues, taking into account the manifestations of humanity and humanism, as well as a responsible attitude to their solution not only by the government of a particular country, but also through the active involvement and participation of each of its citizens. Thus, these principles act as a universal motivational stimulus for each individual, embodying the slogan “Protect Human Rights”. The main goals of their activities are legal equality, non-discrimination, civic engagement, widespread application and increased interaction (Leaders’ Summit on Refugees, 2016). Another subgroup of internally displaced persons are victims of natural disasters (e.g., floods), man-made events (e.g., accidents at industrial facilities) or man-made crises (e.g., terrorist attacks). They may also include persons who have been forced to leave their homes as a result of development projects by the state of which they are nationals. Such projects may include, for example, the construction of hydroelectric power stations, which leads to the flooding of certain areas. In these situations, people have changed their place of residence for the above reasons or for similar reasons, they remain in the same country in which they previously lived, and therefore belong to the category of internally displaced persons. However, unlike refugees, in most cases they do not have access to social programmes, protection, and assistance at all or receive them in full. It is also possible that internal displacement is caused by certain actions on the part of the government, or, for example, if the state has not taken adequate measures to save its citizens from insurgents or violence related to the armed conflict on its territory. However, even in such circumstances, IDPs are protected by their state.

Freedom of movement is recognized as one of the fundamental human rights defined by the Universal Declaration of Human Rights (1948). Article 13(2) states that everyone has the right to leave any country, including his or her own, and to return to his or her country. This principle is also fundamental to the constitutions of democratic countries, including Ukraine, as it covers the legal status of all categories of the population of a given country: citizens of the country, including internally displaced persons, stateless persons, bi-patriots, and foreigners staying on its territory. If defining in more detail what criteria determine the status of displaced persons, it is necessary to highlight, firstly, that these are persons who have the citizenship of a third state or no state recognizes them as its citizens. In most cases, their protection is ensured by Article 1A of the Geneva Convention (1949), as well as other international or national legal acts that provide protection to the following persons:

- those who are forced to flee from areas of armed conflict or where there are outbreaks of violence;
- those who are at serious risk of being subjected to systematic or pervasive human rights violations.

In addition, the displacement of such persons from their country or place of residence, including at the initiative of international organizations and in the process of evacuation, implies that they are unable to return to safe and stable living conditions due to a certain situation (political, social, military) in their country. The Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights define in detail the principle of respect for human rights. The universality of the norm requiring states to respect human rights without discrimination is noted, as confirmed in the analysis of international legal acts. This general obligation of states does not require the unification of national legislation, but the development of standards to support national legislation. Thus, despite globalization, the regulation, and protection of human rights remains the direct responsibility of each state. International norms, in most cases, require domestic implementation to be applied at the national level. The standards of behaviour of international legal instruments do not dictate the specifics of a state’s fulfilment of its obligations, but they do limit its freedom in national legislation, including liability for human rights violations. Like any other international legal principle, respect for human rights is being adapted to modern realities. Thus, an individual becomes a direct subject of international law, and the problem of forced displacement is included in the structure of international human rights protection. The recent strategies of the international community are aimed at balancing the sovereignty of states and the rights of citizens, while the search for effective mechanisms to assist internally displaced persons as a highly vulnerable group of people continues.

Thus, an “IDP” is a person who has (in most cases, forcibly) moved from one place to another. It seems possible to distinguish between the concepts of “refugee” and “internally displaced person” by the criterion of citizenship of the country within which the person has moved: the first category will not have it, unlike the second. This circumstance is the determining factor for the division of the terms analysed.

Despite the fact that in recent years the scientific activity on studying the problems of internally displaced persons has become much more active, compared to similar studies of the legal status of refugees, it can be determined that a number of issues remain unresearched in relation to IDPs. Firstly, this can be explained from the point of view that the status of internally displaced persons and description of their characteristics are based on indicators of need and mutual assessment of migrants and the indigenous population, which provides insufficient coverage of the legal and political consequences of forced migration. In addition, research on the status of internally displaced persons is hampered by incomplete, insufficient or imperfect statistics.

Although the status of internally displaced persons is regulated mainly at the national level, global processes such as wars, political, religious, ethnic conflicts and economic crises have a significant impact on this process. These factors cause an increase in internal migrants and influence their perception of the world and their behaviour. Ethno-social and ethno-political factors determine the complexity and multifaceted nature of internal migration. At the same time, internal migrants integrate into local communities, and regional authorities are responsible for their social adaptation. This adaptation, which is currently only basic in Ukraine, requires further research. Internal migration is important for understanding population dynamics and the multifaceted relationship between population and the development of a nation, but studies of internal migration are less frequently conducted because measuring internal migration is difficult and data are less available (Alam & Mamun, 2022). In addition, studies of annual migration between regions of the same country are rare due to the lack of data from citizens themselves (Bonnet, 2021). Only the reports of the courts of appeal on the consideration of appeals in cases of administrative offences are available for analysis, in particular, data for 2022 and 2021 were analysed for the study (Table 1).

Table 1. Reference to the report of the appellate courts regarding the consideration of appeals in cases of administrative offences for 2022-2021

The number of appeals in cases of administrative offences for 2022, which were filed by internally displaced persons	The number of appeals in cases of administrative offences for 2021, which were filed by internally displaced persons
310	108

The analysis of the mentioned data indicates a decrease in the number of applications of internally displaced persons to appeal administrative courts by 65%, which indicates positive changes in the mechanism of public management in the field of migration and more effective measures for the implementation of state policy in it. At the same time, the data indicate an increase in the efficiency of the general courts in considering the specified categories of cases in the corresponding period, which was analysed. At the same time, it is possible to analyse and identify a tendency to decrease or increase the number of appeals of the specified category of citizens to these court authorities on the subject of claims (Tables 2, 3).

Table 2. Results of review of decisions (rulings) of the court of first instance on appeals for 2022

No. in order	Categories of cases	The number of revised decisions (rulings) of the court (sum of columns 2, 3, 4, 11), units	Number of decisions (resolutions) left unchanged, units
A	B	1	2
103	Court cases related to disputes regarding the implementation of public policy in the areas of labour, employment and social protection of citizens, as well as public housing policy	15082	11092
104	…in particular, cases related to the management functions of the authorities (appointment, calculation, and payment of insurance payments) in the context of relevant forms of mandatory state social insurance include:	11636	8473
114	➨ internally displaced persons.	114	97
115	Supervision and control in the field of relevant types of mandatory state social insurance:	36	31
122	➨ internally displaced persons.	23	18
123	Employment of the population, including:	495	395
127	➨ internally displaced persons.	1	1
129	Court cases related to the maintenance of public order and security, protection of national security and defence of Ukraine, in particular, those related to:	3391	2267
131	➨ stay of foreigners and stateless persons on the territory of Ukraine, of them;	326	239
132	➨ forced return to the country of origin or a third country of foreigners and stateless persons;	39	26
133	➨ forced deportation of foreigners and stateless persons outside Ukraine, their detention;	197	144
134	➨ refugees.	171	140

Table 3. Results of review of decisions (rulings) of the court of first instance on appeals for 2021

No. in order	Categories of cases	The number of revised decisions (rulings) of the court (sum of columns 2, 3, 4, 11), units	The number of decisions (resolutions) left unchanged, units
A	B	1	2
103	Court cases concerning disputes in the context of public policy in the fields of labour, public employment, social protection of citizens and public housing policy, including disputes related to management, supervision, control, and other authoritative management functions (such…	19643	12776
104	…as appointment, recalculation, and payment of insurance benefits) within the framework of relevant types of mandatory state social insurance:	13991	8626
114	➨ internally displaced persons.	93	69
115	Supervision and control in the field of relevant types of mandatory state social insurance:	54	46
122	➨ internally displaced persons.	55	49
123	Work, employment of the population, including:	898	734
127	➨ internally displaced persons.	3	2
129	Cases related to ensuring public order and security, national security and defence of Ukraine, in particular regarding:	4561	3022
131	➨ stay of foreigners and stateless persons on the territory of Ukraine, of them;	492	339
132	➨ forced return of foreigners and stateless persons to their country of origin or a third country;	36	21
133	➨ forced expulsion of foreigners and stateless persons outside Ukraine, their detention;	331	225
134	➨ refugees.	349	290

The number of court cases on disputes regarding the implementation of public policy in the spheres of labour, employment and social protection of citizens, as well as housing policy, which were initiated by internally displaced persons, decreased by 18%. A 29% decrease in court decisions that did not change indicates a positive trend. The number of amended or overturned court decisions has decreased, indicating the effectiveness of judicial bodies. Applications from internally displaced persons with labour and employment problems doubled, although all of them were rejected. This indicates the vulnerability of this category of migrants in labour relations, they often work illegally and lose the opportunity to protect their labour rights. Statistics also demonstrate a change in the focus of state policy in the field of migration in relation to Ukrainian citizens, while the rights of foreigners and stateless persons remain insufficiently protected. At the same time, the number of appeals to administrative appeal courts has increased significantly over the past two years. For a more accurate study, it would be useful to analyse the reports of administrative courts by region, but the available information for the period 2016-2017 is no longer relevant.

The topic of internal migration is relevant both for Ukraine, which is undergoing armed aggression, and for the whole world. Its magnitude is due to a wide range of interrelated aspects, including sociological, geographical, economic, political and legal, which have a global impact. Irrational allocation of human resources can cause world problems such as increased poverty, unemployment, and crime. In Ukraine, internal migration has spread over the past few decades. Since 2014, the main reason for this has been military operations in the east of the country and the occupation of Crimea. However, even before these events, factors such as improved transport links, different living standards and wages, instability in the labour market, the elimination of the registration system and the spread of information technology stimulated the processes of internal migration. The classification of the category of internal migrants in Ukraine in terms of forced resettlement, which exists at the current stage, was carried out by M.O. Lohvynova (2019), who distinguished the groups of its participants (Fig. 1).

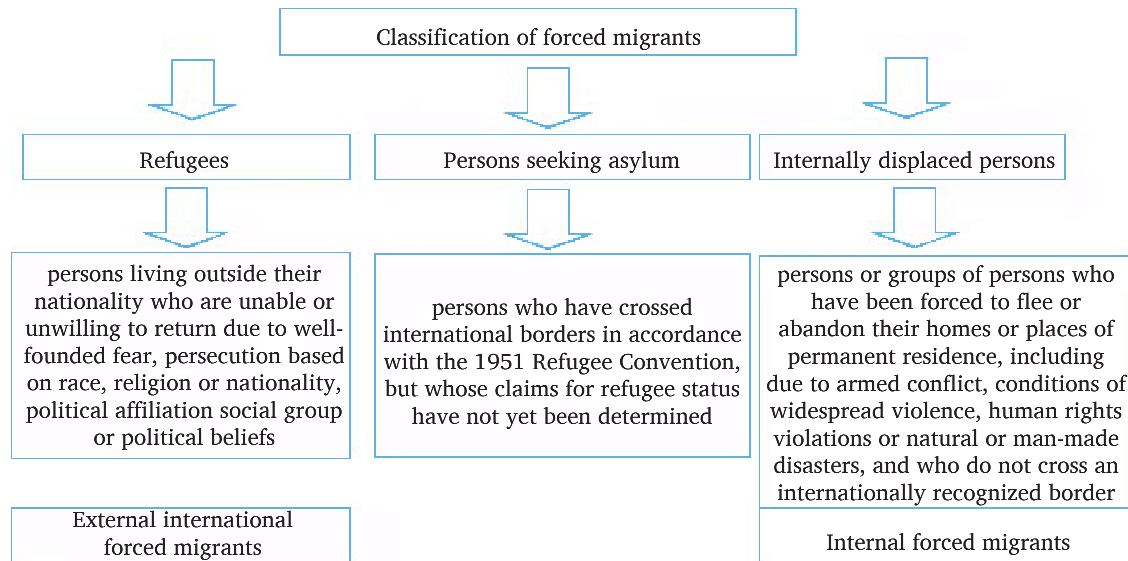

Figure 1. Classification of forced migrants
Source: compiled by the author based on M.O. Lohvynova (2019)

Classification of internal migrants is important for effective legal regulation of their status, protection of rights and provision of state guarantees. Internal migration, as a complex multifaceted process, affects various economic and social spheres. Its dynamics are determined by various factors, such as changes in the economic structure, demography, labour resources and social mobility. Due to its unity and complexity, the consequences of migration differ depending on its structure and volume. Most of the internal migration flow is represented by able-bodied youth and specialists, which leads to an increase in the potential of the region of arrival, and a decrease in the potential of the region of departure. Such a structure requires a separate study according to various criteria, including age, education, profession, field of employment, gender, marital status, nationality, and length of residence. An important factor in the study of internal migration flows by age is the influence of the working population on the demographic situation at the regional and national levels.

An effective state and regional demographic and migration policy of the state and effective measures for its implementation require a mandatory preliminary analysis and consideration of regional characteristics. Ensuring the implementation of such processes has an applied nature, as it allows controlling the scale and direction of internal migration flows, to influence a number of aspects of the socio-economic development of the country and individual regions in an organized and planned manner. An integral part of such a policy should be public management measures that have the necessary impact on internal migration processes. The Russian invasion of Ukraine became the main stimulus for the growth of internal migration in Ukraine, giving it a complex hybrid character. The change in state policy in accordance with military challenges was not accompanied by changes in the Strategy of the state migration policy of Ukraine for the period until 2025 (Order of the Cabinet…, 2017), although the Strategy of the state policy on internal displacement for the period until 2025 (Order of the Cabinet…, 2023) was adopted with the corresponding action plan. A comprehensive approach to the regulation of internal migration is needed, taking into account the impact of migration on personal outcomes, adaptation of the local labour market, and the interaction of migration with housing markets, requiring an update of the relevant legislation without a narrow focus on the status of an internally displaced person (Jia *et al.*, 2022).

Internal migration is formed by a variety of internal and external, political, social and economic factors, with a short-term or long-term impact (González-Leonardo *et al.*, 2022). It is necessary to mention the temporary effects of the COVID-19 pandemic on migration flows, the unprecedented crisis of mass population displacement due to the Russian invasion of Ukraine, as well as the long-term effects of the war on socio-economic stability in Ukraine (Haberfeld *et al.*, 2019). Changes in social life require adjustment of state policy in the field of migration. Economic migrants choose destinations based on their abilities (Pardede *et al.*, 2020), and geographic factors also play a key role (Kupiszewski *et al.*, 1999). In Ukraine, there is a trend towards depopulation of central cities in combination with suburbanization and peri-urbanization (King *et al.*, 2008). Internal migration should be considered separately from external migration, given its unique causes and consequences. However, these movements are becoming increasingly blurred due to geopolitical events, changing borders and the complexity of migration trajectories (Monras, 2022). Despite this, most internal migration is a reaction to internal events, such as the war in Ukraine (Voznyak *et al.*, 2023). The study of internal migration is complicated by the imperfection of statistical data, especially regarding temporary movements and part-time work. A better understanding of the phenomenon of temporary internal migration, its causes and development trends is needed. Perhaps the same criteria should be used for its classification as for permanent migration. Ukrainian legislation does not sufficiently clearly define the functions of management bodies in the field of internal migration, giving rise to a random description of their tasks and powers. Improvement of the legal framework for migration regulation should provide for systematization and codification of legislation and a mechanism for constant monitoring

of their practical implementation. Sanctions for violation of migration rules specified in the current legislation have a general declarative nature.

Actualization of the problems of internal migration in Ukraine determines the development of the judicial system for the protection of migrants' rights, which becomes an integral part of the national judicial system. This system has accumulated significant experience in migrant cases in various fields of law, as migrants are subjects of legal relations requiring protection in constitutional, administrative, criminal, family, civil and other procedures. The updated state policy in the field of internal migration should take into account the mentioned factors affecting migration and be directed towards the implementation of tasks in social and economic policy for the effective reconstruction of Ukraine after the conflict. Ukraine's projected accession to the European Union also requires a transition to market-based tools for managing internal migration movements, which is important for adapting to the new dynamic conditions of existence in a post-conflict state.

To achieve these goals, it is important to create a state policy aimed at improving the well-being of the entire population of Ukraine, not just internal migrants. In addition, it is necessary to take into account other factors that hinder the growth of spatial mobility of citizens, such as the bureaucratization of the mandatory registration system, restrictions on access to social services, insufficient amount of social housing. The fight against violations of the labour rights of internal migrants by employers can be carried out through state control over compliance with the law and the application of harsh penalties in case of its violation. The formation of the state strategy in the field of internal migration and the implementation of relevant measures at the national and regional levels should be based on the principles of protection of human rights and freedoms, a progressive approach to the problems of migrants, and the effectiveness of the actions of all branches of government.

Discussion

At the current stage of addressing internal migration in Ukraine, a number of universal and regional international documents, as well as national legislation, have been adopted, which provide for a mechanism to protect the rights of internally displaced persons and establish appropriate public administration structures. These documents emphasize the principles of democracy, respect for human rights, preservation of the common cultural heritage and promotion of employment of socially vulnerable categories of the population, including internally displaced persons. By adopting and ratifying these legal acts, states have committed themselves to creating an effective system of human rights guarantees. These provisions are binding on all states that have acceded to the Universal Declaration of Human Rights (1948), and the European Court of Human Rights is responsible for monitoring the observance of human rights at the national level. However, the issue of forced displacement is relevant due to the violation of universally recognized human rights, and if all domestic remedies have been exhausted, a person may file a complaint with the European Court of Human Rights. General protection of human rights has the highest priority in society and is a mechanism for avoiding possible conflicts between the individual and the state. The proclamation of a person, his, or her rights and freedoms as the highest value contributes to the expansion of the state's human rights policy, in particular with regard to internally displaced persons residing in the country. Thus, the right to protection is an integral part of the constitutional status of internally displaced persons, and the principle of universal respect for human rights and fundamental freedoms forms the basis of their legal protection.

Article 1 of the UN Charter highlights one of the main objectives of the UN members – social cooperation aimed at promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. The key importance is attached to Article 55 of the Charter, according to which the UN contributes to raising standards of living, full employment and creating conditions for economic and social progress and development, and respect for human rights and fundamental freedoms for all. As noted by H. West *et al.* (2021), migration worldwide has reached its highest level, and despite the growing attention to the problems of international migrants, internal migration remains poorly understood, in particular, those issues that highlight how internal migrants are affected by socio-economic, occupational and environmental risk factors in low- and middle-income countries. In addition, the study of this issue is relevant because, along with international migration, internal migration processes are the main factor in the redistribution of the population between subnational borders, which supports the effective functioning of the economy, is important for social welfare, and is an integral part of human development. The study of internal migration is important in practical terms for the formation of public policy in this area, as the theoretical data obtained can help to develop strategies and programmes that will be more effectively targeted at those groups of the population that need the most state support, internal migrants, as well as to stimulate adapted approaches to universal coverage of social services, adapted to local conditions (Monras, 2022).

The Law of Ukraine No. 1706 "On Ensuring the Rights and Freedoms of Internally Displaced Persons" (2017) regulates the status of internal migrants in a fragmented manner, shifting the legal focus to Ukrainian citizens, despite the fact that this category also includes foreigners and stateless persons who are legally present on its territory. At the same time, it is worth noting that internal migrants of different ages, genders, and occupations have different life needs. In addition, a group of internal migrants of working age may face not only the problem of unemployment in a new place of residence, but also the need to acquire a new profession or improve their existing professional qualifications. As noted by C. Ginsburg *et al.* (2021) note that internal migration processes imply that people change their place of residence without crossing the state border, and modelling internal migration flows can contribute to a better understanding of the characteristics of population mobility and its potential economic and social consequences. A similar view is supported by Y.W. Chen *et al.* (2020), who note that internal migration, if supported by sound public policy in this area, can lead to overall productivity gains from reducing barriers to internal labour migration, taking into account the selection of workers and spatial differences in human capital.

An important issue is highlighted in the scientific work of G. Bryan and M. Morten (2019): as the US experience shows, the state policy in the field of migration should cover the possibility of meeting the interests and needs of all

groups of internal migrants, since, for example, the immigration policy of selective qualification leads to increased welfare for workers with low skills, but losses for highly skilled workers. The spatial factor in migration processes is also highlighted by S. Piyapromdee (2021), who notes that distance is crucial for the impact of internal migration on long-term economic development; the greater the distance internal migrants travel, the greater the long-term economic impact on the host territories. As noted by V. von Berlepsch and A. Rodriguez-Pose (2021), the reasons for internal migration include job availability and wage differentials, as well as working conditions and lifestyle. In the light of the economic rights of internal migrants, their realization and protection, their property rights are also important as one of the main foundations of their livelihoods. S.-A. Oh (2019) notes that the issue of housing for internal migrants is also relevant is correct, and it is considered effective to borrow the positive experience of Germany, which has a specific financial savings model of renting privatized public housing to the poor, which is increasingly aimed at migrant tenants. The use of this approach in the implementation of the state housing policy for internal migrants would help to relieve social tensions in society and improve their living conditions in the new territory.

It is worth agreeing with the opinion of M. Bernt *et al.* (2022) that it is obvious that international migration is studied using large-scale biometric and other data, but the study of internal migration among researchers is very limited. The lack of thorough theoretical developments on internal migration issues, taking into account the case law of the administrative courts of appeal mentioned in the study, leads to imperfections in the mechanism of public administration in this area, as well as violations of the rights and freedoms of internal migrants. According to A. Miranda-Gonzalez *et al.* (2020), internal migration as a macro-demographic process can play a crucial role in influencing real changes in the size and composition of the local population and is considered crucial in promoting the efficient functioning of local, regional and national housing and labour markets. It is the distinction between internal migration and residential mobility that is often drawn with reference to perceived differences in motivation, with migration usually being associated with employment and educational motivations, and shorter-distance mobility with housing and family (Thomas, 2019).

Conclusions

Ukraine is currently undergoing significant socio-economic and political transformations. They necessitate accelerating labour productivity growth, modernizing production, stimulating economic activity, efficient use of labour resources, overcoming staff shortages, creating high-tech jobs, improving vocational education and adapting the training system to the needs of production. These processes contribute to the growth of territorial labour mobility. Based on the Ukrainian experience, IDPs, as an indicator of the spread and intensity of armed conflicts, require special assistance and protection from the state and the international community, including the creation of safe conditions for return. As an economically, socially, emotionally, psychologically and politically vulnerable group, IDPs are often unable to protect their rights, including through legal recourse. However, they also have the ability to quickly restore their resources and acquire new skills, which are important in returning to normal life and can contribute to the stabilization of the country in the post-conflict period.

In view of the above, the executive authorities in the field of internal migration, when implementing the policy of post-war reconstruction of Ukraine, as well as after updating the relevant legislation, should envisage the following measures: implementation of social security reform: development of measures at the national and regional levels, in particular, to eliminate unemployment in rural regions, as well as those whose infrastructure was most affected by the military conflict in Ukraine; interstate and interregional cooperation: development of measures in cooperation with local governments and communities at the municipal level to mitigate ethnic, social and religious conflicts in the local area; implementation of the institutional content of the state policy: development of a network of support organizations whose main purpose is to support internal migrants; implementation of state and regional control: development of a control system at two levels: on the part of the sending and receiving sides; improvement of the efficiency of the statistics system: introduction of an effective system of quantitative and qualitative assessment of internal migration; development of partnership programmes: when developing relevant measures, small towns should be given preference as centres for attracting labour and developing basic activities; implementation of reforms of the financial and banking systems: improvement of the system of interregional money transfers and development of the donor financing system, development of a single bank card for internal migrants, which would allow them to withdraw and send money without interest to different regions of the country; implementing the judicial defence reform: improving the efficiency of the administrative courts of appeal of Ukraine.

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Conflict of interest

None.

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Внутрішня міграція та переміщені особи в Україні: політика управління та захист адміністративними судами

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Анотація. Актуальність дослідження полягає в тому, що Україна перебуває в стані військового конфлікту, що спричинило збільшення кількості внутрішніх мігрантів, а також необхідність оновити чинне законодавство для врегулювання їхнього статусу відповідно до нових реалій життя. Метою дослідження було вивчення основних положень державної політики щодо внутрішніх мігрантів в Україні, основ правового регулювання статусу цієї категорії населення, визначення потенціалу та наслідків внутрішньої міграції для повоєнної відбудови України, а також тенденцій її розвитку та причин поширення на сучасному етапі, виокремлення особливостей внутрішньої міграції на основі проведеного аналізу. Відповідно до поставленої мети, завданням дослідження було вивчення загальних положень щодо вирішення спорів в Україні про захист прав і свобод внутрішніх мігрантів в аспекті адміністративно-процесуального права. Для досягнення поставленої мети та завдань під час дослідження використовувалися загальнонаукові (аналіз, синтез, догматичний, діалектичний) та спеціальні методи (формально-логічний, правової герменевтики). Крім методів наукового пізнання теоретичного спрямування, використовувалися емпіричні методи дослідження (опис, порівняння). Результатом дослідження стало обґрунтування положення про те, що аналіз загальної динаміки правового регулювання адміністративної відповідальності за порушення міграційного законодавства свідчить про наявність двох найбільш поширених тенденцій: посилення покарань за правопорушення в умовах збройної агресії проти України, а також систематична криміналізація діянь, збільшення кількості адміністративних правопорушень і злочинів. Висновком дослідження стала аргументація позиції, що внутрішня міграція в Україні на сучасному етапі має гібридний характер, зумовлений сукупністю чинників різного спрямування, поєднанням воєнних, економічних та соціальних факторів, що має бути враховано в реформуванні політики державного управління в зазначеній сфері. Практичне значення дослідження полягає в тому, що наразі в Україні триває військовий конфлікт, який спричиняє складні процеси внутрішньої міграції, а його результати є ефективними для використання в розробці практичних рекомендацій щодо оновлення законодавства в зазначеній сфері з метою зменшення або усунення негативних наслідків, які можуть бути спричинені внутрішнім переміщенням населення

Ключові слова: державне управління; органи виконавчої влади; військовий конфлікт; процеси переміщення; правові гарантії

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Protection of children's rights as a component of Ukraine's national security

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Abstract. The relevance of the study is due to the urgent need to address the critical state of children's rights in the context of military aggression against Ukraine, which requires immediate measures to strengthen their protection. The main purpose of this study is to examine the concept of child security as an integral part of national security. Methodologically, the study is based on a critical analysis of scientific sources and the international and Ukrainian legal framework for the protection of children's rights in general and in armed conflict in particular. The study also analysed relevant statistics. The results of the study highlight the state of child rights protection in Ukraine in the context of Russia's full-scale invasion. The state of national legislation in the field of child protection and its compliance with international standards are examined, and ways to improve the Ukrainian legal framework are proposed. The urgency of expanding international cooperation to restore the psychological and moral well-being of children is substantiated. The author emphasizes the need to increase funding for organizations involved in supporting and protecting children's rights, recognizing that children represent the future of the state. The author emphasizes the role of juvenile justice bodies in the implementation of the state's domestic policy, which is an integral part of national security, is guided by international and national legal norms and is aimed at guaranteeing and protecting the rights and freedoms of children. Long-term perspective goals for state bodies are formulated. By addressing a previously unexplored area, the study improves understanding of the important link between child security and national security. In practice, the findings offer valuable insights for policymakers and stakeholders in protecting the rights and well-being of children, who are among the most vulnerable citizens in times of armed conflict

Keywords: socio-economic development; protection mechanism; guarantee system; improvement; minors

Introduction

Since the beginning of Russia's large-scale invasion of Ukraine, the aggressor state has been harming and injuring Ukrainian children on a daily basis. They have targeted hospitals and schools, depriving children of their basic rights to education and healthcare. In addition, they forcibly relocate children to their territory and often prevent their access to the government-controlled areas. In addition, the aggressor state is attempting to eradicate the Ukrainian identity of children living under occupation or those who have been deported, and is actively engaged in widespread efforts to militarize minors. The Prosecutor's Office of Ukraine has opened more than a thousand criminal cases of crimes against children. The repatriation of all Ukrainian children and the protection of their rights is a key national security priority.

In the context of the ongoing conflict in Ukraine, the economic, social, psychological and moral aspects of

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national security are in a state of great complexity and contradiction. The duration of the war has led to instability in various areas of the country. As a result, more and more families are experiencing the effects of the tension in the state budget, which has led to an increase in the number of people with incomes below the subsistence level. This, in turn, has led to a decline in the birth rate and a widening income gap. There is also tension in the labour market, which arises because part of the population is forced to move from regions under constant pressure from the occupiers to regions that are safer for life. The problem of vacant jobs, increasing wage arrears, pension and social assistance arrears, and a significant increase in poverty, including social deviations in children's behaviour, all lead to child protection issues (Opatskyi, 2021). In Ukraine, in the context of the ongoing conflict, the challenge of protecting children's rights at the state level is becoming apparent. This issue covers not only children directly affected by the conflict, but also attempts to prevent any actions that lead to suffering, distress and violations of children's rights (Zhyhola, 2022).

Protecting and maintaining national security as a top national priority is based on the protection of childhood and children's rights. The legal framework and principles of the state, in combination with certain segments of public administration, contribute to the expansion of social and legal guarantees for the protection of children's rights. This ensures the cultural and legal growth of adolescents and contributes to the socio-economic development of modern youth. In addition, it promotes cooperation in the creation of socio-economic and legal entities that protect the rights and legitimate interests of minors in our country (Maksymova, 2022).

The issues of ensuring the rights and legitimate interests of children in Ukraine receive considerable attention in scientific research. The essence and peculiarities of administrative and legal support for children's rights in Ukraine were delved into by N. Kolomoiets (2019). N. Volkova (2022) conducted a comprehensive study on the protection of family rights and interests of children in civil proceedings. O. Navrotskyy (2018) studied the theoretical and practical principles of administrative and legal regulation of children's rights in Ukraine. The work of I. Volkova (2021), among other notable contributions in this area, highlights the current state and trends in the development of scientific views on administrative and legal mechanisms for the protection of children's rights. Ye. Zelenskyi and I. Kravchenko (2019) systematically considered the issue of ensuring the individual rights of the child in terms of overcoming and preventing bullying among children.

O. Moroz *et al.* (2022) conducted research aimed at studying the legal and structural framework for the activities of juvenile police prevention to protect children's rights and prevent juvenile delinquency. O. Melnychuk *et al.* (2022) and colleagues drew attention to the provisions on child protection in Ukraine during armed conflicts, highlighting the responsibilities of public authorities. N. Stepanenko (2022) conducted a study on the protection and promotion of children's rights in the context of hostilities in Donbas. T. Lukianenko (2021) revealed certain aspects of both theoretical and practical aspects of ensuring the protection of children from all forms of violence in Ukraine.

The peculiarities of protecting children's rights as part of Ukraine's national security remain outside the attention of scientists. Researchers have yet to focus on the unique aspects of child protection, such as ensuring material, moral and psychological well-being in the context of the ongoing armed conflict in the country. The purpose of the article is to analyse the current state of child rights protection in Ukraine within the framework of the national security of the State.

The analytical method was used to conduct a comprehensive literature review and to gather the available knowledge on the topic. The author analyses scientific papers, reports and legal documents relating to the rights of the child and national security in Ukraine. To study the legislative and regulatory framework related to children's rights in Ukraine, a content analysis of relevant laws, policies and international agreements was conducted. The study also used a special method, namely case studies. The study included an in-depth examination of specific incidents and policies related to child protection in the context of national security.

The materials used included the legal framework, including various legal documents, including the Constitution of Ukraine; international conventions; and the Law of Ukraine "On the Protection of Childhood". Statistics from official sources, such as the State Statistics Service of Ukraine, were used to provide empirical evidence of trends and issues related to child rights and national security; reports from international organizations such as UNICEF and the Council of Europe, as well as national child protection reports, were used to collect data on the state of child rights in Ukraine; official government documents, such as policy documents and national security strategies, were reviewed to assess the government's commitment to child protection in the context of national security.

The current state of social protection of children in Ukraine: Legislation and realities

Children who have experienced the hardships of war and grown up in conflict must be protected in accordance with the principles of international humanitarian law, considering them as integral members of the civilian population. It is imperative that these children receive clear and enhanced protection, recognizing their susceptibility and special developmental requirements (Melnychuk *et al.*, 2022; Shcherban *et al.*, 2022).

Certain guarantees established by international legal instruments have become customary law. The main international legal instruments that form the basis for the protection of children in armed conflict scenarios include the Convention on the Rights of the Child (1989), the Optional Protocol on the Involvement of Children in Armed Conflict (2000, ratified by Ukraine in 2004), the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), the Protocol Additional to the Geneva Conventions (1977), the Worst Forms of Child Labour Convention (No. 182) (1999), Rome Statute of the International Criminal Court (2002) and a number of UN Security Council Resolutions adopted between 1999 and 2009.

Currently, the main legal act regulating the status of children during martial law in Ukraine is the Law of Ukraine "On the Protection of Childhood" (2001). This law defines a child affected by hostilities and armed conflicts as a person who has been harmed, injured, physically or mentally traumatized, subjected to various forms of violence (including physical, sexual and psychological), abducted, illegally removed from Ukraine, or forced to join military formations or illegally detained, including in captivity, as a result of hostilities or armed conflict.

As of the morning of 14 May 2023, at least 481 children have been tragically killed as a result of Russia's large-scale invasion of Ukraine, and 971 more have been injured. The total number of children affected in Ukraine as a result of the full-scale armed aggression by the Russian Federation has risen to more than 1,452. According to the official data of the Juvenile Prosecutor's Office, these children sustained injuries of varying severity. Work is ongoing to identify and assist these children in conflict zones, temporarily occupied territories and liberated territories (Juvenile prosecutors…, 2023).

Children are most affected in different regions: Donetsk region has 452 cases, followed by Kharkiv region with 275, Kyiv region with 127, Kherson region with 94, Zaporizhzhia region with 89, Mykolaiv region with 86, Chernihiv region with 68, Luhansk region with 66, and Dnipro region with 66. In addition, a staggering 16,000 children have been forcibly deported to Russia (Juvenile prosecutors…, 2023). The government is required to take all necessary measures to guarantee the protection of these minors, ensure their welfare and facilitate their reunification with their families, including tasks such as locating them, securing their release from captivity and repatriating children who have been detained or illegally taken abroad (Zhyhola, 2022).

The state, society, and citizens should protect and recognize the protection of children's rights as an independent subject of law and study and respect the child as a person with their own needs and urgent problems, and comply with all rules and regulations in accordance with applicable law (Order of the Cabinet of Ministers of Ukraine No. 691-r…, 2021). The legal system and the scientific community have established a unique social and legal status of minors. This status is implemented through a systematic and logical approach, focusing on key aspects of their lives. It is aimed at protecting their legitimate interests, improving the system of guarantees, promoting the development of areas responsible for the well-being of children at every stage of protection and enforcement of their rights by state authorities.

From the point of view of scientific understanding and clarification of the concept of evolutionary validity within the framework of public administration, it is argued that "every person from birth is burdened with a debt to the society that raised him or her. This debt eventually turns into a duty to future generations" (Dziundziuk, 2011). Thus, the statement of this concept, "Childhood protection in Ukraine is the most important state strategic task" (Potopakhina, 2008), is generally accepted without reservations, especially in situations where the focus is on the theoretical dimension of the issue rather than its practical implications.

However, it is worth noting that other scholars state: "Today, the situation with children and adolescents in our country has reached a critical point, and any failure to comprehensively investigate and solve these problems can lead to a national crisis" (Konishcheva, 2014). The state policy covering all spheres of human life should be based on the principles and provisions of systemic transformation of society, this policy should be expressed in certain areas that should increasingly reveal the social nature of the state policy in the field of child protection (Tertychka & Shakhov, 2012). However, in such cases, it is observed that "institutional changes in Ukraine have not led to a noticeable improvement in the quality of life of the population or stabilization of social conditions in society" (Skurativskyi, 2012). Such moments and situations may affect the protection and promotion of children's rights. Therefore, in academic circles, special attention is paid to various aspects of the formation and implementation of state policy on child protection in Ukraine (Dakal, 2020).

As for the latest developments in research, in February 2016, amendments were made to the Law of Ukraine "On the Protection of Childhood" (2001). In particular, the term "child affected by hostilities and armed conflicts" was introduced. In 2022, Article 30-1 was added to the Law, which focuses on the protection of children in conflict zones and those who have suffered the consequences of hostilities and armed conflicts.

Currently, the Procedure for Granting the Status of a Child Victim of Military Actions and Armed Conflicts has been clarified by the Resolution of the Cabinet of Ministers of Ukraine "On Amendments to the Procedure for Granting the Status of a Child Victim of Military Actions and Armed Conflicts" (2023). According to the updated rules, a child is a child or a person who, during the period of hostilities, armed conflicts or armed aggression of the Russian Federation, has not reached the age of 18 (majority) and subsequently suffered: bodily injury, concussion, or mutilation; experienced physical or sexual violence; was abducted or illegally taken outside Ukraine; participated in the activities of paramilitary or armed groups; was illegally detained, including in captivity; or suffered psychological harm.

In 2015-2016, as part of Ukraine's social sector reform programme, social programmes aimed at supporting children were cut. The government has not taken sufficient measures to secure specialists engaged in social work aimed at preventing children from becoming social orphans in communities. Funding for sanatorium treatment, rehabilitation, and recreation for children, as well as children's and youth sports schools, which was previously supported by the Temporary Disability Insurance Fund, has been discontinued. In addition, large families have lost benefits for housing and communal services. Certain groups of orphans and children deprived of parental care no longer have the right to enter higher education institutions without competition. In addition, the state cancelled free meals for primary school students in grades 1-4, which were previously guaranteed by the government. It was decided that from now on, local budgets would be responsible for this provision, subject to specific decisions at the local level (Resolution of the Verkhovna Rada of Ukraine No. 1906-VII…, 2017).

Currently, there is a widespread view in Ukraine that vaccinations are unnecessary and not mandatory, and that only a minimal proportion of children are vaccinated. This situation poses a significant and worrying risk of a resurgence of infection, as the incidence of some diseases, such as diphtheria and tetanus, has declined to rare cases. Efforts and measures aimed at eradicating diseases such as measles and polio are also being taken to reverse this worrying trend. It is the Ministry of Health of Ukraine that should ensure better access to healthcare for children, including better funding for the measures envisaged in programmes and regulations. Tenders for public procurement of medicines, equipment, and consumables are held with significant delays (Resolution of the Verkhovna Rada of Ukraine No. 1906-VII…, 2017).

The focus of state bodies on protecting and promoting the rights of children, in particular those belonging to socially vulnerable groups, such as orphans, children deprived

of parental care, persons affected by military conflicts, difficult life circumstances, internal displacement, stateless persons, refugees, children of persons in need of additional or temporary protection within Ukraine, has significantly decreased over time.

The issue of protection of children's rights from the point of view of state interests

Despite the significant efforts of the state to promote the holistic development of children and protect their rights and legitimate interests through a number of measures, such as targeted support programs, social strategies, legislative initiatives aimed at children's rights, as well as assistance to families affected by social challenges or conflict issues, recent events indicate an alarming increase in administrative offences and criminal behaviour among children (Maksymova, 2022).

In 2021, the police recorded almost 3.4 thousand crimes involving children, of which approximately 2.2 thousand were solved and brought to court. Notably, almost 4,400 of these incidents were committed by children themselves, and about half of them were classified as serious or especially serious crimes. In the previous year, 2020, law enforcement agencies tracked down 14,659 missing children. Most of these children left home without permission due to misunderstandings with their families. In addition, the police now have three facilities specifically designed to receive and assist children. In 2020, 16 children were accommodated in these facilities, and in the first six months of 2021, 11 children were assisted. It is important to note that official statistics do not provide a complete picture of juvenile delinquency, as a significant number of offences, even if solved, remain unreported (More than 3,000 crimes…, 2021; Bugaiets, 2023). The state's efforts to reduce administrative delinquency in the area of ensuring the full development of the child do not yield positive results.

Around the world, as well as in Ukraine, there remains a major problem with violence, which is very critical because the causes and conditions of violence are not eliminated or studied, and manifestations of aggression against the individual remain (Maksymova, 2022). In essence, there is a call for the study, formulation, and implementation of government policies aimed at creating a comprehensive framework. This framework should encompass political, economic, social, organizational and information provisions and preconditions. Its main goal would be to meet and monitor the holistic needs of children, promote the realization of their creative abilities, enhance and preserve their national and patriotic values, etc.

Problems and threats in the area of child protection and rights require a systemic state policy. Every day, during the ongoing war in Ukraine, many children lose their lives or are injured as victims of criminal acts and misconduct. It is important to emphasize that the level of these related risks should not be underestimated. Over the three decades of our country's existence, the population of Ukraine has decreased by more than 6 million people. The war in Ukraine, which began on 24 February, has given rise to numerous humanitarian challenges, with child abduction being one of the most significant (Melnuk, 2020). As noted by the Commissioner for Children's Rights and Rehabilitation of Children of the President of Ukraine, D. Gerasymchuk, children fall into the hands of abductors in various ways. These methods range from direct abduction from the place of residence to falsification of documents and fabrication of information suggesting that the child was left without parental care (Russia has abducted hundreds…, 2023). Child abduction is a global and serious problem that requires the attention and action of not only the authorities, but also the public.

The future generation represents the future of the nation and forms the main basis of our country's economic capacity and progress. Strengthening the protection and realization of children's rights contributes to the spiritual and physical development of the population, harnesses socially useful energy, significantly increases geographical and professional flexibility, stimulates political and economic engagement of society and creates an environment conducive to understanding the current processes of state development. Ensuring the protection of children's rights and their safety is an objective indicator of the state's progress, quality of life of citizens, and is one of the essential conditions for increasing production, economic prosperity and population growth in Ukraine, and thus for solving demographic problems and challenges.

Ensuring and protecting children's rights is a priority area of national interest. The effective implementation of constitutional rights and freedoms depends on various factors. These include the well-being and safe environment for the personal growth of children, legal development of civil society, protection of state borders, socio-political climate, economic stability, economic competitiveness, creation of ecological and technological living conditions for the entire population, with special attention to children, environmental protection and Ukraine's integration into the global and European economic spheres. When it comes to juvenile policy, it can be defined as a component of our country's domestic policy – a form of social activity regulated by both international and national legal standards. Its main task is to competently protect the rights and freedoms of children. This policy should cover the collective interests, requirements, and rights of every person under the age of 18, leaving no exceptions. It should also take into account the interests of different social and age groups of minors. In the social context, juvenile policy forms a relatively self-contained system that interacts with numerous other aspects of social existence. However, it does not lose its clear functional identity and purpose within these interactions. Consequently, the inherent nature of the risks posed by this system becomes apparent. The factors that pose a threat to the education of today's youth can only be mitigated by a clear national security policy.

The protection and observance of children's rights are inextricably linked to various aspects of national security. The upbringing of children plays a crucial role in shaping the human resource potential of the state, solving demographic problems, ensuring economic stability, and also affects a number of factors that influence the overall social, economic, military and environmental security of the state. In addition, institutions of the juvenile system actively contribute to the protection of national interests in the economic, medical, scientific and educational spheres, including in the area of child protection.

Therefore, the expediency of considering the topic of ensuring and protecting children's rights through the prism of protecting the state's interests is justified by the real needs in the application of child protection practice. After all, there is no strategy at the state level aimed at protecting the rights

of the child, which is a fundamental political responsibility of the state in regulating public affairs, including the priority of childhood, maternity, and parenthood in the social sector of public administration, a critical element of national security. Efforts to protect children's rights should focus on the development of a comprehensive policy framework and the adoption of comprehensive legislation on children's rights. The entire national security system, represented by public administration bodies, should address the problematic aspects of child protection that cannot be addressed at the level of individual national security subsystems.

The war in Ukraine has left the state authorities in disarray. While there have been significant legislative changes regarding registration requirements and procedures for internally displaced persons and compensation, other issues directly related to child protection have been neglected. The primary task is to create a register of children living in the conflict zones, closely monitor their welfare and ensure their rights. In addition, it is crucial to register children living in frontline settlements where intense hostilities are taking place and who face difficult psychological and socio-economic circumstances.

In Ukraine, ensuring the rights of the child is of paramount importance, as it directly affects the attitude towards children, the degree of their protection and security in the state, and the need to study and address problems related to them. Such attention to the well-being of children is a central component of national security policy. A comprehensive approach to addressing child protection issues in court proceedings concerning the observance and protection of children's interests is currently relevant. The state authorities have set promising, long-term goals, including: developing a comprehensive strategy for the protection of children's rights; adopting a comprehensive law on children's rights; establishing a body responsible for consolidating efforts to protect and ensure children's rights; carrying out reforms in the judicial system to ensure children's rights; and deinstitutionalizing the child rights sector.

Conclusions

In the context of the critical state of children's rights in the context of military aggression against Ukraine, the study's findings highlight the inextricable link between child safety and national security, emphasizing that protecting children's rights is not only a moral imperative, but also a vital component of the stability and future of the nation. The article emphasizes the need to take immediate action to strengthen the protection of children, which is essential for the prosperity of the nation.

The circumstances identified in this study, caused by Russia's full-scale invasion, make it imperative to increase international cooperation in restoring the well-being of children. In addition, funding for organizations working to protect children's rights needs to be increased.

This study also highlights the key role of juvenile justice institutions in the implementation of domestic policy, which is an integral part of national security. By adhering to international and national legal norms, these institutions play a crucial role in guaranteeing and protecting children's rights and freedoms.

In terms of research perspectives and necessary legislative initiatives, the following points should be focused on in the future: 1) there is an urgent need to create and maintain accurate and complete statistics on different categories of children. These include those living in conflict zones and frontline areas, displaced children, orphans, and children deprived of parental care. In addition, it is important to collect data on students enrolled in Ukrainian higher education institutions from the temporarily occupied or conflict-affected territories; 2) there is an urgent need to introduce legislative measures that criminalize the recruitment and involvement of children in the armed forces and armed groups. These needs to highlight the importance of data collection and legal action to protect the rights and well-being of children in war-affected areas.

In particular, it is necessary to create a register of minors living in areas where intense fighting is taking place, so that the state has the most complete information about the material and psychological needs of the most vulnerable groups of the population, such as children. Such a register would enable the timely provision of therapeutic and humanitarian assistance, the taking of all necessary measures to improve child safety, and the timely prevention and detection of crimes against children and juvenile delinquency. As for long-term tasks, the state should improve legislation on child protection and develop a comprehensive strategy for the implementation of relevant norms. In the long term, a special body should be established to take over the function of state control over the implementation of all necessary measures to ensure an adequate level of well-being of Ukrainian children. It is also necessary to reform the judicial system, which should become more adapted to the task of defending children's rights.

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Conflict of interest

None.

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Захист прав дітей як складник національної безпеки України

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Анотація. Актуальність дослідження зумовлено гострою необхідністю вирішення критичного стану прав дитини в умовах військової агресії проти України, що вимагає негайних заходів щодо посилення їх захисту. Основною метою цього дослідження є вивчення концепції безпеки дитини як невід'ємної складової національної безпеки. Методологічно дослідження спирається на критичний аналіз наукових джерел та міжнародної та української нормативно-правової бази щодо захисту прав дітей загалом та в умовах збройних конфліктів зокрема. Також проаналізовано актуальну статистику. Результати дослідження висвітлили стан захисту прав дитини в Україні в умовах повномасштабного вторгнення Росії. Розглянуто стан національного законодавства у сфері захисту прав дитини та його відповідність міжнародним стандартам, запропоновано шляхи вдосконалення української нормативно-правової бази. Обґрунтовано нагальність розширення міжнародного співробітництва для відновлення психологічного та морального благополуччя дітей. Наголошено на необхідності збільшити фінансування для організацій, які займаються підтримкою та захистом прав дітей, визнаючи, що діти представляють майбутнє держави. Підкреслено роль органів ювенальної юстиції у здійсненні внутрішньої політики держави, яка є невід'ємною частиною національної безпеки, керується міжнародними та національними правовими нормами та спрямована на гарантування та захист прав і свобод дітей. Сформульовано довгострокові перспективні цілі для державних органів. Розглядаючи раніше недосліджену сферу, дослідження покращує розуміння важливого зв'язку між безпекою дітей і національною безпекою. На практиці отримані результати пропонують цінну інформацію для політиків і зацікавлених сторін щодо захисту прав і благополуччя дітей, які є одними з найбільш уразливих громадян під час воєнного конфлікту

Ключові слова: соціально-економічний розвиток; механізм захисту; система гарантій; вдосконалення; неповнолітні

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Certain issues of road traffic safety liability

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Abstract. Monocycles have become a means of micromobility and an environmentally friendly alternative in urban environments, but their design and operation challenge traditional traffic rules intended for conventional vehicles. There is a need for clear and adapted traffic regulations in the modern landscape of transport systems that consider the unique characteristics of unicycles. The research aims to explore the specifics and justify the importance of establishing road safety rules specifically for monowheels based on a comparative analysis of the laws and best practices of the United States, the European Union and Ukraine. The necessity of creating comprehensive guidelines that would consider the presence of monowheels on roads, bicycle paths and sidewalks is discussed in the article. The absence of special rules creating safety problems for both monowheel users and pedestrians is noted. The problems are identified, and potential solutions are proposed. The crucial role of adapted traffic rules in promoting safe and efficient coexistence in the modern transport ecosystem is emphasised. The author analyses the regulatory documents of the USA, the European Union and Ukraine regarding the legality of using electric unicycles and the responsibility of their owners and compares them. The problems encountered by monowheel users and other road users are identified and their comprehensive solution is proposed. The author highlights the areas which can be influenced to improve road safety for monowheel users in Ukraine and also suggests specific options for possibly borrowing of practical experience of the USA and the European Union countries regarding the traffic rules for monowheel users. The practical significance of the article lies in promoting the safe and informed use of electric unicycles by streamlining the legislative framework, establishing clear rules of operation, and conducting fiscal discussions and educational activities. The study can be a valuable asset for owners and users of electric unicycles, as well as for government agencies and legislators

Keywords: electric unicycles; traffic rules; micromobility; electric transport; urban transport; safety

Introduction

Road safety is a critical issue in any country, as it directly affects the well-being and lives of citizens. Ukraine, like many other countries, faces numerous challenges in terms of road safety and minimising the number of accidents and fatalities on the roads. One of the key aspects in addressing this issue is the correct allocation of responsibility for road safety violations (Choudhary *et al.*, 2020). However, in Ukraine, this issue raises several separate questions that need to be addressed and resolved. First and foremost, there is a lack of clarity and consistency in the legal framework governing road traffic violations and related penalties (Horobrih, 2023). Current legislation often does not contain precise definitions of offences, leading to ambiguity and confusion among motorists and law enforcement agencies. This lack of clarity can impede effective enforcement and administration of justice. Ukrainian lawmakers need to create a comprehensive and well-defined set of laws that clearly outline offences, their consequences, and the appropriate penalties.

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Another significant problem is the inconsistency in the application of penalties and prosecution of offenders. The effectiveness of any legal system depends on its ability to enforce penalties consistently and without bias. In Ukraine, there are cases where the penalties for similar offences can vary significantly depending on the region or personal circumstances of the offender. This inconsistency undermines not only the deterrent effect of punishment but also public confidence in the justice system. It is important to establish uniform sentencing guidelines and ensure that they are applied fairly and consistently across the country.

In addition, addressing the issue of liability for traffic offences requires a comprehensive approach involving many stakeholders. It is advisable to consider these aspects in the example of the rules for the use of monowheels in Ukraine, considering the experience of the United States and the European Union in this regard. Establishing road safety regulations for monowheels is crucial for improving road safety. These regulations promote responsible driving behaviour, reducing the risk of accidents involving monowheel users and other road users (Pazzini *et al.*, 2022). They also help to integrate monowheels into existing transport systems, ensuring harmonious coexistence with other modes of transport.

The research aims to investigate and highlight the importance of establishing comprehensive road safety regulations specifically for unicycles using the example of the United States and the European Union for Ukraine, to identify gaps and opportunities in road safety for unicycle owners, which will ultimately contribute to increased mobility in cities and reduce accidents involving unicycles.

The following methods were used: analysis, synthesis, and comparison for the review of scientific sources, including articles and reports, to gain an understanding of the current state of road safety for unicycles in different countries, including the United States, the European Union, and Ukraine. According to a search in the Scopus and Web of Science databases, a total of 2,814 publications were found using the query "unicycle". Analysis of the data by year shows a stable interest of scientists in this topic. In 2020-2023, 597 articles were published, but only 16 of them, or 3%, dealt with traffic management (search query "traffic"). Of these 16 articles, the majority relate to engineering, mathematical, computer, and software improvements to the unicycle itself, its sets/groups, and the transport environment.

L. Cavanini *et al.* (2021) discussed the use of LPV-MPC (linear model predictive control with parameter variation) for path planning in autonomous vehicles, in particular in road junction scenarios. H. Eqab *et al.* (2023) discussed the design and implementation of an algorithm developed for mobile robots that can be used for unicycle applications. X. Shang and A. Eskandarian (2023) investigated the design and implementation of a collision avoidance and mitigation system for vehicles. The publication of G. Zhao and M. Zhu (2022) is devoted to the development of distributed algorithms for motion planning in the context of multiple robots. S. Kim *et al.* (2023) focused on an empirical study related to the creation and improvement of the driving environment for personal mobility vehicles.

Only two studies address the topic of legal regulation of traffic rules for unicycles. N. Milas (2022) directly addresses the amendments to the Road Traffic Safety Act of the Republic of Croatia in 2022, with a special focus on new categories of vehicles, including electric scooters. The second source was not used in the article as it focuses on two- or three-wheeled vehicles). Therefore, this area is promising for research.

The sources used in this article can be divided into the following groups: rules and laws on electromobility in Europe (Slootmans, 2021; Volavc, 2023; EUnicycles, n.d.); congestion and mobile solutions (Zhenbing, 2017; Fanchao, 2021; Avestisyan, 2022); rules for the use of electric scooters (Escareno & Biagi, 2020; García-Valle Pérez, 2022; Urbancik, 2023); safety and traffic rules in Ukraine (Fines in Ukraine, n.d.; Committee of Ukraine's Road Safety, n.d.; Committee on Ukraine's Integration into the European Union, 2021; Draft Law of Ukraine No. 8172..., 2022); specific topics on road traffic and safety (United Nations Economic Commission for Europe, 2022; "For safe roads" campaign, n.d.; Regulation (EU) 2022/1280..., 2022); research and study of micromobility (University of Arizona, 2012; National Transportation Safety Board, 2019; Motor Vehicles and Traffic, 1992-2022). Together, the study of these sources provides a holistic picture of compliance with traffic safety rules by owners and users of electric unicycles.

Traffic problems involving electric unicycles and measures to address them

Establishing road safety regulations for unicycles is important for several reasons. Safety of unicycle owners: just like cyclists and pedestrians, unicycle owners are vulnerable road users. Adherence to safety rules ensures their protection while travelling on the roads; traffic management: monowheels can share roads with other vehicles. Clear regulations help to manage traffic flow and prevent accidents involving monowheel users; public awareness: road safety regulations raise awareness among monowheel users of the potential risks they may face and the precautions they should take; pedestrian safety: monowheels are often used on sidewalks. Regulations can help define when and how unicycles can be used on footpaths to prevent pedestrian collisions; integration into transport systems: as unicycles and other micro-mobility devices become more popular, setting rules allows for better integration into existing transport systems; liability and enforcement: the rules provide a legal basis for liability in the event of accidents. Law enforcement can use these rules to enforce traffic laws; Infrastructure planning: road safety rules can inform urban planners (developers) about the need for dedicated lanes or parking spaces for monowheelers, improving overall urban infrastructure; International best practices: studying established road safety practices for similar devices, such as electric scooters, can help formulate effective rules for monowheelers (Urbancik, n.d.).

Therefore, road safety regulations for e-scooters are important to protect riders, improve road safety and integrate these devices safely into transport systems. They also help to clarify legal responsibilities and promote responsible riding behaviour. In general terms, unicycles are not generally recognised as a separate category of vehicle in the US legal framework. Under traffic laws, unicycles are often considered recreational equipment rather than vehicles. In the EU, there is no uniform regulation for unicycles, and the legality of unicycles as vehicles varies across the European Union. In Europe, electric unicycles are often considered sports equipment rather than vehicles. Consequently, the recognition of electric unicycles as vehicles is not unconditional in EU

member states. At the same time, some countries have special rules, and in the EU, monocycles are not recognised as vehicles (Williamson, 2021; Volavc, 2023; EUnicycles, n.d.).

There is no comprehensive list of countries where unicycles are officially recognised as vehicles. In most jurisdictions, monowheels are generally considered niche personal transport or sports equipment rather than traditional vehicles. While some countries may have specific regulations for electric unicycles (EUCs) and similar devices, the recognition of unicycles as vehicles is not widespread. For example, in the European Union, EUCs are allowed if they are limited by design to a certain speed, usually 20-25 km/h (Volavc, 2023). And in Paris, for example, micromobility vehicles for hire are prohibited (Yanatma, 2023).

The rules for electric unicycles, especially electric unicycles, are often unclear or non-existent. This causes several problems. Firstly, there is a lack of regulation in many places, leading to confusion about where e-scooters are allowed and how they should be used. Secondly, the lack of regulations can lead to safety issues, such as uncontrolled riding on sidewalks or roads without proper precautions, which can be dangerous for both drivers and pedestrians. In addition, unicycles may not fit well into existing road infrastructure, potentially endangering the safety of drivers and other road users. Owners and drivers of electric unicycles may unintentionally violate traffic rules because there are no specific instructions for them. In some countries, fines are imposed for driving monowheels on certain routes or without insurance, which creates a financial burden for drivers. Finally, it can be difficult for law enforcement to enforce the rules and distinguish between unicycles and other vehicles due to the lack of clear regulations.

These issues highlight the need for clear and adapted road traffic regulations that address the unique characteristics of monowheels in modern transport systems. Resolving the problems associated with unclear or non-existent traffic regulations for monowheels, especially electric ones, requires a combination of regulatory adaptation and awareness campaigns. Several countries have taken steps to address these issues: The United States – establishing proper parking regulations for electric bicycles and other micro-mobility devices to prevent improper parking (Avetisyan *et al.*, 2022); European Union – presenting thematic reports on personal mobility devices to guide road safety professionals (Slootmans, 2021); Ukraine – promoting driver education and awareness of the unique challenges associated with electric unicycles to ensure safe integration into the road traffic (Why electric unicycles are better..., n.d.); globally – expanding bicycle and bus infrastructure, eliminating tax distortions and ensuring equitable access to safe micromobility solutions (Zhengbing, 2017; Fanchao & Goncalo, 2021); city-level initiatives – conducting pilot evaluations of e-scooters (as a means) to assess equitable (uniform) access to neighbourhoods and affordable transport solutions (Marshall & Ferenchak, 2019; Escareno & Biagi, 2020).

These examples highlight efforts to create clear and adapted road regulations for monowheels and to address the safety and operational issues associated with their unique characteristics. Although the sources analysed do not provide specific information on monowheel-related traffic offences, general principles of traffic law may apply. In some countries, such as Ukraine, riding a monowheel on public roads may be subject to similar rules as bicycles or other non-motorised vehicles. For example, violations of traffic laws, such as failing to stop at red lights or yielding to pedestrians, can result in fines. Laws are being updated to cover various forms of micromobility, including electric scooters and unicycles. In Ukraine, legislation may increase liability for traffic offenders, but there are few specific details on monowheels (Fines in Ukraine..., n.d.; Cherednichenko & Bohdanets, n.d.). Therefore, the legislator faces an important task – to develop individual traffic rules specifically for monowheels. And for this purpose, it is worth paying attention to the experience of other countries.

Regulatory and legal legislation on the use of electric unicycles

Regulatory documents in the United States that address road safety and potential liability for e-scooter owners include micromobility, which provides a comparison of micro-mobility vehicle regulatory practices and policies related to their movement (Bondarenko *et al.*, 2021); parking and Transportation Regulations: These regulations give university police officers the authority to issue citations for violations of state law that may apply to the use of e-scooters on campus (University of Arizona, 2012); conclusions of the Cornell Law School on the adaptation of US vehicle and traffic laws to new modes of transport (Martin, 2022); findings from the National Transportation Safety Board's (2019) cyclist safety report: focused on bicycles, highlighting the risks of bicycle crashes and safety on US roads; the Arlington County Code, which covers rules and regulations for drivers, including provisions governing traffic and driving behaviour (Motor Vehicles and Traffic, 1992-2022). These sources provide an overview of the legal landscape for road safety in the United States, but specific regulations for unicycles may vary by state and local jurisdiction.

Regulation (EU) 2019/2144 of the European Parliament and of the Council (2019) is one of the legal instruments that regulates liability for road safety violations and applies to monowheels in Europe. It establishes a framework for advanced driver assistance and road safety systems in the EU (Pernice & Debyser, 2023). The Institute for European Traffic Law (IETL) informs professionals about European traffic law (Official website of the Institute..., n.d.). Although no specific information on e-scooters is mentioned, the existing knowledge base can provide a general understanding. Electric scooters in Spain are subject to a legal framework regarding liability for accidents (García-Valle Pérez, 2022). There are key legal documents in categories such as road traffic regulations and transport regulations that address road safety (United Nations Economic Commission for Europe, 2022). While these sources provide information on road safety and related regulations, clear information on unicycle-specific regulations may require a review of the general road traffic laws of individual countries.

The legal documents and relevant initiatives that regulate liability for road safety violations and apply to monowheels in Ukraine include: The Law of Ukraine "On Road Traffic" (1993), Article 2 of which outlines the state administration in the field of road safety; a list of typical traffic violations and fines issued to drivers in 2022 (Fines in Ukraine..., n.d.); "For safe roads" campaign (n.d.), which advocates for changes in state policy on road safety in Ukraine); Regulation (EU) 2022/1280 of the European Parliament and of the Council (2022), which establishes certain

rules allowing the recognition of Ukrainian driving licences in Europe; prevention of criminal offences in passenger road transport, which focuses on state regulation and control over the creation of safe conditions for road transport (Rudyk *et al.*, 2022); official test questions for the driver's licence exam in Ukraine, including questions on categories of driving licences and civil liability insurance (Student driver written exam in Ukraine, 2023); micro-mobility: provides a comparison of micro-mobility vehicle regulation and policy (Bondarenko *et al.*, 2021); a draft law granting witnesses the right to record traffic violations: proposes the right of witnesses to record violations using mobile devices and send them to the police (Committee on Ukraine's Integration into the European Union, 2021); Draft Law of Ukraine No. 8172 (2022), which defines a monowheel as a light personal electric vehicle. These documents and initiatives collectively contribute to the regulatory framework for road safety and establishing a level of liability for unicycles in Ukraine.

The legality of unicycles, especially electric unicycles (EUCs), varies from state to state in the United States. While some states allow them to be used on roads and bike paths, others consider them illegal. Rules are often determined by state and local laws, and age restrictions may apply. Some states allow EUCs on roads and bike paths as long as they follow the rules of the road, while others restrict their use to sidewalks or separate paths. It's important to familiarise yourself with the rules of your particular state and locality before riding your e-scooter or EUC in public (EUCs are illegal in all 50 US states, 2021). Some states may require registration or licensing of certain types of electric unicycles (Lee, n.d.; Atwell, 2021; 8 Interesting California bicycle law..., n.d.).

In European countries, monowheels and electric unicycles are subject to different traffic regulations. There is a lack of pan-European regulations for unicycles. The legal status and use of electric unicycles often depend on whether they are classified as vehicles, sports equipment, or pedestrian equipment. While there is no single rule for all countries, here are some general trends: in many European countries, unicycles are generally considered sports or pedestrian equipment rather than a vehicle; laws governing EUCs vary, with some countries allowing them on sidewalks or bike paths; there is an emphasis on following local laws and traffic regulations when riding unicycles and EUCs in European countries, ensuring safety for yourself and others.

In Ukraine, monowheels and electric scooters are recognised as vehicles. There are rules and traffic regulations for their use. These rules include wearing a helmet for safety, following the safety rules on roads and sidewalks, and following the rules of the road. In Ukraine, the use of electric scooters and monocycles on sidewalks is restricted, and violations of traffic rules can result in fines. Recognising these vehicles as legal means of transport is a step towards regulating their use in the country. Drivers need to be aware of these rules and follow them to ensure safety and legal compliance when using monowheels in Ukraine.

Liability for traffic violations for owners of unicycle

Addressing the issue of liability for road traffic offences requires a comprehensive approach involving many stakeholders. In Ukraine, different agencies and institutions are responsible for different aspects of road safety, including law enforcement, road infrastructure, driver training and vehicle inspection. However, there is often a lack of coordination and cooperation between these organisations, leading to inefficiencies and gaps in enforcement. Improving communication and cooperation between the relevant authorities is crucial to creating a comprehensive and effective system for bringing offenders to justice.

In addition, public awareness and education play an important role in establishing rules for responsible road behaviour. Many drivers in Ukraine may not be fully aware of the possible consequences of their actions or the importance of following the rules of the road. The introduction of comprehensive road safety education programmes can help to raise awareness of the risks associated with road traffic offences and promote responsible driving. Such initiatives should not only target motorists but also pedestrians and cyclists, as they also contribute to road safety.

In summary, the issue of liability for road safety offences in Ukraine encompasses several distinct problems. Lack of clarity in the legal framework, inconsistency in the application of penalties and the need for cooperation between relevant stakeholders are critical aspects that need to be addressed. By addressing these issues and implementing comprehensive measures, Ukraine can improve road safety, reduce the number of accidents, and promote a culture of responsible driving. It is imperative that the government, law enforcement agencies and the public work together to create a safe environment for all road users.

Liability for road safety offences is a major concern for both Ukraine and the European Union. Although both jurisdictions are committed to road safety, there are similarities and differences in the respective legislation (Table 1).

Table 1. Comparative analysis of Ukrainian and EU legislation on liability for offences

Comparison area	Similar	Different
Clarity and definition of offences	Both Ukrainian and EU legislation recognise a wide range of offences and provide definitions for different violations. Offences such as speeding, drunk driving, failure to wear seat belts and running red lights are usually dealt with in both jurisdictions.	EU legislation has developed more detailed and standardised definitions of offences, providing clear guidelines and classifications for different types of offences. In contrast, Ukrainian legislation is often not precise and leaves room for interpretation, leading to ambiguity and inconsistency in application.
Punishment and classification of offences	Ukrainian and EU legislation establishes penalties for traffic offences to deter offenders and promote responsible driving behaviour. Common penalties include fines, licence suspension, mandatory educational programmes, and community service.	The EU tends to have more standardised and severe penalties, with a greater emphasis on differentiated penalties based on the seriousness of the offences and the presence of aggravating factors. Ukrainian legislation often allows for greater discretion in determining fines, resulting in inconsistencies across regions and cases.

Table 1, Continued

Comparison area	Similar	Different
Application and liability	Ukrainian and EU legislation focuses on imposing penalties and holding offenders accountable for their actions. Law enforcement agencies in both jurisdictions are responsible for monitoring traffic, conducting inspections, and issuing fines or court decisions.	The EU generally demonstrates a more consistent and effective enforcement system. European countries often use advanced technology, such as automatic speed cameras and red-light cameras, which makes it easier to detect and punish offences. Ukraine faces challenges related to inconsistent enforcement practices, limited resources, and the need for greater coordination between law enforcement agencies.
Driver education and public awareness	Both Ukraine and the EU recognise the importance of driver education and public awareness in promoting road safety. Both jurisdictions have programmes and initiatives aimed at educating drivers, pedestrians and cyclists about road rules, risks, and responsible behaviour.	The EU pays considerable attention to driver training, requiring mandatory driver training courses and strict testing procedures. In contrast, while Ukraine has similar goals, the implementation of driver education programmes is not as standardised or widespread. Efforts to improve public awareness and education in Ukraine are ongoing but require further development and support.

Source: developed by the authors

Thus, when comparing Ukrainian and EU legislation on liability for road safety offences, several similarities and differences are revealed. Both jurisdictions recognise a wide range of offences and seek to bring offenders to justice. However, the EU generally demonstrates more standardised and strict measures, including clearer definitions of offences, differentiated penalties and consistent enforcement. In contrast, Ukraine faces challenges related to unclear legislation, inconsistent penalties and enforcement practices. Strengthening Ukrainian legislation to provide clearer definitions, establish uniform penalty guidelines and improve enforcement practices would contribute to a more effective and consistent system of holding violators accountable. In addition, a greater emphasis on driver education and public awareness in Ukraine would align the country's efforts with the comprehensive approaches seen in the EU, leading to improved road safety outcomes.

Improving road safety for unicycles in Ukraine

Several areas can be improved to improve road safety for unicycle owners in Ukraine, based on the examples of how these issues are addressed in the United States and the European Union. Changes are needed in the legislative framework of Ukraine. Clear and comprehensive legislation on e-scooters should be created, similar to the way the US and EU countries have developed regulations on micromobility. This includes defining the classification of unicycles, permissible areas of use, and safety requirements. In addition, Ukraine needs to continue developing specialised infrastructure. Using the experience of the EU and the US, Ukraine can invest in special infrastructure, such as bike lanes and paths, designed to move monowheel users safely, reducing their interaction with motor vehicles and using creative approaches. Public awareness campaigns should be conducted on an ongoing basis. Public awareness campaigns emphasising the importance of road safety for mobility scooter users are effective. These campaigns can educate motor vehicle drivers and monowheel users about the unique issues and regulations associated with monowheels. Focus on safety standards. Safety standards should be developed for monowheels and related equipment, encouraging the use of helmets and reflective clothing, reflectors, etc. The area of data collection and analysis also needs to be improved. Following the example of the US and EU, data related to unicycle accidents and incidents should be carefully collected and analysed. This information can guide evidence-based policy adjustments in this area. Next, mechanisms for enforcing road safety rules for monowheel users, including penalties for violations, need to be strengthened. Lastly, it is important to cooperate with international organisations and neighbouring countries to share best practices and harmonise regulations for monopoles as this mode of transport becomes more widespread.

By focusing on these areas, Ukraine can significantly improve road safety for monowheelers by aligning its practices with those of the United States and the European Union, ultimately reducing the number of accidents and increasing overall road user safety. Ukraine could consider borrowing the following traffic regulations from the US and the European Union for unicycles, which dedicated lanes for unicycles. Similar to the bike lanes that exist in many EU countries and some US states, Ukraine could create dedicated lanes or tracks specifically for unicycles. These lanes should be separated from regular traffic to increase safety for monowheel users; safety education, inspired by the EU Advisory Mission Ukraine's initiative to teach children, for whom riding a monowheel is a positive physical (Guthold *et al.*, 2020) and cognitive (Weber *et al.*, 2019) activity, about road safety, Ukraine could develop educational programmes targeting monowheel users. These programmes should focus on safe riding techniques, the importance of protective equipment such as helmets, and general road safety awareness; regulation and classification: Ukraine could establish clear regulations and classification for unicycles, distinguishing between different types such as electric (depending on power) and non-electric. This could help in establishing specific safety standards and usage guidelines for different categories of monowheels. By implementing these measures, Ukraine can improve road safety for monowheel riders by aligning its practices with those of the United States and the European Union and by promoting safe and responsible use of monowheels on its roads.

With transport systems constantly changing, it is becoming increasingly clear that there is an urgent need to develop clear and tailored traffic regulations that recognise the unique characteristics of unicycles. Electric unicycles, especially electric variants, are rapidly emerging as viable solutions for micromobility, offering environmentally friendly alternatives in urban environments. The research conducted

in this paper fits well within the context of the global research effort for comprehensive guidelines that specifically address the presence of monowheels and other newer vehicles on roads, bike paths and sidewalks. This article is in line with other researchers' opinion that the lack of specialised regulations creates safety risks for both monowheel users and pedestrians (O'Hern & Oxley, 2019). The results also once again confirmed the importance of developments in the field of traffic automation and algorithmisation. In this context, it is worth paying attention to recent studies that echo the main points of this study.

In particular, important results were obtained by L. Cavanini *et al.* (2021), who investigated advanced methods for the safe and efficient driving of autonomous vehicles through complex road junctions. This research addresses the development of algorithms and strategies that allow autonomous vehicles to make real-time decisions and navigate complex intersections, contributing to the development of autonomous transport systems. H. Eqab *et al.* (2023) developed an algorithm specifically for source-finding tasks, where mobile robots are tasked with locating and navigating to a specific target. The paper discusses the details of the algorithm design, its application, and the performance of mobile robots when using this algorithm for source-finding tasks. The paper contributes to the field of robotics and automation by improving the capabilities of mobile robots in various applications. X. Shang and A. Eskandarian (2023) investigated the use of model predictive control (MPC) and artificial potential function (APF) methods to improve vehicle safety in emergencies. The study delves into the development and integration of these control strategies to enable vehicles to avoid collisions and minimise the severity of accidents. The paper contributes to the field of intelligent transport systems and vehicle safety by providing insight into advanced collision avoidance methodologies.

G. Zhao and M. Zhu (2022) focused on achieving near-optimal motion planning strategies that can effectively scale with the number of robots involved. This study contributes to the field of robotics and automation by addressing the problem of coordinating and optimising the movements of multiple robots simultaneously, which has applications in various fields including autonomous robotics, logistics, and automation. S. Kim *et al.* (2023) outlined a case study and analysis of factors that influence the design and adaptation of environments to accommodate personal mobility vehicles such as electric scooters, bicycles, or other small modes of transport. This research is valuable for urban planning and transport infrastructure development, aiming to improve the usability and safety of these vehicles in different urban environments.

N. Milas (2022) provides an insight into the legal framework, regulations and safety measures for electric scooters and their use on roads. His publication interprets the law and its relationship with emerging transport, particularly in the context of electric scooters. It is important to note that the article focuses on legal aspects and may be of interest to individuals and professionals involved in law enforcement, safety, and transport regulation.

Therefore, the urgency of establishing specific road safety rules for monowheels is a priority. It is important to adapt traffic rules to the evolving transport landscape and advocate comprehensive recommendations that prioritise the safety and effective coexistence of all road users in an era when monowheels play an increasingly prominent role in urban mobility. Through comparative analysis and case studies, it proposes ways to create a safer and more harmonious transport environment, ensuring the well-being of unicycle owners and the general public.

Conclusions

The necessity of establishing and legislating clear and adapted traffic rules, considering the unique characteristics of unicycles in modern transport systems, is identified and explored in the article, with a focus on safety, education and policy coherence. Through comparative analysis and case studies, it proposes ways to create a safer and more harmonious transport environment, ensuring the well-being of unicycle owners and the general public.

As driving automation advances and micromobility solutions become more widespread, ensuring road safety for various vehicles, including monowheels, remains extremely important. It is proposed to introduce clearly defined rules and standards that will facilitate the safer coexistence of electric unicycle owners with other road users. It is emphasised that educational initiatives on electromobility training can provide users with the opportunity to drive responsibly and should be conducted on an ongoing basis. The need to strengthen cooperation between governments, researchers and institutions is recognised, which will contribute to effective public policies that consider different modes of transport. For sustainable urban mobility, considering the interaction between new technologies and existing infrastructure is key. The importance of developing comprehensive regulations and education to ensure the safe and efficient integration of monowheels into modern transport systems is emphasised.

Thus, the critical need for individual road safety rules for e-scooter owners can be met by considering the legislative framework and best practices in the United States, the European Union, and the best practices already used in Ukraine. A study of these regions revealed differences in approaches to micromobility regulation. It is the development of special rules for monowheels that are important to address unique problems on the road, ensuring the safety of both owners and other road users. In addition, it is proposed to strengthen international cooperation and information exchange to develop comprehensive and effective road safety guidelines for new modes of transport, such as monowheels. This study contributes to safer urban mobility, and its results will help reduce the number of accidents and increase the level of road safety awareness among monowheel owners.

Areas for future research could include studying the experience of different countries and their concepts of e-scooting and researching urban transport systems and road safety regulations. Identifying best practices to reduce accidents and injuries. Developing rules for the use of electric unicycles on public roads. Studying the economic impact of the use of electric unicycles, including the impact on the functioning of urban transport, congestion, etc. Development and improvement of the educational aspect and information policy on the safe use of electric unicycles.

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Conflict of interest

None.

Introduction

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Окремі питання відповідальності у сфері безпеки дорожнього руху

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Анотація. Моноцикли стали засобом мікромобільності та екологічною альтернативою в міських умовах, однак їхній дизайн і режим роботи кидають виклик традиційним правилам дорожнього руху, призначеним для традиційних транспортних засобів. У сучасному ландшафті транспортних систем існує потреба в чітких і адаптованих правилах дорожнього руху, які враховують унікальні характеристики моноколіс. Мета статті – дослідити особливості та обґрунтувати важливість встановлення правил безпеки дорожнього руху спеціально для моноколіс, спираючись на порівняльний аналіз законодавств та передової практики США, Європейського Союзу та України. У статті йдеться про необхідність створити вичерпні вказівки, які б враховували присутність моноколіс на дорогах, велосипедних доріжках і тротуарах. Зазначено, що відсутність спеціальних правил створює проблеми з безпекою як для користувачів моноколіс, так і для пішоходів. Виявлено проблеми та запропоновано потенційні рішення. Підкреслено вирішальну роль адаптованих правил дорожнього руху в сприянні безпечного та ефективного співіснування в сучасній транспортній екосистемі. Проаналізовано нормативно-правові документи США, Європейського Союзу та України щодо законності користування моноколесами, відповідальності власників, здійснено їхнє порівняння. Визначено проблеми, які виникають у користувачів моноколіс та інших учасників дорожнього руху і запропоновано їх комплексне вирішення. Виокремлено сфери, вплив на які може підвищити безпеку дорожнього руху для власників моноколіс в Україні, а також запропоновано конкретні варіанти можливого запозичення практичного досвіду США та країн Європейського Союзу щодо правил дорожнього руху для власників моноколіс. Практичне значення статті полягає в просуванні безпечного та обізнаного використання моноколеса шляхом впорядкування законодавчої бази, встановлення чітких правил експлуатації, проведенням фіскальних обговорень та навчальних заходів. Дослідження може стати цінним надбанням для власників і користувачів моноколіс, а також для урядових органів і законодавців

Ключові слова: моноколеса; правила дорожнього руху; мікромобільність; електротранспорт; міський транспорт; безпека

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Regarding the issue of special import of goods for military purpose and dual use as items seized or restricted in civilian circulation

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Abstract. The relevance of the study is stipulated by the urgent need to urgently fill the suddenly emerging legal gaps caused by the expansion of the powers of non-governmental organizations that have been actively involved in the process of assisting combatants. The study aims to solve an important pragmatic problem: to ensure legal harmonization of procurement with the highest productivity and lowest legal and financial risks. The study uses a synthesis of general scientific, legal and sociological-legal approaches, methods, and techniques of scientific knowledge. As a result of the work carried out, the author managed to rethink the legal status of things as objects of civil rights in the light of the latest military realities. The legal algorithm of procurement of military and dual-use goods by non-governmental organizations is clarified; a parallel is drawn with the procurement procedure carried out by the relevant state-owned enterprises. The author comprehends the phenomenon of a trade mission in general and a trade mission burdened with a foreign element in the field of foreign economic activity in particular. The author analyses the conflict of laws clauses which can resolve the contradictions of counterparties in an international sale and purchase agreement. The author suggests ways for further scientific research in this area of research. The author structures the mechanism by which representatives of the public sector, including charitable organizations and foundations, may obtain licences for the purchase of military and dual-use goods for the army. It is argued that in practice, since the beginning of hostilities, these organizations, and foundations have been creating a worthy alternative to the State defence sector. These developments, in addition to their pragmatic significance, are also characterized by a certain theoretical significance, since they can be used for scientific research and solving problems in the field of property rights, the law of non-governmental organizations, foreign economic activity, as well as for developing and improving training courses in the field of civil, humanitarian and international law

Keywords: import; objects of civil rights; turnover capacity; non-governmental organizations; trade representative office

Introduction

In the context of the armed conflict in Ukraine, various non-governmental organizations are actively involved in helping the military, including procurement of certain goods needed at the front. However, in practice, this activity often finds itself in a conflict between efficiency, on the one hand, and legal and financial risks, on the other. Therefore, the issue of legal aspects of special imports has become particularly relevant. Modern developments in the field of scientific research on the legal nature of things in general, as well as in the context of their turnover and the specifics of foreign economic activity, within which the latter are the subject, are contained in the work of A. Slipchenko (2017). Scientific attention is focused on the legal concept of turnover. Tendentiously, the works of V. Pohrebniak (2020) and O. Pervomaiskyi (2021) highlight the thesis of the need to understand the doctrinal and conceptual foundations of negotiability as a civil law phenomenon, the fact of negotiability of objects, and the negotiability of subjective civil rights to them, in particular, their "alienability". The aforementioned researchers used a deductive approach to analysing the problem, which allowed them to comprehend the fullness of the legal reality in the area of limited negotiability, which is possible only after understanding the dictum of this category and further

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analysis of sectoral aspects: the legal fate of mutually corresponding civil rights related to a thing.

The second group of scholars whose research is directly related to limited turnover or things withdrawn from civil circulation points to the need to create a single regulatory act containing an exclusive list and a clear legal algorithm for interaction with things with the outlined specifics (Kravtsiv, 2019), or even more – a clear list of bodies that will determine the limited nature of things in civil circulation (Shlyahovska, 2022).

The third aspect of the issue raised – the movement of such goods across the customs border, which is mainly implemented on the basis of sales and supply agreements and contracts of carriage – is studied both within the framework of civil law in general and private international law in particular. I. Oleksyn and T. Kysil (2019) emphasize the complexity of the international sale and purchase procedure, differences in the counterparties' approaches to the interpretation of the provisions of the Vienna United Nations Convention on Contracts for the International Sale of Goods (1980) and the Principles of International Commercial Contracts (UNIDROIT, 1994), and the desire to maximize the fixation of all contractual provisions, which, however, is not able to fully resolve the problems as international commercial arbitration can. Particular attention of researchers, which is acutely relevant in the context of procurement of goods for the army, is paid to the supply of goods by road in the form of a legal category of cargo, the legal features of such procurement on the basis of an international contract of carriage (Yanovytska, 2019).

Despite significant developments in the legal regulation of civil rights objects and their marketability, scientific developments can be considered very moderate, if not insufficient. There are several reasons for this state of affairs. Firstly, a significant part of the goods purchased for transfer to combat zones are military and dual-use goods. Depending on the type, they are withdrawn or restricted from civilian circulation, and activities related to their acquisition require a certain entity or certain licences. Secondly, the purchase of goods from abroad, i.e. movable property as an object of civil rights, is a relationship with a foreign element, as the property itself is located in the jurisdiction of another state, and one of the counterparties to such an agreement is a citizen or resident of that state. The delivery of such goods takes place exclusively by crossing the customs border of Ukraine, and therefore this type of activity falls under the definition of foreign economic activity with all the relevant legal conditions and consequences. These legal gaps should be filled in order to solve a very practical and urgent task – competent legalization of volunteer labour, which has long been legitimized by society, increasing legal guarantees for the activities of public and charitable organizations, and harmonizing these relations. Given the relative novelty of this social phenomenon, there has been no scientific understanding of the procurement of military and dual-use goods before. Although it is not easy to conduct such research, the acute urgency of the issue directly indicates its necessity.

The purpose of the study is to provide a detailed analysis of the legal aspects of procurement of military and dual-use goods. To achieve this goal, general scientific approaches (analysis and synthesis, induction and deduction), special legal approaches (methods of legal technique), as well as sociological approaches, methods, and techniques of scientific knowledge of interdisciplinary research were used. Among the latter, the material necessary to ensure the representativeness of the study was collected through sociological observation, content analysis and generalization.

With regard to the analysis of the legal framework for the issue of turnover of military and dual-use items and goods, the special and technical legal methods of studying legal acts made it possible to determine the specifics of the legal status of the subject and object composition – non-governmental organizations and items as objects of civil rights. The objects of the study were the Law of Ukraine "On State Control over International Transfers of Military and Dual-Use Goods" (2003), Order of the State Service of Export Control of Ukraine "On the Approval of the Instructions on the Procedure for Filling out Applications for Obtaining Permit Documents, Guarantee Documents and Other Documents Provided by the State Export Control" (2004); Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for State Control of International Transfers of Military Goods" (2003), Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for State Control over International Transfers of Dual-Use Goods" (2004), etc. The general scientific methods of induction and deduction, analysis and synthesis, and abstraction and concretization were used continuously to understand and structure the material collected for the study in the course of working with foreign and Ukrainian scientific and journalistic sources.

To the question of the dynamics of the modern doctrine of the turnover capacity of things as a category of civility

The classification of things – objects of the material world endowed with certain generic characteristics on the basis of their negotiability – was initiated in the period of Ancient Rome. As noted by V. Skrypnyk (2018), the lawyers of Ancient Rome distinguished between the so-called "things in property", "things outside property" and "things withdrawn from civil circulation". The legislator made a quite substantive and specifically defined division of things depending on the degree of their turnover capacity in the Civil Code of Galicia of 1797 (von Martini, 2017). It was proposed to divide things into those belonging to citizens, associations, and the state. The latter included things that belonged to the state as a whole or to its individual citizens, i.e., intended for common, public use, as well as those that serve to meet state needs, such as coinage, mineral deposits, mines and deposits, etc. The Roman tradition and the Austro-Hungarian legal heritage have influenced the branches of private law today. According to Article 178 of the Civil Code of Ukraine (2003), "objects of civil rights are characterized by free alienation and transfer of ownership from one person to another by way of succession, inheritance or otherwise, unless they are withdrawn from civil circulation, or are restricted in civil circulation, or are not inalienable from the subjects of law. The list of things – objects that may be owned by exclusive subjects, or the list of things that may be owned only by special subjects, shall be established by law on the basis of a relevant permit."

The question whetherit is appropriate to talk about restrictions on civil law in a one-dimensional aspect or whether the restricted circulation of objects is divided into certain subtypes is still open. After all, certain objects from the list of restricted objects may be acquired by general subjects to

certain permits (e.g., weapons), while others (e.g., architectural monuments) do not have this property and are restricted in civil circulation due to the peculiarities of their legal nature. In addition, the effect of special legal regimes in a state (the war in Ukraine is a case in point) or on its separate territory may give rise to a change in the definition of the limits of turnover of certain types of things.

The turnover of things should be considered in two aspects: static and dynamic. It is advisable to analyse the turnover of things in a dynamic manner, based on their characteristics and, therefore, their legal nature: things that, by their functional purpose, cannot be acquired by a general subject of law, or such acquisition would be contrary to common sense and impede the progressive development of society, can be classified as excluded from civil turnover.

The other category is the category of limited turnover, and the list of things that fall into this category is more numerous and de facto covers two subtypes: things that become the property of a person registered in accordance with the law – a special entity – on the basis of possession of a licensing permit, and things that are acquired by a general entity on the basis of special permits. The former are absolutely restricted, while the latter are relatively or quasi-restricted. Therefore, things acquired by a special entity are absolutely restricted, while things that require a special permit or a certain algorithm to be acquired by a general entity should be considered quasi-restricted.

The Resolution of the Verkhovna Rada of Ukraine "On the Ownership of Certain Types of Property" (1992) outlines the boundaries of objects excluded from civilian circulation, as well as those that are limited in their turnover. These include, in particular: weapons, ammunition, military and special military equipment, rocket, and space systems; special technical means of covert information acquisition.

Based on the provisions of this legal act, for example, the purchase of popular unmanned aerial vehicles as aerial reconnaissance objects is completely prohibited. Such an item is de jure excluded from it, but de facto it is limited in its turnover, as public and charitable organizations manage to carry out such procurement activities on a completely legal basis.

As mentioned above, the turnover rate should be considered especially carefully in the dynamics. Changes in the legal regime in a country can quite easily "shift" certain items to a whole category of turnover, make seized items restricted, and classify restricted items as quasi-restricted, or even jump through one conditional grading category. At the same time, the civil law doctrine of negotiability, like many other doctrines and concepts, needs to be rethought in the light of recent political and legal developments.

Legal features of acquisition and alienation of goods of military purpose and dual use

The Law of Ukraine "On State Control over International Transfers of Military and Dual-Use Goods" (2003) is the legal act that reveals the detailed content of the basic operational terms of the study. Namely: "military goods are: military articles – weapons, ammunition, military and special equipment, special components for their production, explosives, as well as materials and equipment specially designed for the development, production, or use of these articles; dual-use goods are "certain types of articles, equipment, materials, software, and technologies not specifically intended for military use, as well as works and services related to them, which, except for civilian use, are not used for military purposes". As it follows from the above, when it comes to military and dual-use goods, it is most often products that are meant, but the two auxiliary subtypes: services and technology, can be assumed to be a kind of accompanying special imports.

It can be argued that the procurement of military and dual-use goods by civic and charitable organizations is an unprecedented phenomenon caused by military realities. This state of affairs has somewhat shaken the established legal dogmas about the marketability of things, given the actual transfer of military weapons and equipment from the category of items withdrawn from civilian circulation to the category of restricted items.

Since the spring of 2022, one of the charitable foundations, which is a type of charitable and therefore non-governmental organization (NGO), has managed to obtain permission to purchase military and dual-use goods. The pioneer in this area was the CO "Come Back Alive" (Official website of the foundation…, n.d.). This example was soon followed by other civic and charitable organizations, including the Poroshenko Foundation and the non-profit organization World Congress of Ukrainians (Rzheutska, 2022; Ukrainian arms dealers unveil…, 2023).

In particular, over the last ten months since the publication of the data on obtaining a licence for the purchase of military and dual-use goods, the CO "Come Back Alive" managed to purchase and transfer to the end user a Bayraktar TB2 strike UAV system consisting of three drones, a ground station, guided munitions and other equipment, 65 reconnaissance complexes, 11 special armoured vehicles, 1460 7.62-mm machine guns, about 7,000 TV and night optics, rangefinders, rifles, magazines, horns, ammunition, etc. (Official website of the foundation…, n. d.). This state of affairs was made possible by the fact that in Ukraine, despite the classification of certain property rights objects as those withdrawn from civilian circulation, there is no exhaustive list of entities authorized to specially export (import) them. This was the reason for the lawyers of the said CO to collect the necessary documents and submit them for registration as a special import entity.

As noted by L. Rzheutska (2022), "the purchase requires demonstration of the end-user certificate to the manufacturer, while the regulatory authorities (the State Export Control Service of Ukraine – SECU) carry out currency controls and financial monitoring". Therefore, Ukrainian legislation authorizes a special body that will control export-import operations to monitor the categories of goods that: can be used in the manufacture of nuclear weapons; can be used in the manufacture of chemical, biological (bacteriological), toxicological weapons; elements of rocketry, resources, equipment and technical equipment, including modified and improved ones that can be used in rocketry, as well as military and dual-use goods.

Legal entities that are business entities or individual entrepreneurs that intend to engage in international transfers of military or dual-use goods may obtain a licence, which, depending on the duration and scope of the powers corresponding to its holder, is divided into a general, open or one-time licence. The list of necessary documents to ensure such a right is contained in the Order of the State Service of Export Control of Ukraine "On the Approval of the Instructions on the Procedure for Filling out Applications for

Obtaining Permit Documents, Guarantee Documents and Other Documents Provided by the State Export Control" (2004).

An interesting aspect of actual procurement is the need to have an end-user certificate, a document that essentially indicates the de facto transit activity of a public or charitable organization as a transporter or forwarder. And, as practice shows, the task of delivering the purchased equipment is no easier than the purchase itself. According to B. Miroshnychenko (2023), "charitable foundations do not have the same logistical capacity as NATO or the Ministry of Defence, so they have to pave their own way. A significant number of armoured vehicles, which are freely purchased from the UK, which is reducing its army and selling off armoured vehicles after the withdrawal from Iraq and Afghanistan, were transported by ferry to the Netherlands and then transported across Europe to Warsaw. There, the armoured vehicles were transferred by cranes to trucks of Ukrainian carriers, which delivered them to brigade commanders". It is not only the tracking itself that causes difficulties, but also the means of its implementation. Purchased armoured vehicles are usually transported by trucks, trawls, tents after obtaining the relevant export permits in the seller's country, as well as licences to cross the territories of transit countries, the duration of which varies from several days to weeks, depending on the workload of the relevant ministry in a particular country.

According to A. Potichnyi, Director of the United for Ukraine Initiative of the Ukrainian World Congress, "there are statistics that show that volunteer organizations have managed to purchase more than 160 units of armoured vehicles at the expense of Ukrainian and foreign sponsors. The leading ones are the Spartan, a seven-seater armoured personnel carrier suitable for transporting small reconnaissance groups, and the FV434, an armoured repair vehicle with a crane for work in the field. The FV105 Sultan is a headquarters armoured personnel carrier with a relatively comfortable working space" (Ukrainian arms dealers unveil…, 2023). Therefore, it can be concluded that volunteer organizations can be quite effective in supplying weapons and other goods needed by the military to the frontline. This is of great importance, especially when it comes to the prompt implementation of important special procurement.

Commercial mediation in the defence sphere and conflicting ties of foreign economic activity

It is not only non-governmental organizations, such as civic and charitable organizations, that purchase military goods. It is quite natural that it continues to be carried out by representatives of the Ministry of Defence of Ukraine, the Armed Forces of Ukraine and the Defence Intelligence of Ukraine through intermediary companies. Such procurement seems to be more traditional and the procedure is long-established, but at the same time more cumbersome, as state bodies are more limited in their scope of activity and more formally dependent than NGOs.

This practice is based on international sources. As noted by M. Irfan *et al.* (2023), "the defence industry (also called the military industry) consists of government agencies and other business entities involved in the research and development, production, procurement, and service of armaments and military equipment. Although the creation of a defence industry in most countries is based on political and national strategic motives, governments are interested in their strategic development and may involve other actors in the defence sector, especially in developing countries".

Thus, in the broadest sense, a trade intermediary relationship is a type of the latter, where, in the broadest sense, a trade intermediary relationship is a legal relationship where one of the parties (a trade intermediary), on its own behalf, performs certain legally significant actions in the interests of the party provided for in the contract (i.e. the customer), in order to bring about certain desired consequences of a factual or legal nature for the said party (customer). To use a narrower definition, a trade intermediary legal relationship is one in which one of the parties, which must be a business entity (trade intermediary), systematically, for a fee and in person, on the basis of a contract and the powers granted on its basis Actually or legally acts in the interests of the customer in the field of business, at his expense, although on his own behalf, providing the customer with the greatest actual and/or legal assistance in building business relations with other persons (Reznikova, 2013).

According to A. Melnyk and A. Popovichenko (2016), "the complexity of trade intermediary legal relations is due to their special subject composition. An intermediary agreement is a means, a legal structure that legally reflects the essence of trade and representative relations. There are different points of view as to what kind of legal relationship, i.e. between which specific subjects, is a legal relationship of agency. Mediation itself is necessarily expressed in a certain legal structure, i.e. a contract. This structure is sometimes divided into two subsystems: internal and external. The internal one is the very essence of the relationship between the customer and the intermediary, and the external one is the legal relationship between the intermediary and third parties with whom the intermediary enters into in the course of fulfilling the terms of the intermediary agreement in order to perform it". "The implementation of internal and external legal relations is ultimately expressed in the establishment of an economic relationship between the customer and third parties. Thus, third parties also fall under the subjective composition of mediation" (Dunska, 2012). Such statements give grounds to insist that the aforementioned internal part of the commodity intermediary relationship between the intermediary company and the end consumer is a principal-agent relationship, the legal formula of which coincides with the agency agreement. The principal outlines the general features of the subject of the contract, while the agent formulates a protocol of intent or a preliminary sales contract, agrees on essential terms, etc.

The external legal relationship of an agent or sales representative is manifested in its legal relations with the manufacturer, seller, as well as third parties that are a foreign element (subject) regarding the acquisition of ownership of a foreign element (object) (Gramatskiy, 2019). After all, legal analysis of transactions involving legal entities with a foreign element is complex not only in terms of disclosing theoretical and practical issues, but above all, it has difficulties and some peculiarities in the application of foreign law (Samsin *et al.*, 2021). As is the case in a similar situation, when representatives of different legal systems are involved in legal relations, there is an increased risk of legal conflicts caused by differences in legal understanding. A traditional mistake in such a situation, which may not be in favour of the Ukrainian party, is the widespread practice of applying the conflict of laws principle of *lex rei sitae* to resolve legal

disputes, and thus resolving the dispute under the law of the seller's country.

This practice is not legally correct, since the principle of the place of location of the thing *lex rei sitae* is not universal in nature and is unconditionally applied only to immovable things (Shupinska, 2016). The same view is shared by P. Mudgal (2020), who, along with the principle of *lex rei sitae*, distinguishes the "useful" principle of *lex situs*, or the location of assets, in the context of legal discussions on the acquisition of a foreign element (object), and since the funds of the customer – the Ukrainian party is nothing more than an asset, the resolution of such a dispute is likely to take place under the law of the customer's country.

In addition, when it comes to a thing in transit, its legal status may be determined by the law of the country of its departure and the law of the country where the thing is going and is to be received – the law of the country of departure and the law of the country of receipt, respectively, unless otherwise provided by law or contract (Vorobiyenko, 2021). The choice of jurisdiction for its legal qualification or resolution of a legal dispute is based on the location of the thing at the time of the occurrence of a legal fact: an event or action of significant legal significance.

Therefore, a rational decision in the context of choosing the jurisdiction of a thing is to turn to specialists in the relevant field (private international law and/or foreign economic activity) who, based on practical experience, rather than the provisions of theoretical doctrines, would be able to resolve the outlined legal conflicts.

Conclusions

The purchase of goods for military purpose and dual use – an activity that was traditionally carried out by special state enterprises on the basis of trade and intermediary relations between the principality and the agency, has ceased to be a monopoly over the last year. This state of affairs led to the emergence of a number of unsolved problems, the legal aspects of which were the purpose of the study.

Having analysed the new trends in the legal nature of military and dual-use goods, the author concludes that a new legal phenomenon has emerged in Ukrainian civilization – the transition of an item which is absolutely restricted in its circulation to the category of quasi-restricted items. The special importers considered in the study – charitable and volunteer organizations – actively purchase and import weapons on the basis of a general, open or one-time licence, provided that they have an end-user certificate upon prior request to the State Export Control Service. The scientific novelty of the article lies in the presentation of the legal algorithm for acquiring ownership of military and dual-use goods on the basis of a relevant licence. Obtaining such a licence or certificate, as well as the procurement algorithm itself, are complex legal procedures, the legal regulation mechanism, structure, and stages of which are covered in our work, which is relatively new and insufficiently covered in legal science.

When it comes to the involvement of a foreign element in the above relations, the situation becomes more complicated, sometimes resulting in legal conflicts due to the clash of legal systems of different states. The choice of jurisdiction is based on the conflict-of-laws principle of the law of the place of departure or place of receipt of the thing depending on its current location (*lex rei sitae*) or the law of the location of the assets (*lex situs*). The latter principle plays a positive role for the Ukrainian customer, as assets (funds for the purchase of the order) are the prerogative of the Ukrainian party.

Despite the legal complexity, the legislator, having established clear requirements, leaves the list of entities (individuals and legal entities) that can become special importers open. The focus on this result of the study not only highlights its purpose, but also opens up prospects for NGOs and charities inexperienced in this cluster of activities, allowing them to join the process of procurement of military or dual-use goods without the need to engage in principal-agent intermediary relations, and for those who carry out such activities without appropriate permits to start doing so in the legal field.

At the same time, it should be noted that legal regulation of international sales contracts is carried out not only on the basis of the conflict of laws (*lex rei sitae* and *lex situs*) mentioned in this study, but also on the basis of other conflict of laws in the field of regulation of relations burdened with a foreign element. An analysis of the content of the latter in terms of acquisition of ownership of military and dual-use goods by moving them across the customs border could be a promising vector of scientific research.

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Conflict of interest

None.

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До питання про спецімпорт товарів військового призначення та подвійного використання як речей, що вилучені або обмежені в цивільному обороті

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Анотація. Актуальність дослідження зумовлено потребою нагального заповнення раптово виниклих правових прогалин, що зумовлені розширенням повноважень неурядових організацій, які активно включилися в процес допомоги комбатантам. Дослідження має на меті вирішити важливу праксеологічну проблему: забезпечити юридичну гармонізацію провадження закупівель з найбільшою продуктивністю і найменшими юридичними та фінансовими ризиками. У роботі використано синтез загальнонаукових, власне юридичних та соціологічно-юридичних підходів, методів та прийомів наукового пізнання. За результатами проведеної роботи вдалося переосмислити правовий статус речей як об'єктів цивільних прав у світлі новітніх воєнних реалій. З'ясовано правовий алгоритм закупівель товарів військового призначення та подвійного використання неурядовими; проведено паралель з процедурою закупівель, яку провадять відповідні державні підприємства. Осмислено феномен торговельного представництва загалом та торговельного представництва, що обтяжене іноземним елементом у сфері зовнішньо економічної діяльності зокрема. Проаналізовано колізійні прив'язки, здатні владнати протиріччя контрагентів у договорі міжнародної купівлі-продажу. Запропоновано шляхи для подальших наукових пошуків в окресленій сфері наукового дослідження. Структуровано механізм, за яким представники громадського сектору із числа благодійних організацій та фондів, можуть отримувати ліцензії на закупівлю товарів військового призначення та подвійного використання для війська. Аргументовано, що на практиці з початку воєнних дій ці організації та фонди створюють достойну альтернативу державному оборонному сектору Зазначені напрацювання, окрім власне праксеологічної, характеризуються також певною теоретичною значущістю, адже можуть бути використанні для проведення наукових пошуків і вирішення завдань у сфері інституту права власності, права неурядових організацій, зовнішньоекономічної діяльності, а також розробки та удосконалення навчальних курсів у сфері цивільного, гуманітарного, міжнародного права

Ключові слова: імпорт; об'єкти цивільних прав; оборотоздатність; неурядові організації; торговельне представництво

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Ukrainian civil society institutions in countering terrorism: International legal standards

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Abstract. Formalised structures of civil society are increasingly involved in the implementation of the law enforcement function, but the participation of such organisations in countering terrorism remains poorly studied in the theory of Ukrainian legal science. The research aims to determine the capabilities of civil society institutions in preventing and combating terrorism, following the proven international legal standards, and to outline the prospects for their use in shaping Ukraine's anti-terrorism policy. Analysis, induction, deduction, and synthesis, as well as systemic structural and generalisation methods were used in the study. Countering terrorism has long remained one of the main tasks of the State, which must guarantee peace and security of citizens. Based on the textual analysis of some international legal acts which constitute the legal basis for countering terrorism, it is determined that they do not explicitly provide for the possibility of involving formalised structures of civil society in these processes. This also applies to the national specialised legislation in the field of counterterrorism. The author proposes to consolidate the opportunities for civil society institutions at the regulatory level to implement a set of relevant educational and information activities aimed at raising the level of legal culture of citizens, establishing interreligious dialogue, and fostering multiculturalism; to carry out information activities to raise public awareness of the existence, causes, public danger and consequences of terrorist crimes and the threats they pose. The author substantiates the need to organise educational activities aimed at enhancing the competence of relevant professionals; to introduce the proven experience of using scientific and technical methods and techniques for conducting criminal law research; to conduct joint educational and scientific activities; to exchange relevant statistical and information data on national legislation, etc. The author outlines the prospects for introducing the proven international experience of countering terrorism into the law enforcement practice of Ukraine. The practical significance of the work lies in the fact that it proposes specific steps that civil society can take to prevent and combat terrorism

Keywords: law enforcement agency; regulatory support; international act; legal basis; interaction; prevention; extremism; radicals; media

Introduction

By enshrining in the Preamble to the Constitution of Ukraine (1996) the irreversibility of Ukraine's European and Euro-Atlantic course, the legislator has defined and enshrined not only the strategic national course of state-building but also the relevant direction of development of the legal system. Ukraine's future membership in the European Union requires bringing its national legislation in line with the provisions of the organisation's legal acts. At the same time, international treaties form part of Ukraine's national legislation, which makes it mandatory to take them into account in practice and when drafting national legislation. And membership in the aforementioned Union may lead to Ukraine facing new challenges, including transnational crime, which has not yet become sustainable.

Given the difficult socio-political and economic conditions in which the country is living, it is not unreasonable to note that the Ukrainian people are proving their determination, dedication, and commitment to fighting the aggressor country every day. This applies to both the Armed Forces of Ukraine, the Territorial Defence Forces, and civilians. Concerning the latter, it is worth noting the importance of the efforts of volunteer and charitable organisations that, without sparing their resources, provide logistical, psychological, financial, and other types of assistance to the military, victims of hostilities, people from the de-occupied territories, etc. All of this contributes to strengthening Ukraine's status in the international arena and lays the foundation for the development and further consolidation of civil society. After all, it is the formalised structures of the latter that constitute a kind of compass, a guide to future actions, characterised by appropriate forms of interaction, some of which have been actualised under martial law (Onishchenko & Suniehin, 2023).

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The importance of the participation of civil society institutions in state-building processes has been repeatedly emphasised by O. Tikhonova *et al.* (2022); M. Pivovar, & S. Kovalchuk (2022). Equally important is the participation of formalised civil society structures in the implementation of some state functions. Particular attention is drawn to the law enforcement function, in which developed countries are increasingly involving the public and formalised civil society structures. The need to study the legislative and regulatory framework and means of counteracting outlawing, identifying, and eliminating shortcomings in Ukrainian legislation; assessing the adaptability of international legislation to the conditions of Ukraine; testing managerial decisions in the field of regulatory policy and other factors is rightly emphasised by V. Vinichuk and N. Nakonechna (2017).

Counterterrorism is one of the transnational problems that requires a comprehensive approach. A significant drawback of law enforcement practice aimed at countering terrorism at the national level is the neglect of the capabilities of civil society institutions in countering terrorism. The legal and organisational basis for such counterterrorism remains unexplored, as well as the lack of ways to implement proven international experience and standards in the practice of national law enforcement agencies and other organisations, etc. At the same time, given that a significant part of the national legislation is made up of international legal acts, it is advisable to determine the peculiarities of the legal regulation of civil society institutions in the context of counterterrorism by the provisions of those acts ratified by the Verkhovna Rada of Ukraine, as well as to outline the prospects for implementing international experience in counterterrorism in Ukraine.

Therefore, the research aims to clarify and summarise the international legal standards for the involvement of civil society institutions in countering terrorism, and to outline the prospects for their implementation in the law enforcement practice of Ukraine. Achieving this goal necessitated the following tasks: 1) to systematise and summarise international legal treaties ratified by the Verkhovna Rada of Ukraine that regulate the specifics of counterterrorism; 2) to identify the provisions governing the activities of formalised civil society institutions in this area and to assess them.

To achieve this goal and objectives, systematic and legal analysis methods are applied to such legislative acts as: Convention for the Protection of Human Rights and Fundamental Freedoms (1950), International Covenant on Civil and Political Rights (1966), European Convention on the Suppression of Terrorism (1977), United Nations Declaration on Crime and Public Security (1997), International Convention for the Suppression of the Financing of Terrorism (1999), European Security Strategy (2003), Council of Europe Convention on the Prevention of Terrorism (2005), Additional Protocol on Combating Terrorism to the Agreement Among the Governments of the Black Sea Economic Cooperation Participating States on Cooperation in Combating Crime, in Particular in its Organized Forms (2004), Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism (2005), Directive (EU) 2018/843 of the European Parliament and of the Council (2018), Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015), Law of Ukraine "On Combating Terrorism" (2003). Analysis and synthesis methods, as well as the comparative legal method, were also used in the course of analysing the texts of these legal acts.

To determine the role and capabilities of civil society institutions in the context of countering terrorism, the publications of foreign authors were analysed, the subject of which was the above-mentioned problems, and which were published in reputable publications indexed in the Scopus and Web of Science databases. The analysis also included the works of Ukrainian scholars who considered ways, forms, and methods of countering terrorism.

Counterterrorism is an urgent global issue for all stakeholders in public relations

Terrorism is inherent in any stage of social development. In the second half of the twentieth century, it became an essential element of international legal relations and was defined as a significant threat to national and international security. Currently, the term "terrorism" is understood as a large set of violent acts aimed at achieving a certain political, economic, social, or religious goal, etc. The result of terrorist actions is the destruction of infrastructure, killing of civilians, encroachment on the lives of law enforcement officers, violation of public safety and security in the state, intimidation of the population, and the purpose is to illegally influence the decisions of government officials to achieve their selfish illegal demands of various kinds. As a result, modern terrorism leads to the destruction of the foundations of international security, undermining the functioning of liberal democracies, forcible changes in state policy, administrative and territorial structure, etc. Terrorist attacks are increasingly affecting the geopolitical integrity of states, culture and morality. At the same time, as scholars rightly point out, terrorists act primarily to secure their interests, acquire material assets, and gain access to power (Tymoshenko, 2023).

According to the Global Terrorism Index 2023, compiled by the Institute for Economics & Peace (2023) using data from TerrorismTracker and other sources, in 2022 the number of deaths from terrorism decreased by nine per cent to 6,701 and is now 38 per cent lower than at its peak in 2015. This is caused by a decrease in the number of attacks, as there were 28 per cent fewer attacks in 2022-3955 (compared to 5463 in 2021). At the same time, terrorist attacks became more deadly in 2022, with an average of 1.7 people killed per attack compared to 1.3 deaths in 2021. This is the first increase in the death toll in five years. Afghanistan, the Sahel region of sub-Saharan Africa, Burkina Faso and Mali, Togo, Djibouti, the Central African Republic and Benin, and South Asia remain the regions with the worst average terrorism scores in 2022.

The ways of conducting conflicts are rapidly evolving and changing. Terrorists are now using unmanned aerial vehicles (drones) (Institute for Economics & Peace, 2023). The aforementioned highlights the need to expand the methods of countering terrorism, which requires more active involvement of civil society institutions in these processes. For Ukraine, which currently ranks 73rd in the world in terms of the number of terrorist acts, the issue of countering terrorism remains relevant, and it may become even more acute in the post-war reconstruction of Ukraine.

It is necessary to expand the mechanisms for countering terrorism and improve the relevant legal provisions, which is impossible without assessing the current legal framework. To reduce the level of terrorist threat, based

on the peculiarities of the modern world, scientists propose to apply forensic counteraction combined with the use of social and information technologies. Particular attention in this context is paid to counter-terrorism education, which should be combined with the use of virtual communities and network space to ensure the participation of civil society institutions, as well as the analysis of the state of terrorism and the determination of the effectiveness of counter-terrorism measures (Leonenko *et al.*, 2021).

In most countries, counterterrorism is one of the key tasks of law enforcement agencies. However, it is important not only to resolve and eliminate the consequences of the unlawful acts committed but also to prevent anti-social manifestations that may reach the appropriate level of public danger. The above makes it necessary to identify effective ways to use the capabilities of civil society institutions in countering terrorist manifestations and crimes of this nature.

Formalised structures of civil society can influence certain segments of the population, minimise the negative impact of certain factors that contribute to the commission of criminal offences, carry out preventive activities against certain types of offences using their methods, etc. For example, religious organisations play a significant role in combating drug-related crime, as pointed out by foreign scholars (Jainah, 2022; Yawan *et al.*, 2023). Similar methods can be implemented in the context of countering terrorism, as the motivating factors of a terrorist nature are often formed in people's minds. This demonstrates the need to influence them using educational, social, and other methods.

Examples of specific organisations that are actively involved in countering terrorism include, for example, the well-known Lebanese Association of Victims of Terrorism (hereinafter – LAVT), founded in 2006, which aims to help all those affected by a terrorist act (Hladkyi, 2023). However, such examples should not be isolated, as in many cases the consequences of terrorism are inevitable, so it is advisable to prevent them.

The objective of using the capabilities of civil society institutions in countering terrorism and their cooperation with law enforcement agencies and international organisations in this area should become a component of the foreign and domestic policies of states. For example, in 2021, the US government approved a new counterterrorism strategy that envisages cooperation between government agencies and civil society in this area (Malakhov, 2022). Thus, it is important to review national legislation and bring it in line with proven counterterrorism practices. Specific legal mechanisms for countering terrorism by civil society should be a key component of legislative changes.

Civil society as an active participant in the implementation of international and national counter-terrorism measures

The key priority and value of democracy is civil society, one of whose tasks is to create and ensure the existence of an appropriate level of society, in which the rights of individuals remain protected without the need for coercive measures. It is necessary to strive for a level of democracy where members of society are endowed with a high level of legal awareness, which not only ensures their conscious refraining from committing torts of various types and nature but also ensures the formation of an active civic position that guarantees their involvement in the management of public affairs, the formation of public policy, etc. All members of such a society should feel equal in exercising any of their rights. It is this approach that will guarantee both the formation of a security environment and civil society, which together, according to scholars, is a guarantee of human rights in the state (Kovalevska, & Karashchuk, 2023).

D. Ettang (2023), in his study of the role of civil society in countering organised crime in South Africa, concluded that it is a critical factor in the fight against organised crime for several reasons, including the following: 1) civil society representatives have a good understanding of organised crime and its impact on communities; 2) formalised civil society institutions, aware of their roles and responsibilities, including their strengths, act more coherently and competently in countering organised crime in the districts; 3) civil society institutions can perceive the problems existing in communities more realistically, as they have established relationships and enjoy the trust of community members (more so than state organisations); 4) they establish channels of communication across inter-community differences while supporting different communities equally.

Citizens' participation in many aspects of society is ensured by the existence of relevant regulatory provisions that embody the relevant functioning legal mechanisms for exercising the rights and legitimate interests of citizens, organisations, etc. One such document is the National Strategy to promote the development of civil society in Ukraine for 2021-2026 (2021). It stipulates that a strategic task in the context of building civil society is to establish effective communication between law enforcement agencies and civil society institutions. At the same time, the latter mostly cooperate in the form of public control over certain state bodies specially authorised by law to carry out such activities (Buranhulov *et al.*, 2023), as well as in joint educational, informational, and other activities with law enforcement agencies.

The recommendations concerning the interaction of civil society institutions and law enforcement agencies, in particular in the context of countering terrorism, exchange of information on terrorist offences, etc. have not been implemented. Moreover, countering the phenomenon of terrorist-related crime requires more substantial measures than the implementation of joint educational activities, due to the high level of public danger of such crimes. The social dangers of terrorist offences are that they make it impossible for civil society to develop harmoniously and sustainably. The international community has long been concerned about the problem of terrorism, and therefore develops relevant recommendations, enshrines certain provisions at the regulatory level and implements various measures to ensure proper counteraction to this anti-social phenomenon. At the same time, effective counterterrorism requires not only appropriate targeted activities of state law enforcement agencies but also the involvement of civil society institutions in these processes.

Public cooperation and the formation of national resistance to terrorist attacks, the need for civilians to acquire knowledge and practical skills to identify the facts of radicalisation or terrorist activity have long been emphasised in the legal literature (Chernadchuk & Berezovska, 2022). At the same time, it is worth noting that the procedure for conducting such activities should be enshrined in law, which requires a thorough analysis and targeted approach in this regard by both law enforcement agencies and civil society institutions.

The recommendations of the Organisation for Security and Co-operation in Europe (OSCE) are quite appropriate in the context of establishing cooperation between civil society institutions and law enforcement agencies in countering terrorism, including the following: 1) building relationships with civil society on the basis of partnership, considering its experience and knowledge; 2) establishing communication at the national and local levels with civil society by creating and using official means and channels of communication; 3) conducting joint (for law enforcement officers and civil society representatives) regular educational programmes and trainings aimed at promoting and fostering a culture of ethnic diversity and the concept of human centrism; 4) creating a "safe space" for open discussions and debates aimed at highlighting different views on identifying the factors that lead to terrorist acts, assessing anti-terrorism policies, preventing and countering them; 5) avoiding legal restrictions and not to persecute civil society institutions involved in the study of conditions conducive to the spread of terrorism; 6) demonstration of one of the important components of an effective domestic and foreign policy of countering terrorism and enhancing public security is measures to protect and strengthen human rights; 7) introduction of programmes with allocated funds to enable civil society and non-governmental organisations to challenge anti-terrorism laws and practices in court, thereby strengthening democratic accountability; 8) cooperating with the Office for Democratic Institutions and Human Rights, using various methods and technical measures, implementing the proven experience of independent civil society institutions in the context of reforming anti-terrorism legislation; 9) providing regular assessment of anti-terrorism measures with the participation of representatives of formalised civil society structures and independent experts (OSCE, 2007). Based on the abovementioned and evaluating the above recommendations in the context of their compliance with the current state of state policy in Ukraine and the contribution of law enforcement agencies and NGOs to their implementation, it should be noted that a significant number of events held in Ukraine are dedicated to the issue of human rights, including protection from terrorist crimes. Some of them, in particular, organised by the European Union Advisory Mission, are dedicated to combating racial discrimination, building a culture of tolerance, etc. However, at the national level, the involvement of civil society institutions in countering terrorism is still insufficient.

International legal framework for countering terrorism: Assessment of effectiveness and prospects for implementation in Ukraine

International treaties ratified by the Verkhovna Rada of Ukraine occupy a special place in the system of legal regulation, as they are part of national legislation. In addition, if they establish rules other than those provided for in the relevant act of Ukrainian legislation, international norms have priority (Law of Ukraine No. 1906-IV..., 2004). In assessing the legal provisions and mechanisms for countering terrorism, it should be noted that the most important regional conventional instruments aimed at countering terrorism include the Convention for the Protection of Human Rights and Fundamental Freedoms (1950), adopted by the member states of the Council of Europe in Rome on 4 November 1950. Its provisions proclaim the inviolability and mandatory observance of such human rights as the right to life, prohibition of torture, right to liberty and security of person, freedom of thought, conscience and religion, and freedom of expression. When committing unlawful acts of terrorism, criminals usually encroach on these rights and freedoms. It is worth emphasising the inalienability and impossibility of restrictions by member states on such rights as the right to life, the inadmissibility of torture, the prohibition of slavery, servitude and forced labour, and the inadmissibility of punishment in cases not foreseen by law, even during special periods such as a state of emergency or martial law. Such provisions are embodied in Article 15 of the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966). It should also be added that the exercise of the right to freedom of expression should not include the proclamation of calls and incitement of others to commit acts of terrorism, violence or other actions aimed at infringing on national security. National legislation fully complies with these provisions.

The European Convention on the Suppression of Terrorism (1977) was adopted on 27 January 1977 to ensure the inevitability of criminal liability, organisation, and prosecution of terrorism. Its provisions define the types of criminal offences for which a person or group of persons and the case against them may be transferred to another state for further consideration of the issue of bringing them to legal responsibility. It is also important to note that the same Convention also defines the procedural features of extradition, the principles of interaction between the parties concerned, and the specifics of judicial settlement of disputes that may arise between the parties involved.

The United Nations Declaration on Crime and Public Security (1997) states that to ensure the safety and well-being of citizens, Member States are encouraged to take effective national measures to combat dangerous transnational crime, in which terrorism, among other types, plays a significant role. To ensure the effectiveness of such measures, the importance of interstate cooperation in this context is emphasised. In this context, it is again worth emphasising the importance of expanding the scope of cooperation between Ukraine and such organisations as the EU Specialised Prosecutor's Office, which provides judicial cooperation in criminal matters, the European Police Office (Europol), Frontex (the European Agency for the Management of Operational Cooperation at the External Borders of the EU Member States), etc.

In 2002, Ukraine ratified the International Convention for the Suppression of the Financing of Terrorism (1999), which criminalised several acts, including those related to the direct or indirect, unlawful, and intentional transfer or collection of funds to finance terrorism. It also sets out the criteria that financial institutions must meet to prevent money laundering and the use of funds for terrorist financing. Thus, the state has taken the task of counteracting those acts that have already been committed as a basis, rather than preventing such acts of terror.

On 3 December 2003, the European Security Strategy was adopted. Its provisions state that terrorism is one of the greatest threats to European security, and therefore the strategic goals of the European Union are: to eliminate threats based on a European arrest warrant, to prevent financial transactions aimed at logistical support of terrorist organisations, to prevent separatism, to resolve regional conflicts, to assist countries with low living standards, and to develop democracy (Council of the European Union, 2009;

Horbach & Sygidus, 2017). This focus on legal provisions again demonstrates the direction of state policy in the context of eradicating the economic basis of terrorist organisations. At the same time, the concept of regional conflict resolution is not sufficiently developed, but its implementation can be entrusted to civil society institutions.

On 31 July 2006, Ukraine ratified the Council of Europe Convention on the Prevention of Terrorism (2005). According to its provisions, effective prevention of terrorism is possible through the adoption and implementation of appropriate national measures. Such measures relate to the professional training of relevant specialists and may be carried out in the educational, cultural and media spheres. The focus of such measures is to raise the level of legal culture, in particular public awareness of the negative consequences of terrorism and the prevention of terrorist crimes, and to implement preventive measures. The provisions of the Convention also define certain aspects of the activities of non-governmental organisations and other civil society actors tasked with fostering multiculturalism and a culture of tolerance, eliminating any manifestations of discrimination in society, raising awareness of the causes, threats, and consequences of terrorist offences, etc. Thus, this Convention is one of the first legal acts to proclaim the need to involve the public in preventive measures to counter-terrorism.

On 17 December 2008, Ukraine approved the Additional Protocol on Combating Terrorism to the Agreement Among the Governments of the Black Sea Economic Cooperation Participating States on Cooperation in Combating Crime, in particular in its Organised Forms (2004). It is positive that in addition to measures that can be implemented exclusively by law enforcement agencies, other forms of cooperation between the participating states are also identified, in particular, the exchange of statistical and information data, data on preventive measures taken, educational programmes on counterterrorism, and current areas of scientific research.

In 2010, the Council of Europe also ratified the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism (2005), which regulates in detail the procedure for suppressing these facts. Concerning the suppression of terrorist financing, it is worth noting Directive 2018/843, the provisions of which define effective legal frameworks and mechanisms for resolving issues related to the confiscation of money and property obtained or used for terrorist purposes. The purpose of such measures is to ensure that national policies of the Member States are formulated in such a way that they prevent the occurrence of consequences due to the financing of terrorism (Directive (EU) 2018/843..., 2018).

The latest documents also include the Strategic Programme for 2019-2024, which also proclaims the inadmissibility of money laundering through cryptocurrencies, and will complicate their use for criminal purposes, including terrorist financing (Chernadchuk & Berezovska, 2022). The criminalisation of acts defined by the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (2015), in particular, terrorist training, crossing the state border to implement the intention to commit unlawful acts of a terrorist nature, and financing of such acts, should also be considered significant changes.

The main international legal acts aimed at countering terrorism are listed above, but this is not an exhaustive list. Based on these provisions, it should be noted that only a few of them mention civil society institutions as entities that may be involved in countering terrorism, at least in a descriptive manner. Based on the above, we believe it is appropriate to cite the provisions of the current legislation that ensure the participation of formalised civil society structures in countering terrorism. Thus, following the Law of Ukraine "On Combating Terrorism" (2003), one of the duties of associations of citizens, organisations and their officials is to report information about terrorist activities or any other circumstances, information about which could be used by law enforcement agencies to counteract these anti-social phenomena. It is likely that the legislator, when enshrining these provisions, focused on human rights NGOs, which, in the course of their activities, will be able to obtain information about citizens with an anti-social stance whose intention is to commit a terrorist act. However, the approach of both international organisations and the Ukrainian legislator does not cover other key aspects, which, if known and implemented in practice, could minimise the number of terrorist acts.

The above shows that there is insufficient legal support for the activities of civil society institutions in the context of countering terrorism at both the international and national levels. In this regard, it is worth emphasising the peacekeeping functions of civil society, including: 1. Prevention of crime through the development of intervention – early system response using known scientific methods and research. 2. Implementation of laws and development of the legal system, by laws and international conventions. 3. Providing education, training, and development of institutional and civilian capacity in conflict-affected countries to prevent crime. 4. Promoting and advancing research in criminal law, criminology, forensics, and other disciplines related to the further development of cooperation and coordination of all governmental and non-governmental organisations in the context of combating crime, including terrorism. 5. Establishing cooperation with other institutions, organisations, and associations in crisis countries, as well as in conflict and post-conflict countries, which have the same or similar programme objectives, such as education and training, to implement policies to counter extremism and radicalism. 6. Implementation of scientific and professional contributions to the policy of preventing and combating extremism and radicalism that lead to terrorism. After all, combating violent extremism requires a general understanding of its dimension and ideological nature, as well as an objective and detailed assessment of the local and dynamic driving forces of radicalism and extremism that lead to terrorism.

As for positive examples of the activities of NGOs in the world, it is worth noting the activities of the Lebanese Association for Women and Children. It fights radicalisation and extremism and aims to counteract discrimination on any grounds. The members of this organisation are Lebanese citizens and residents who promote the concept of human-centredness. The organisation's activities include seminars with psychologists, art therapists, social workers, and victims of terrorist attacks. Such events are also aimed at raising awareness of citizens about such phenomena so that they can develop and build an algorithm for their actions if they find themselves in similar situations (Hladkyi, 2023). This example is positive and can be implemented in the activities of other states, as measures to minimise the negative effects of terrorism should be comprehensive and systematic. Terrorism does not end with bringing perpetrators to justice;

among other things, it requires the elimination of factors that affect the social and psychological spheres of life.

Concerning the experience of foreign countries, in particular, their civil society institutions in the context of implementing anti-terrorism measures, for example, the United States has created relevant organisations whose members are experts in relevant fields of knowledge or proactive members of society. One such organisation is the International Association of Anti-Terrorism Officers, which is represented by representatives of various law enforcement agencies, civil protection services, and the security sector. Its members are citizens of the United States and other countries. Israel prioritises public education on the terrorist threat. As a rule, such educational activities are carried out mainly by non-governmental organisations.

As for the media, in Ukraine, non-governmental media are equated with civil society institutions. The fourth branch of power has quite broad capabilities in shaping the legal culture of the population and raising legal awareness, and therefore it is advisable to involve them in the implementation of anti-terrorism policy, spreading a culture of tolerance, etc. It is important to use the capabilities of such civil society institutions as the media, the Internet, and social networks. The need to counteract the spread of terrorist ideas on the Internet has been repeatedly discussed at meetings of the United Nations and the European Union (Security Council resolution 2374..., 2017).

The policy of "Safe Internet" as a national priority was first shaped by the Macron administration. As a result, it became widespread, and in June 2017, a French-British action plan against the use of the Internet by terrorists was launched (Borelli, 2023). Such activities are driven by the fact that criminals are now actively using the Internet to promote and impose their "politics" and even recruit foreign fighters. For example, terrorist organisations have used geo-referenced census data and personnel records of the Islamic State in Iraq and the Levant to recruit foreign fighters from Tunisia (Do *et al.*, 2023).

The orientation of the international security sector to develop active measures to counter the use of the Internet has been repeatedly emphasised by Ukrainian researchers. As S. Kudinov (2019) notes, to carry out terrorist activities, it is important to combine the efforts of the authorities and law enforcement agencies of states, on the one hand, and civil society, on the other, since anti-terrorism policy will not be effective without the support of civil society, which is an integral lever of interaction between society and the state.

The peacekeeping functions of civil society are: 1. Preventing crime through the development of interventions - early system response using known scientific methods and research. 2. Implementation of laws and development of the legal system, by laws and international conventions. 3. Providing education, training, and development of institutional and civilian capacity in conflict-affected countries to prevent crime. 4. Promoting and advancing research in criminal law, criminology, forensics, and other disciplines related to the further development of cooperation and coordination of all governmental and non-governmental organisations in the context of combating crime, including terrorism. 5. Establishing cooperation with other institutions, organisations, and associations in crisis countries, as well as in conflict and post-conflict countries, which have the same or similar programme objectives, such as education and training, to implement policies to counter extremism and radicalism. 6. Implementation of scientific and professional contributions to the policy of preventing and combating extremism and radicalism leading to terrorism. This list is not exhaustive and therefore requires further research and implementation.

Conclusions

An analysis of the provisions of international treaties ratified by the Verkhovna Rada of Ukraine shows that counterterrorism is one of the main tasks of a modern state governed by the rule of law. The key and effective measure for the authorities of most countries in combating terrorist crimes is the criminalisation of those acts that have signs of terrorism. This is evidenced by the provisions of international legal treaties that provide for criminal liability for legalisation (laundering) of the proceeds of crime, their use for the financing of terrorism, training in terrorism, undergoing such training, arrival in the country with the intent to commit a terrorist act, financing of such acts, etc. The direct implementation of these tasks is entrusted to law enforcement agencies, which are vested with the relevant powers. The author emphasises that it is advisable to improve the professional competence of employees of the relevant law enforcement agencies, which can be done by involving their representatives in the activities of relevant international organisations, one of which is the International Association of Anti-Terrorism Officers.

It is substantiated that the provisions of current international legal acts do not regulate the procedure for the participation of civil society institutions in countering terrorism. However, the national legislation of Ukraine does contain provisions obliging civil society institutions to counterterrorism. The Law "On Combating Terrorism" stipulates that it is the duty of associations of citizens, organisations, and their officials to report information on terrorist activities or any other circumstances related to this anti-social phenomenon, but no other legal mechanisms for countering terrorism are defined.

The peacekeeping functions of civil society are defined in the article, including the formation of a system of early response to unlawful acts, unification of the legal system with the provisions of international conventions and other legislative acts of foreign countries, expansion of communication networks, using the possibilities of institutional and civil potential with the relevant countries to prevent such crimes; intensifying relevant research to address current problems of law enforcement practice; establishing effective cooperation between national and international organisations to implement policies to counter extremism and radicalism, etc. The need to involve non-state media in countering terrorism, which can be active implementers of a secure Internet policy, was also emphasised.

The research novelty is determined by the outline of certain aspects of participation of formalised civil society institutions in countering terrorism. Several possible forms of their participation in this area are identified, and the need for their regulatory regulation by expanding the provisions of international and national legislation is emphasised. These issues require further in-depth research, the subject of which should be proposals and recommendations of a legal nature on real mechanisms for using the capabilities of civil society institutions in countering terrorism.

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Conflict of interest

None.

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Інститути громадянського суспільства України в протидії тероризму: міжнародно-правові стандарти

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Анотація. Формалізовані структури громадянського суспільства все частіше долучаються до реалізації правоохоронної функції, однак малодослідженою в теорії української юридичної науки залишається участь таких організацій у протидії тероризму. Мета дослідження – визначити можливості інститутів громадянського суспільства в попередженні та запобіганні тероризму, відповідно до апробованих міжнародно-правових стандартів, та окреслити перспективи їх використання у формуванні антитерористичної політики України. У роботі застосовувалися методи аналізу, індукції, дедукції та синтезу, а також системно-структурний та узагальнення. Констатовано, що протидія тероризму протягом тривалого часу залишається одним з головних завдань держави, яка повинна гарантувати мир та безпеку громадян. За результатом текстуального аналізу деяких міжнародних нормативно-правових актів, які становлять правову основу протидії тероризму, визначено, що вони прямо не передбачають можливості залучення до цих процесів формалізованих структур громадянського суспільства. Це стосується і національного профільного законодавства у сфері протидії тероризму. Запропоновано закріпити на нормативному рівні можливості для інститутів громадянського суспільства реалізувати комплекс відповідних освітніх та інформаційних заходів, мета яких – підвищити рівень правової культури громадян, налагодити міжрелігійний діалог, формувати полікультурність; провадити інформаційну діяльність задля підвищення рівня обізнаності населення стосовно існування, причин, суспільної небезпеки та наслідків учинених терористичних злочинів, загроз, які вони зумовлюють. Обґрунтовано необхідність організовувати освітні заходи щодо підвищення компетентності відповідних фахівців; упроваджувати апробований досвід використання науково-технічних методів і прийомів проведення досліджень кримінально-правової спрямованості; проводити спільні освітні й наукові заходи; обмінюватися відповідними статистичними й інформаційними даними щодо національного законодавства тощо. Окреслено перспективи впровадження апробованого міжнародного досвіду протидії тероризму в правозастосовну практику України. Практичне значення роботи полягає в тому, що запропоновано конкретні кроки, які може здійснити громадянське суспільство для попередження та боротьби з тероризмом

Ключові слова: правоохоронний орган; нормативно-правове забезпечення; міжнародний акт; правова засада; взаємодія; запобігання; екстремізм; радикали; медіа

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Legal framework of professional mobility in the EU

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Abstract. The internal market of the European Union creates employment opportunities, but the job search process remains complex due to different rules and requirements related to the high requirements of local legislation and market characteristics. The research aims to provide a legal overview of Directive 2005/36/EC and the latest amendments to the amended Directive 2013/55/EU, which focus on extending the rights of employees and self-employed persons to practice their profession in different Member States of the European Union. The main methods used in the research are analysis and historical. The authors provided two sides of the view of the country's internal labour market: from the perspective of the "European Union's fully free market for professionals", offering enhanced career opportunities and professional development, and from the perspective of migrants and the obstacles they face. The differences between regulated and unregulated professions, highlighting the ease of recognition of the latter were described. The study also discusses the applicability of the Directive to family members from outside the European Union and the introduction of the European Occupational Card in Directive 2013/55. The three systems for the recognition of qualifications were discussed in detail, highlighting their importance and recent developments in case law. Attention has also been paid to barriers to labour mobility, instruments for the protection of EU citizens, and the challenges posed by national legislation in different professions. The paper provides an assessment of the internal features of the functioning of the internal labour market in the European Union and a better understanding of the peculiarities of the functioning of the economy of the association

Keywords: directives; rights; mutual recognition; law; market

Introduction

The internal market of the European Union (EU) is a common market where people are free to travel around as workers, independent contractors, or employees. In the Gaston Schul decision 15/81, the Court of Justice of the European Union (CJEU) ruled that the purpose of the Common Market concept is to remove trade obstacles between communities to merge national markets into a Single Market that is as close to an open internal market as is practical (Luigi, 2012). According to this interpretation, the actuality of the Internal Market still needs to guarantee the lack of obstacles even after it was established twenty years ago because national laws in the Member States still place numerous limits on it. The European Union Treaty on the Functioning of the European Union guarantees a freedom to engage in professional activities in the Single Market as an employee or independent contractor (Consolidated Version…, 2012).

Over time, public institutions' views on the acceptance of professional qualifications have evolved. This shift is the result of two things: first, public organizations' evolving views on the acceptance of professional credentials. Two factors have impacted this change: first, the mutual recognition principle was established and its application was extended beyond the free movement of goods by the CJEU's previously reviewed case law, which looked at the adoption of directives to allow the effective exercise of the right of establishment. Virtually all prior legislation was replaced in 2005 by a single Directive 2005/36/EC (2005) on the recognition of professional qualifications, which maintained the same approach and guiding principles as the prior mutual recognition legislation. The original legislation consisted of the three Mutual Recognition Directives of 1989, 1992, and 1999 as well as twelve sectoral

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directives, excluding the two Lawyers Directives (Craig & de Burca, 2020).

The unique characteristics of the legal systems in European nations have been extensively researched by academics. Consequently, L. Pech (2022) evaluated whether an East-West gap is developing on this subject and talked about the current challenges to the idea of the rule of law in the EU. The scholar noted that the public demands for the EU to be more assertive in defending the rule of law against those who seek to undermine it, and it is worrying that the EU Commission and Council are not doing so. The peculiarities of the application of autonomy by the European Court of Justice (ECJ) in case law were assessed by C. Eckes (2020). The scholar described the peculiarities of the Court's concept of autonomy and described the reasons for its criticism based on various reasons, for example – its focus on the abstract conceptual quality of law, potentially ignoring the actual pressures that may affect its interpretation.

An interesting study was conducted by E. Ioriatti (2021), who described the peculiarities of law interpretation among European Union countries depending on their linguistic properties. In other words, the work explains one of the main reasons for the different approaches to the formation of the law of the European Union. J. Sota (2021) in turn described the peculiarities of education and labour markets in the EU and in Albania. The academics discussed the significant adjustments made to the nation's educational system to comply with EU regulations and the degree to which it is currently ready for unification. X. Tataj and E. Akbaş (2021) in turn gave examples of brain drain from Albania to the EU countries. In their research, the experts emphasized the value of human capital and how it relates to the labour market. The authors pointed out that international cooperation is necessary to address this issue. The scholars described in detail the difficulties faced by Albanians in this country and suggested some actions that could improve the situation in such conditions.

The research aimed to analyse the changes in EU Directives 2005/36/EC and 2013/55/EU related to the extension of the rights of employees and self-employed persons to carry out professional activities in different EU Member States.

Materials and methods

A qualitative approach to legal analysis was applied: the relevant EU directives, the case law of the CJEU, which are the primary sources of information, and another relevant legal sources were analysed. The analysis of CJEU case law has been crucial in interpreting the principles of recognition and proportionality, and in addressing the obstacles and challenges faced by professionals seeking recognition in other EU Member States. In addition, selected secondary sources of information have also been utilised for additional context and analysis. These included academic articles, reports and official EU publications on the topic. The study also referred to relevant legal literature and commentaries on specific EU directives and their implementation. During the investigation, reports and research about the acquis Communautaire's implementation as well as the difficulties experienced by professionals in the domestic market were taken into account. Recent EU Commission infringement proceedings against Member States imposing restrictions on professional services are also analysed.

The research is based on a systematic approach, which allows to analyse different situations related to vocational qualifications in the EU within a unified system, considering influencing factors. Analysis was the main method used in the study. It was used to conclude the main data concerning the process and features of vocational qualifications in the EU internal market (in particular, on various cases characterising past situations that have arisen in the framework of legal interactions concerning the recognition of vocational qualifications). A historical method was also used to assess changes in the rules and conditions for the EU internal market's recognition of professional qualifications. Thus, the study includes a chronological approach, starting with an examination of Directive 2005/36/EC (2005) and its provisions on regulated and unregulated professions, mutual recognition, and automatic recognition of qualifications. A shift was then made to the analysis of subsequent directives such as Directive 2013/55/EU (2013) and Directive (EU) 2018/958 (2018), which introduced new features and practical tools such as the European Professional Card (EPC) for the recognition of certain professions.

A comparative method was also applied to assess the effectiveness and correctness of the functioning of the different Directives, finding on this basis their positive and negative components. The method of expert opinion was used to assess real-life situations and then to conclude based on them as to whether the Directives fulfil their obligations. The method of interpretation was used to analyse the texts, which allowed for their interpretations of the texts of legal provisions and court decisions to determine their practical meaning and application.

Results

Directive 2005/36/EC (2005) is generally responsible for the recognition of qualifications in the internal market. It applies to all European Economic Area (EEA) countries as well as Switzerland. It divides professions into regulated and unregulated professions: regulated professions are those for which there are specific national rules dictating the conditions for practising a profession, often requiring a diploma or qualification certificate. Examples include lawyers, accountants, and doctors. Notably, some regulated professions may also be practised as salaried occupations where professionals work as employees of larger firms: doctors, engineers, lawyers, pharmacy assistants, nurses. Unregulated occupations, by contrast, cover activities not directly related to commerce, industry, crafts, or agriculture, but include intellectual or artistic work for which remuneration is in the form of fees or gratuities. Unregulated occupations can be practised without special restrictions. From this point of view, this makes it easier for all those interested in achieving the scope of recognition of qualifications and potentially increases the possibility of integration and work in the internal market.

The Directive 2004/38/EC (2004) applies to EU citizens exercising their right and freedom of movement as well as their family members. However, the question often arises as to how family members from non-EU countries can also benefit from these provisions. Under this directive, family members of EU citizens living in third countries can also take advantage of conditions pertaining to the free movement of services. Consider the case of an American doctor with a French-issued diploma who is married to a French citizen

living in France but later decides to move to Germany and wants to work there as a doctor. In this situation, the French diploma of the American doctor would be recognised in Germany under the terms of Directive 2005/36/EC (2005) on the mutual recognition of qualifications. Similarly, if a person is a refugee, they should be treated in the EU Member State that granted them refugee status and enjoy the same benefits as specified in the Directive. For example, an Iraqi national with a Dutch diploma in pharmacy who has been authorized as a refugee in Belgium must have a diploma recognised under the rules of Directive mentioned. However, if the same person decides to move to Denmark, they may not enjoy the same benefits of these specific rules (European Commission, 2020).

The Directive introduces a distinction between free professions according to the duration of their establishment and the provision of services. For services provided temporarily, the service provider does not need to seek recognition of their qualifications. Instead, they can offer services under their original name, while complying with certain conditions aimed at protecting service users. The rules governing the temporary mobility of self-employed or employed persons in other EU country, as outlined in Chapter II of Directive 2005/36/EC (2005), affect over 800 different regulated professions in EU Member States. This Directive addresses labour market access in other EU member states for professionals working in regulated professions. However, the EU has no specific procedures for recognizing the qualifications of practitioners of non-regulated professions. In general, professionals in unregulated professions have free access to these professions. Nevertheless, professionals wishing to practise unregulated professions in another EU country may still have to fulfil certain qualification requirements. An example is the Peñarroja Fa case (Judgment of the Court…, 2011), where the Court of Justice clarified that certain duties, although not classified as regulated professions under Directive 2005/36/EC (2005), may still be subject of the Article 57 of the Treaty on the Functioning of the European Union (TFEU). As a result, professionals interested in being recognised in another Member State may directly benefit from the rights conferred by Article 57 TFEU, based on the CJEU decision in that case. Three methods for qualification recognition are outlined in Directive 2005/36/EC (2005) (Table 1).

Table 1. Description of the three main systems for the recognition of qualifications in the EU

System name	Description
Automatic qualification recognition	The system applies to seven specific professions, including doctors, general nurses, dentists, veterinary surgeons, pharmacists, architects, and midwives with different positions. The training requirements for these professions are harmonised at the European level. Member States are obliged to grant recognition to professionals with qualifications meeting the training requirements of the Directive, except architects, without imposing any additional conditions. This recognition can be based on a certificate of conformity or acquired rights. Professionals who need information on training requirements, duration, language, and skills for these seven professions can access the EU Commission database. They can also request detailed information and procedures from the Single Point of Contact (SPC).
Overall system	Broadly applicable and covers all diplomas to which another recognition system regulated by the directive is not applicable (Article 10, 1st paragraph). This system is designed to address situations where access to certain professions varies significantly between Member States. An illustrative case is that of Toki, a Greek national, who obtained an environmental engineering degree in the United Kingdom (UK) and applied to register as an environmental engineer in her home country. Her application was rejected because Greek law only allowed registration for members of a voluntary professional association. Toki challenged the refusal before the Greek court, which then sought clarification from the CJEU. The CJEU stated that to determine adherence to the specifications of the Directive, a Member State must assess the quality of the work performed by the individual. In this case, the CJEU increased the scope for professionals to seek recognition and practise their profession based on proportionality tests and other criteria applicable to citizens. Mutual recognition is necessary for the professional registration of nationals of Member States to remove obstacles to their free movement as professionals. In this way, all European professionals can utilise the best opportunities for work and career development where they see fit.
Qualifications based on professional experience in industrial, craft and commercial activities	There are two ways to recognise these activities: firstly, through Directive 2005/36/EC (2005), which defines the minimum duration and nature of experience required for the different professions on the list, and secondly, if the conditions are not met, professionals can request mutual recognition through a common system, as the Directive does not apply in this case. This allows each professional to choose the most appropriate option to access an occupation in another Member State upon the applicable system.

Source: compiled by the authors based on data of Directive 2005/36/EC (2005), European Commission (2020; 2023), D. Luigi (2012)

The implementation of Directive 2005/36/EC has imposed obstacles regarding national procedures and bureaucratic deadlines for professionals seeking labour migration in a Member State. In response to this situation and the Market's need for free movement of professions, some of which are highly demanded by the EU labour market, a new directive, Directive 55, was adopted in 2013. Directive 2013/55/EU (2013) introduced new features and a practical digital tool such as the European Professional Card (EPC). The EPC is an electronic card that facilitates automatic recognition at the level of individual vocational and general training frameworks in accordance with the existing

European Qualifications Framework (EQF). It also signalled enhanced cooperation between national authorities using the IMF (Internal Market Framework) system (Craig and de Burca, 2020).

The EPC, which only applies to the following five professions: nurse, pharmacist, physiotherapy, mountain guide, and estate agent, enhances collaboration between relevant authorities. The EPC works for two purposes: establishment and temporary/accidental provision of services. In both situations, the national government of the professional's home country assists them in completing the appropriate application and verifies the legitimacy of all submitted documentation. Within three months, a final decision will be made. Otherwise, tacit recognition will occur, and an electronic EPC will be available to the applicant. The authorities of the host country may require an aptitude test or adaptive internship if they determine that the candidate's education, training or work experience does not meet the requirements in that country. However, despite this modernisation and simplification of online procedures for any interested citizens wishing to migrate to another state due to unemployment or low income in their home country, language remains a solid barrier due to language skills. Studying abroad is an option to balance the language barrier (Directive 2013/55/EU..., 2013). Curriculum agreement on the basis of "standardised sets of knowledge, skills and competencies" is essential for each Member State to assess to erase the differences between diplomas and qualifications obtained in different states. It is about the purpose of academic recognition: pursuing studies, establishing qualification levels, and assessing skills against Member States' competencies and national procedures for ENIC/NARIC centres.

Specialists in each situation must have the necessary linguistic abilities, but control must be reasonable and limited to what is required. The Court of Justice of the European Union in the case of European Commission v Kingdom of Belgium held that Belgium hadn't complied with the requirements of Regulation (EU) No. 492/2011 and Article 45 of the TFEU. This was due to Belgium's requirement that candidates for local services situated in French- or German-speaking regions present documentation of their language competency in the form of a particular kind of certificate. The idea of limited access to specific professional activities is adopted case-by-case in the host state (Directive 2013/55/EU..., 2013). This follows from the Colegio de Ingenieros case, in which the applicant Mr Imo, who had qualified as a hydraulic engineer in Italy, was not allowed to work in the same profession in Spain. The court held that he should in principle be entitled to do similar work in Spain, even though hydraulics was included in Spain in the more general civil engineering qualification.

The free movement of professionals may face obstacles and Member States may use justifications based on national measures, public order, official powers, and legal exceptions (non-exhaustive) to impede the freedom to establish and provide services (Art. 51, 52 TFEU). These exceptions should follow the principle of proportionality introduced by Cassis de Dijon and adopted for services and institutions. Nevertheless, EU countries must consider the specific proportionality criteria established by the CJEU in each case concerning requests for the recognition of a diploma/qualification by professionals seeking to work in a profession in a Member State, to prevent the abuse of professional rights. Recently, national legislation has imposed a number of restrictions and difficulties on issues related to the recognition of diplomas and certificates. Directive (EU) 2018/958 (2018) sets out guidelines for Member States to assess proportionality to avoid undue restrictions on the ability to enter or practise regulated professions. These rules set out the criteria to be applied when new rules or amendments to existing ones are adopted by Member States.

Numerous problems related to the application of the acquis before and after the entry into force of Directive 2005/36/EC (2005) have been highlighted in CJEU case law. For example, in the case of Vlassopoulou (Irène Vlassopoulou…, 1991), Germany refused mutual recognition of a Greek lawyer's qualifications and prevented her from practising the profession in the host country. The CJEU emphasized the significance of the equivalency criterion and the necessary conditions for diploma acceptance, both of which are crucial. The Court's rulings in Kraus and Gebhardt set guidelines that forbid any kind of discriminatory or non-discriminatory limitations on the freedom of establishment of professionals, so long as national initiatives serve justifiable objectives supported by the public interest and don't exceed appropriate boundaries (Janssens, 2013).

The modern development of CJEU case law confirms that the broad principles of recognition formulated by the Court in previous judgments are still relevant and provide valuable information. These principles are now part of an extensive framework that allows novice lawyers who are not fully qualified to utilize the Court's rulings. In the Morgenbesser case, the CJEU ruled against Member States that prevented trainee lawyers from moving freely within the EU and having their qualifications and experience recognized outside their home countries (Christine Morgenbesser v Consiglio…, 2003). In the Nasiopoulos case, the CJEU adopted a broad approach to mutual recognition (Eleftherios-Themistoklis Nasiopoulos…, 2013). It was considered excessive to deny a professional, even partially, access to the profession of physiotherapy in their home State on the basis of qualifications obtained in the host State. This was particularly relevant when the degree of similarity between the qualifications of physiotherapists and hydrotherapists under Article 4(2) of Directive 2005/36/EC (2005).

In the Pesla case, the CJEU noted that Article 45 TFEU does not prohibit Member States from reducing the necessary level of qualification requirements in the host Member State or requiring a reduction in this level of knowledge (Krzysztof Peśla v ustizministerium…, 2009). Similar circumstances were found in the Malta Dental case, where the court determined that the goal of safeguarding the public's health superseded a Member State's authority to impose cooperation requirements on dental technicians who sought to practice in the first Member State after receiving their education in another Member State (Case C-125/16…, 2017). Concerning obstacles in a general sense, a different situation emerges from recent CJEU case law. In the case of Ordre des Architects (Order des Architects v…, 2014), the Court found that requiring additional examinations for foreign architects to practise their profession was in breach of the acquis and Directive 2005/36/EC (2005). However, the Court of Justice of the European Union (CJEU) in Les chirurgiens dentales de France concluded that Member States may allow some health professionals covered by Directive 2005/36/EC (2005) to have partial access. Based on this analysis,

the CJEU plays a decisive guiding role for all national legislations by facilitating the possibility for professionals to recognise qualifications in another country without undue obstacles and restrictions.

The EU Commission initiated infringement procedures against 10 Member States in October 2022 for putting limitations on specific professional services. These prevented the availability of competitive and innovative services to the internal market of the association. Consequently, Member States have introduced amendments to address these issues. A recent parliamentary study has identified four ways in which obstacles restrict business operations in the internal market. Firstly, some businesses are not allowed to provide goods or services. Second, businesses may face significant additional costs or burdens in finding basic information. Third, delays and uncertainty may arise due to administrative procedures or difficulties in accessing capital. Finally, certain barriers create an uneven playing field, giving some enterprises a competitive advantage over others.

In practical situations, both individuals and businesses may face problems related to qualification and procedural issues. To address these problems, EU citizens have access to various protection instruments. One such tool is the SOLVIT centre, which offers an informal mechanism to cooperate with national authorities to correct administrative decisions. Furthermore, in 2017, the Commission presented an Action Plan to strengthen SOLVIT and extend assistance to applicants. This plan includes a Single Digital Gateway connecting EU and national mechanisms to provide information and problem-solving services through a single and accessible entry point. In January 2022, SOLVIT and the European Labour Authority (ELA) entered a "cooperation agreement" to improve coordination in referrals and information sharing. Although there is currently no published case evidence in favour of the SOLVIT procedure, it is crucial to improve the system by examining cases where a SOLVIT complaint has prevented a timely judicial appeal due to an unfavourable decision. A potential fourth step could include the introduction of a Regulation or Directive to prevent bad faith delaying tactics (Galetta *et al.*, 2022).

A recent study by the EU Commission showed that many professions are regulated by Member States, with accounting services being the most heavily regulated and engineering services having the fewest restrictions. Architectural services showed the most significant reduction in restrictions, followed by engineering services. Doctors and nurses were the most mobile-regulated professions in the EU from 1997 to 2019. The legal framework of the single market is influenced by both European and national legal traditions, leading to challenges in implementation and enforcement at the national level. These restrictions imposed by Member States can be linked to growing nationalism, economic fluctuations, and difficulties in implementing the acquis.

Discussion

S. Lipiec (2021) evaluated the case of Simon Butler, a British ski instructor. Whilst the French and European judicial system correctly dealt with his case, many similar situations in Europe resulted in fines and restrictions for foreign professionals. The paper proposed the establishment of European recognition system, simplifying procedures and removing the need for short-term providers to recognise their qualifications. The academics are convinced that the EU should coordinate reforms and various instruments such as SOLVIT and the European Occupational Chart could facilitate this process. Overall, the above study generated the same conclusion: the sheer number of difficulties faced by professionals is a significant obstacle to both the residents of the association and the macro processes occurring within the association. Although it should be recognised that the states have reasons to implement such policies (in particular, high unemployment due to various crises, in particular, COVID-19), the negative effects of the policy far outweigh the positive ones, which indicates the need for changes shortly.

L.S.J. Kortese (2016) investigated qualification recognition in the European Union for professional purposes. The scholar distinguished between academic and professional recognition, where academic recognition is related to courses of study, while professional recognition is required when fully qualified professionals move to work in another EU country. In addition, he covered the evolution of professional recognition laws in the EU, outlining how EU case law has protected professionals' freedom to move freely from the transitional framework of the 1960s and 1970s to the current legislation. His study emphasised the importance of promoting professional recognition of qualified professionals to ensure greater mobility of both students and professionals in the EU. L.S.J. Kortese (2020) also evaluated the process of qualification recognition in the EU. The author highlighted the complexity and lack of transparency in qualification recognition systems within the EU, which points to the need for clarity and order in the European recognition system. He proposes several activities and products to improve recognition practices. These include studies on administrative practices at the national level, comparative exercises to match training courses and professions, and improved provision of information on recognition and issuing qualifications in several languages.

The possibility of creating a Unified Training System for laboratory medicine professionals in the EU has been studied by G. Wieringa *et al.* (2020). In order to qualify for the framework, non-medical professionals must meet certain requirements regarding professional regulation and training in at least one third of EU Member States. Based on a bottom-up methodology, the EU Commission would consider suggestions from qualified authorities or professional associations that represent a minimum of one-third of EU Member States under the proposed framework. However, the challenge in its implementation is to determine the proportionality of professional regulatory frameworks in different Member States. Scholars believe that uneven consideration of the regulation of the profession hurts service provision and professional mobility in the EU market.

A study exploring the problems of the lack of a clearly defined and meaningful concept of human rights or justice in the EU was conducted by S. Douglas-Scott (2011). The study suggested that the transformation of the European Union into a human rights organisation cannot be achieved solely through treaty provisions or judicial decisions. The researcher finds it problematic that instead of emphasizing proportionality, fundamental rights are often established in CJEU decisions on a case-by-case basis, which doesn't allow for a creation of a meaningful fundamental rights statute. Overall, the author concludes that while fundamental rights are vital to the EU, a more sophisticated view of fundamental rights as an innate good is needed to ensure their robust

protection. Nevertheless, an increased role for the EU in protecting fundamental rights may meet resistance from those who value state autonomy and democratic legitimacy.

The study has demonstrated that professional qualifications are not appropriately or significantly inefficiently recognized in the EU's internal market. This situation needs to be addressed, for which several methods can be proposed. Authorities (both associations and individual Member States) should strengthen the application of Directive 2005/36/EC (2005), in particular by ensuring the functioning of relevant bodies affecting the recognition of professional qualifications and harmonizing their procedures. Public authorities should also encourage mutual recognition of qualifications between Member States and establish cooperation mechanisms to address differences in training and requirements. In addition, simplifying recognition procedures and reducing bureaucratic difficulties and barriers for professionals seeking recognition of their qualifications can be effective. The use of the European Occupational Chart could be expanded to cover more professions and facilitate automatic recognition. Public authorities also should cooperate through mechanisms such as SOLVIT to resolve administrative issues and provide information to applicants.

Conclusions

Directives 2005/36/EC and 2013/55/EU, together with the proportionality measures in Directive (EU) 2018/958, aim to achieve this objective. Professionals may exercise their right to free movement temporarily or permanently. Member States are obliged to ensure easy and quick access to the profession for professionals based in another Member State without additional requirements. A general system of mutual recognition, automatic recognition for some professions, and recognition based on professional experience in industrial and commercial operations are all established under Directive 2005/36/EC. When this directive is not applied, recognition depends on TFEU provisions and case law, as seen in the Vlassopoulou case. Mutual recognition continues to be a challenge for professionals, as evidenced by the Malta Dental case. The EU has made efforts to increase labour migration and simplify academic recognition procedures through Directive (EU) 2018/589, digital means through the EPC and cooperation with the IMF and EQF. In practice, however, professionals often face obstacles such as language requirements, partial access to the profession and problems related to health professions. The existence of 24 official languages in the EU complicates the issue of recognition. Member states can implement the guidelines in comparable cases of qualification recognition by consulting CJEU case law. CJEU judgements are binding on national legislation.

The free movement of professionals in each EU member state has been affected by a number of factors, including the post-pandemic environment, economic crises and unemployment in various service sectors, despite the EU's overriding aim of creating a single market without barriers for professionals. These factors may raise concerns about competition and opportunities for citizens in the labour market. Nevertheless, the EU remains responsible for achieving its goal of creating a single market without restrictions for professionals. Future studies may examine in more detail the functions of the CJEU in the field of occupational mobility and qualifications recognition. In addition, it is crucial to assess the effectiveness of the EU Commission's enforcement and monitoring strategies in ensuring Member States' compliance with qualifications directives.

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Conflict of interest

None.

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Правова база професійної мобільності в ЄС

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Анотація. Внутрішній ринок Європейського Союзу створює можливості для працевлаштування, але процес пошуку роботи залишається складним через різні правила та вимоги, пов'язані з високими вимогами місцевого законодавства та особливостями ринку. Дослідження спрямоване на надання правового огляду Директиви 2005/36/ЄС та останніх поправок до зміненої Директиви 2013/55/ЄС, які зосереджуються на розширенні прав найманих працівників і самозайнятих осіб на практику своєї професії в різних державах-членах Європейського Союзу. Основні методи дослідження – аналіз та історичний. Автори надали два погляди на внутрішній ринок праці країни: як на «повністю вільний ринок Європейського Союзу для професіоналів», що пропонує розширені можливості кар'єрного зростання та професійного розвитку, і з позиції мігрантів та перешкод, з якими вони стикаються. Описано відмінності між регульованими та нерегульованими професіями, підкреслено легкість визнання нерегульованих. У дослідженні також обговорюється застосовність Директиви до членів сім'ї з-за меж Європейського Союзу та введення Європейської професійної картки в Директиві 2013/55. Було детально обговорено три системи визнання кваліфікацій, підкреслено їхню важливість й останні зміни в прецедентному праві. Також було приділено увагу перешкодам для мобільності робочої сили, інструментам захисту громадян ЄС та викликам, які створює національне законодавство в різних професіях. У роботі подано оцінку особливостей функціонування внутрішнього ринку праці в Європейському Союзі та краще розуміння особливостей функціонування економіки об'єднання

Ключові слова: директиви; права; взаємне визнання; закон; ринок

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Experience in addressing the gender issue in post-Soviet countries

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Abstract. This article examines the experience of addressing the gender issue in countries formed after the collapse of the Soviet Union. Since the national and historical characteristics of all independent states are markedly different, the purpose of the paper is to study the challenges that women had to face, to identify the positive experience of the decision in each case as well as to identify the general trends of such decisions. On the basis of statistical data published by the competent authorities of both the independent states themselves and the Economic Commission for Europe, an analysis was made of such key parameters of equality as employment, average wages, level of access to information, the relative number of representatives in leadership positions in state institutions and representative offices in national parliaments, as well as the general trend of legislative initiatives designed to combat discrimination against women. As a result of the analysis of the dynamics of indicators, the leading states in solving the gender issue were identified, and an assessment was made of the development of this area in the future. This analysis led to the conclusion that the transition of women's rights issues to the plane of public discourse, the absence of silence concerning the problem, as well as the observance of voting rights are a guarantee of a significant reduction in the level of discrimination in society. The practical significance of the research lies in identifying the leading countries where the gender issue has been resolved positively, as well as formulating recommendations based on their experience for countries where the gender balance is still not respected, which will lead to a general strengthening of the protection of women's rights

Keywords: gender equality; discrimination; social protection; traditional communities; individual freedom

Introduction

The problem of gender inequality goes back to the prehistoric period, when physiological differences and characteristics were forced to determine the behaviour of each individual and the entire primitive community. In the process of development of social culture, gender roles and gender relations also acquired a more civilized character. However, humanity approached true gender equality only in the twentieth century. A landmark event was the adoption by the United Nations (UN) of the Convention on the Political Rights of Women (1953), which codified the basic international standard of political rights. This document became the basis for a broader Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for Youth (United Nations, 2016), which, in addition to protecting the electoral and political rights of women, also reflected other aspects of equality, and in 2019, at the G7 summit, an international coalition of the Biarritz Partnership for Gender Equality (2019).

In the Union of Soviet Socialist Republics (USSR), a lot of attention was paid to declaring equal rights for all genders and nationalities, but the situation was different in practice – there were purely "female" and purely "male" professions, wage standards, conditions for caring for a child. After the collapse of the Soviet Union, the newly formed states were given the opportunity to independently choose the direction of development. The Baltic countries, traditionally oriented towards European values, have become leaders in the observance of human rights. As M. Tomala and M. Słowak (2020) found out, the geographical proximity of such developed countries in terms of gender equality as Denmark, Sweden and Finland, could quickly help get rid of the Soviet

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mentality and make the necessary changes to the legislation of Lithuania, Latvia and Estonia.

The rest of the states of the post-Soviet space also moved along the path of gender equality. However, due to differences in economic development, leadership methods, adherence to traditions and stereotypes, the dynamics of the countries were very different from each other. At the same time, researchers still note a number of common features, for example, almost every country has a high level of education of girls and women, while observing their high economic activity and participation in public life. As A.A. Khuseynova (2021) emphasizes, protecting the interests of women has become one of the priorities of state policy in the years of independence. In particular, the National Program for the Improvement of the Status of Women in Society was consistently implemented in Uzbekistan.

At the same time, true gender equality is impossible without the formation of a full-fledged civil society. At this stage, D.B. Vafaeva and A.N. Makhmudova (2023) note that the citizens of Uzbekistan are going through a difficult process of choosing the value direction for the further evolution of society, while the destroyed authoritarian regime has been replaced by a new format that implies pluralism and the right to choose. According to S. Gaffarova (2021), another urgent task is to conduct a gender legal review of existing regulations and introduce the necessary amendments to them. This will serve to ensure equal rights and opportunities for women and men in all spheres of life and activity of society, which should eliminate possible disproportions in relation to the rights, duties and opportunities of a person, regardless of gender.

Speaking about the social and legal side of the gender issue, one should also mention the role of trade unions. According to the analysis of A.M. Toksanbayeva (2022), trade unions are the largest public organization that has the right to introduce mechanisms of social partnership and public control in labour collectives. The aspect of gender equality in everyday life is also important. F.A. Akhmedshina (2022) talks about the formation of a new worldview dominant in Uzbek society, according to which the role of the family, mutual and equal participation of parents in raising children is becoming more popular in the public opinion, while there a negative attitude is being formed towards early and inter-family marriages, as well as polygamy. At the same time, in some countries of the Commonwealth of Independent States (CIS), especially in Central Asia and the Caucasus, in the face of increased competition in the labour market, occupational segregation continues to exist, and in the most promising industries, employers still give preference to male workers.

A detailed study of the topic of gender equality by various researchers gives an objective assessment, but, as a rule, only in the context of individual post-Soviet states. At the same time, a full-fledged comparative analysis of these indicators has not yet been made. The purpose of the article is to conduct such research and study the positive experience of countries where the equal rights of men and women are respected, as well as to form recommendations for the implementation of this experience by all states of the post-Soviet space.

Literature review

Over the more than three decades that have passed since the collapse of the Soviet Union. Observance of human rights, including in matters of gender equality, has become one of the highest values throughout the civilized world. At the same time, the inertial processes laid down by the totalitarian regime hinder the development of a just society in the former Soviet republics. The study of the Soviet legacy on the issue of women's rights in Central Asia was conducted by M. Kamp (2016). In particular, she pointed to the continuing low proportion – only about 30% – of girls studying at universities and academic institutions in Tajikistan and Uzbekistan, comparing this with the situation in the United States in the 1950s.

The topic of religious influence on the protection of equality deserves special attention. In the Muslim communities of some states, in addition to secular conventions, women and girls are also pressured by the factor of traditional religion. G. Zhussipbek *et al.* (2020), having studied the models of Islamic revival in the post-Soviet space, the challenges that modern women need to be ready for include traditional masculinity, a patriarchal idea of honour, as well as male polygamy de facto legalized by religion. An important parameter in studying the issue of gender equality is the demographic situation – population growth or decline, the ratio of men and women, life expectancy. Since the life expectancy of women is on average 10 years higher, there is a numerical advantage of able-bodied women starting from the age of thirty, which should be taken into account when analysing statistical data.

The processes of globalization, which have become especially relevant in recent decades, also have a significant impact on the gender balance. In the process of studying the impact of globalization on the development of women's rights and freedoms, R. Kaur (2018) came to the conclusion that gender inequality has more manifestations in an integrated world, when one often has to make a choice between family and career. On the other hand, such transnational processes remove the usual boundaries and enable a woman to quickly gain independence from her parental family.

In addition to studying general trends, sources that have studied the issue through the prism of the experience of a single state and its national characteristics deserve attention. For example, R. Turaeva (2017) carried out detailed work to identify the transformation of the role of women entrepreneurs in Uzbekistan in the context of labour migration of the male population. On the example of individual heroines, she revealed a significant change in the minds of modern women who are forced to acquire leadership qualities and become the heads of their families. As a result of field research in Tajikistan, K. Kluczewska (2021) was able to draw analogies between modern women's empowerment and the Soviet campaign of the 1920s for the "Liberation of the Women of the East", since in the early 1990s after Tajikistan gained independence, Islamist religious leaders were reactionary attempts to deprive women of their legal rights.

However, even in traditional societies, women's activity is determined by their understanding of family duty, proper participation in public life, social skills, and business acumen. As Z. Kholmatova (2021) notes with examples in her paper, these qualities allow a woman to qualitatively change the existing social attitude in accordance with her requirements, views and goals. Given the above, this paper was based on the hypothesis that the countries that formed on the territory of the former Soviet Union have different experiences in addressing the gender issue.

Materials and methods

The data used in the analytical paper was taken from the World Economic Forum (2022), as well as from a number of other sources. To obtain a more objective picture, it was decided to study the problem in two dimensions: on the one hand, to assess the actual observance of women's rights in each of the states that make up the post-Soviet space, and on the other hand, to track the dynamics of processes in them over ten years in order to obtain only data "in the moment", while also identifying trends. At the same time, the negative impact of the COVID-19 pandemic in 2020 and 2021 should be taken into account both on statistical indicators and on all aspects of human life without exception. The consequences could not but affect issues of gender equality, in particular, the pandemic has had an unprecedented impact on the labour market. Due to the fact that women traditionally spend more time on housework and childcare, forced isolation and the widespread closure of kindergartens have significantly affected the realization of women's right to a fair wage. Taking into account the circumstances that the majority of medical workers who are at high risk are women, and the fact that the percentage of female employees is also traditionally higher in the services sector most affected by quarantine (tourism and hospitality), it was decided to use statistical data until 2019 inclusive.

In the process of research, a comparative analysis of the observance of women's rights in all the countries studied in this paper was conducted, a number of key parameters were analysed for 2019, as the last relatively calm year, and the so-called "coefficient of equality" was calculated:

$$CE = I_F / I_M, \quad (1)$$

where CE – the coefficient of equality, I_F – the indicator for females, I_M – the indicator for males.

According to the chosen methodology, the "coefficient of equality" is intended to demonstrate the state of affairs in key parameters – the higher it is, the more protected women's rights are. The parameters analysed for different genders include the level of education, representation in leadership positions, average wages, as well as the number of parliamentarians. All analysed parameters for each of the states were summed up and the overall coefficient of equality was derived for each of the studied countries. Further, as a result of ranking the indicators of all post-Soviet countries, the leading states in solving the gender issue were identified and their experience in achieving such indicators was analysed.

To identify trends in gender equality indicators over a decade, the former republics of the USSR were conditionally divided into four regions with different cultural, historical and geographical features: Western European region (Lithuania, Latvia, Estonia), Eastern European region (Ukraine, Moldova), the Caucasus region (Azerbaijan, Armenia, Georgia) and the Central Asian region (Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan, Turkmenistan). For the sake of the purity of the experiment, one representative was randomly selected from each conditional region: Armenia, Latvia, Uzbekistan, Ukraine. For each of the representative states of the region, the statistics of key indicators for the decade from 2010 to 2019 were analysed, the dynamics of which, for greater clarity, was visualized in the format of line graphs.

Results

In the first part of the research, on the basis of statistical data, the current coefficients of equality for 2019 were determined for all states that were previously part of the Soviet Union. As mentioned above, it is 2019, the last "pre-COVID" year, that can show true statistics. In 2020-2022, due to the restrictions associated with the COVID-19 virus pandemic, indicators such as employment rates, average wages, etc. have already been distorted by the need for isolation, the transition to remote learning, the crisis in the hotel and tourism sectors, as well as excess workload of medical personnel. For the most complete coverage of all areas of activity, which are traditionally characterized by a disproportion between men and women, calculations were made of the ratios of indicators in the following categories:

- employment rate of married people;
- average wage level;
- Internet access level;
- representation in the state parliament;
- work in senior positions in the public sector.

Figures for all mentioned post-Soviet countries are shown in Table 1.

Table 1. Key indicators of gender equality in post-Soviet countries, 2019

	Married employment rate, %	Wage rates	Share of Internet users, %	Representation in the national parliament, %	Senior civil servants, %	*Σ CE*
			Azerbaijan			
Men	47.1	172	79.2	83.2	84.6	
Women	39.8	100	74	16.8	15.4	
CE	0.85	0.58	0.93	0.2	0.18	2.745
			Armenia			
Men	67.1	153.2	76.2	75.8	85.4	
Women	40.5	100	75.5	24.2	14.6	
CE	0.6	0.65	0.99	0.32	0.17	2.737
			Estonia			
Men	76.8	140	91	71.3	54.5	
Women	67.3	100	90	28.7	45.5	
CE	0.88	0.71	0.99	0.4	0.83	3.817
			Georgia			
Men	58.4	157	73.5	85.2	77	
Women	43.3	100	73.8	14.8	23	
CE	0.74	0.64	1	0.17	0.3	2.855

Table 1, Continued

	Married employment rate, %	Wage rates	Share of Internet users, %	Representation in the national parliament, %	Senior civil servants, %	*Σ CE*
			Kazakhstan			
Men	81.95	147	72.1	72.9	57	
Women	58.1	100	62.3	27.1	43	
CE	0.71	0.68	0.86	0.37	0.75	3.379
			Kyrgyzstan			
Men	82.8	130	65.2	80.8	64.3	
Women	44.9	100	53.4	19.2	35.7	
CE	0.54	0.77	0.82	0.24	0.56	2.923
			Latvia			
Men	76	126	87	69	26.2	
Women	69.7	100	85	31	73.8	
CE	0.92	0.79	0.98	0.45	2.82	5.954
			Lithuania			
Men	70.7	113	81	78.7	38.5	
Women	67.4	100	82	21.3	61.5	
CE	0.95	0.88	1.01	0.27	1.6	4.719
			Moldova			
Men	51.7	117	71.1	77.2	77.6	
Women	43.9	100	67.9	22.8	22.4	
CE	0.85	0.85	0.95	0.3	0.29	3.243
			Tajikistan			
Men	81.1	155	62	81	73	
Women	71.3	100	49	19	27	
CE	0.88	0.65	0.79	0.23	0.37	2.919
			Turkmenistan			
Men	82.4	163	65	75	69.8	
Women	51.5	100	54	25	30.2	
CE	0.63	0.61	0.83	0.33	0.43	2.835
			Uzbekistan			
Men	81.5	157	79	84	62.8	
Women	65.7	100	69.4	16	37.2	
CE	0.81	0.64	0.88	0.19	0.71	3.23
			Ukraine			
Men	65.9	129	76.9	88.4	58.1	
Women	54.1	100	74.5	11.6	41.9	
CE	0.82	0.78	0.97	0.13	0.72	3.417

Source: World Economic Forum (2022)

Thus, the leaders in the observance of women's rights and gender equality in the post-Soviet space were Latvia, Lithuania and Estonia. The experience of these countries will form the basis of recommendations for the worst performing states. First of all, attention should be paid to the legislative framework of the leading countries and their ratification of international agreements on the protection of gender rights. In this regard, the experience of Lithuania is indicative, the Constitution of which (Article 137, part 3) directly states that "international treaties ratified by the Seimas of the Republic of Lithuania constitute an integral part of the legal system of the Republic of Lithuania". Thus, all important documents on the protection of rights are almost immediately implemented into national legislation. An important step for Lithuania was also resolution No. 306 of the Council of Courts on the classification of cases and court rulings, requiring mandatory application in the work of the provisions of the UN Convention on the Elimination of all Forms of Discrimination Against Women (United Nations, 2016).

Speaking about the anti-discrimination practice of the Baltic countries, it is necessary to dwell separately on the institution of the Ombudsman for Equal Opportunities working there. Initially originating in the Scandinavian countries, this specialized institution creates additional guarantees of gender equality in all spheres of state and public life. Moreover, Lithuania had a separate Ministry for Gender Affairs at the stage of formation of a democratic society in the early 2000s. Latvia also shows solidarity with its neighbours: during the recent history of independence, women have already occupied both highest state posts in this country – Vaira Vike-Freiberga was elected President in 1999, and Laimdota Straujuma was appointed Prime Minister in 2014. Moreover, there are at least three articles in the Labour Law of Latvia that directly or indirectly prohibit harassment, sexual innuendo and other actions that fall under the definition of harassment. Unfortunately, such a political practice has not yet been adopted in the new democracies of the post-Soviet space with a large number of historical and patriarchal

layers, which is one of the most important reasons for the temporary lag of these countries behind the Baltic states in terms of equality. However, in addition to state regulation, the behaviour and value orientations of the citizens themselves are important. The attitude of the majority of ordinary residents of Latvia, Lithuania and Estonia towards such phenomena as harassment and domestic violence demonstrates that the observance of women's rights in these countries is not only a matter for the authorities, but also for each individual, which is reflected in the World Bank Group (2019) study.

All these political and social factors of gender balance that united the Baltic States are the key, thanks to which Latvia, Lithuania and Estonia occupy the first three places in the ranking. By adopting these legislative and civil initiatives, other countries of the post-Soviet space will also be able to put into practice the ideas of gender justice and gender equality. In parallel with the study of indicators of gender equality "in the moment", for a better and more comprehensive assessment, it is necessary to understand the dynamics of processes in the medium term of about ten years. Since such a detailed analysis of each country would be rather cumbersome, and all the countries of the former Soviet Union have regional characteristics that can be conditionally divided into four national behavioural patterns – Caucasian, Western European, Eastern European and Central Asian. One randomly selected country from each regional group was analysed. These were, respectively, Armenia, Latvia, Ukraine and Uzbekistan. Trends in the development of observance of women's rights in the Caucasus region were studied on the example of Armenia (Table 2).

When analysing the trend of the total coefficient of equality, it can be seen that after five years of stable growth in 2014, the graph is levelling off, followed by a decrease in indicators, and only in 2018 the restoration of the gender balance begins again (Fig. 1).

Table 2. Key indicators of gender equality in Armenia, 2010-2019

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Employment rate	0.66	0.68	0.68	0.66	0.66	0.67	0.68	0.68	0.59	0.6
Wage rate	0.64	0.65	0.64	0.66	0.66	0.67	0.66	0.68	0.65	0.65
Internet access rate	0.85	0.87	1	1.07	1.11	1.05	0.97	0.96	0.96	0.99
Parliamentary representation rate	0.1	0.1	0.12	0.12	0.12	0.12	0.12	0.22	0.22	0.32
Management representation rate	0.15	0.14	0.16	0.16	0.17	0.19	0.2	0.18	0.17	0.17
Total coefficient of equality	2.4	2.43	2.61	2.66	2.72	2.69	2.64	2.72	2.58	2.74

Source: World Economic Forum (2022)

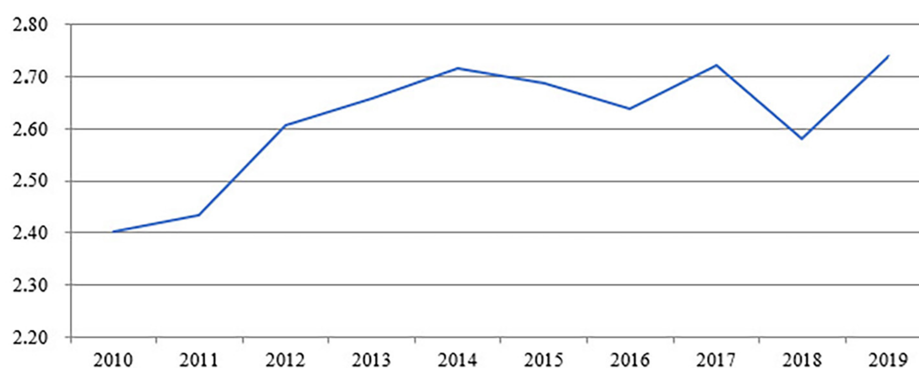

Figure 1. Chart of the development of the main indicators of gender equality in Armenia in the period from 2010 to 2019
Source: World Economic Forum (2022)

From the viewpoint of the development of civil society and the political vector of the country, the first negative trend reversal can be explained by the beginning of the second presidential term of S. Sargsyan in 2013 and the subsequent temporary curtailment of democratic reforms, and the second positive trend reversal is caused by the victory of the "Velvet Revolution" in Armenia and return to democratic values. Trends in the development of observance of women's rights in the Western European region were studied on the example of Latvia (Table 3).

The total coefficient of equality in Latvia has a clear positive trend except for a short period in 2013, which can be explained by several political crises this year, the resignation of the government and preparations for joining the Eurozone (Fig. 2).

Table 3. Key indicators of gender equality in Latvia, 2010-2019

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Employment rate	0.99	0.95	0.91	0.89	0.91	0.91	0.92	0.91	0.91	0.92
Wage rate	0.82	0.84	0.83	0.83	0.83	0.84	0.83	0.85	0.8	0.79
Internet access rate	0.96	0.97	0.97	0.99	1	0.98	0.98	1	1.01	0.98
Parliamentary representation rate	0.28	0.25	0.3	0.3	0.33	0.22	0.22	0.19	0.19	0.45
Management representation rate	2.4	2.39	2.52	1.98	2.55	2.61	2.52	2.57	2.69	2.82
Total coefficient of equality	5.45	5.4	5.54	4.99	5.62	5.55	5.46	5.52	5.6	5.95

Source: World Economic Forum (2022)

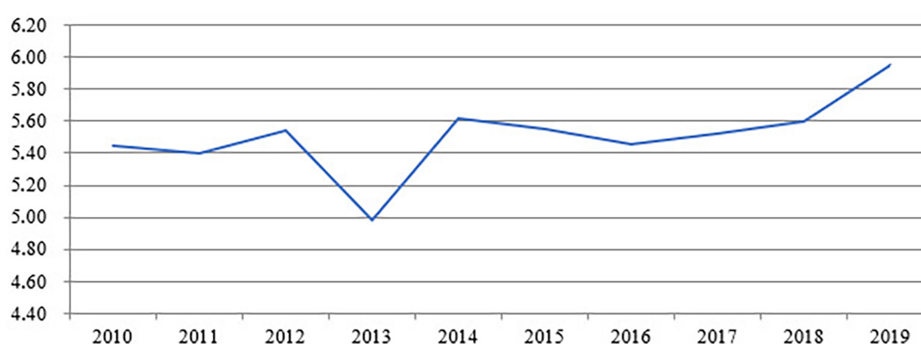

Figure 2. Chart of the development of the main indicators of gender equality in Latvia in the period from 2010 to 2019
Source: World Economic Forum (2022)

At the same time, subsequent years show the continuation of the right course towards gender balance. Characteristically, its resumption in 2014 coincides with the entry into office of the first female prime minister of Latvia, Laimdota Straujuma. Trends in the development of observance of women's rights in the Western European region were studied on the example of Ukraine (Table 4).

Gender equality indicators for Ukraine also formed a steady growth until a certain period, but since 2014 this growth has slowed down significantly (Fig. 3).

Table 4. Key indicators of gender equality in Ukraine, 2010-2019

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Employment rate	0.74	0.76	0.75	0.8	0.82	0.81	0.81	0.81	0.83	0.82
Wage rate	0.78	0.75	0.78	0.77	0.76	0.75	0.75	0.79	0.78	0.78
Internet access rate	0.83	0.89	0.89	0.92	0.96	0.94	0.96	0.97	0.95	0.97
Parliamentary representation rate	0.09	0.09	0.09	0.1	0.11	0.13	0.14	0.14	0.14	0.13
Management representation rate	0.56	0.61	0.62	0.65	0.74	0.72	0.74	0.79	0.81	0.72
Total coefficient of equality	2.99	3.1	3.13	3.24	3.38	3.35	3.39	3.50	3.52	3.42

Source: World Economic Forum (2022)

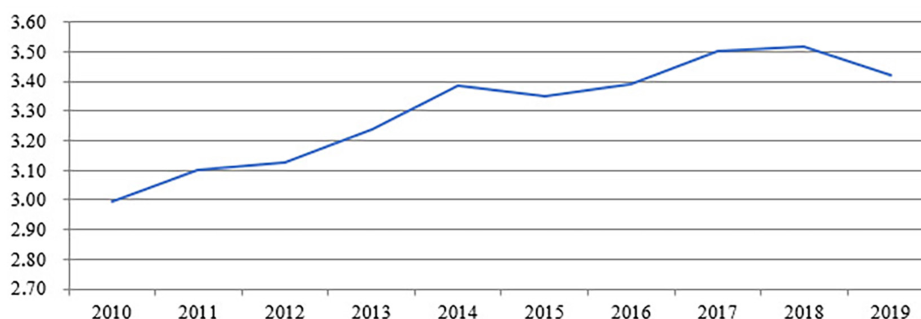

Figure 3. Chart of the development of the main indicators of gender equality in Ukraine in the period from 2010 to 2019
Source: World Economic Forum (2022)

This can be explained by armed aggression and temporary occupation of part of the territory, which could not but affect the general social situation in the country. Nevertheless, the positive dynamics of the equality coefficient is observed, which means that temporary difficulties have not prevented the further strengthening of the positions of women's equality in Ukraine. Trends in the development of observance of women's rights in the Western European region were studied on the example of Uzbekistan (Table 5).

Uzbekistan is one of the few countries in the post-Soviet space that demonstrates a steady increase in gender equality indicators over the ten years studied (Fig. 4).

Table 5. Key indicators of gender equality in Uzbekistan, 2010-2019

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Employment rate	0.83	0.83	0.83	0.84	0.84	0.84	0.84	0.84	0.84	0.81
Wage rate	0.63	0.63	0.62	0.62	0.63	0.64	0.65	0.65	0.61	0.64
Internet access rate	0.51	0.6	0.63	0.65	0.65	0.7	0.74	0.78	0.78	0.88
Parliamentary representation rate	0.28	0.28	0.28	0.28	0.28	0.19	0.19	0.19	0.19	0.19
Management representation rate	0.61	0.65	0.63	0.65	0.59	0.62	0.63	0.65	0.7	0.71
Total coefficient of equality	2.86	2.99	3	3.05	2.99	3	3.05	3.12	3.13	3.23

Source: World Economic Forum (2022)

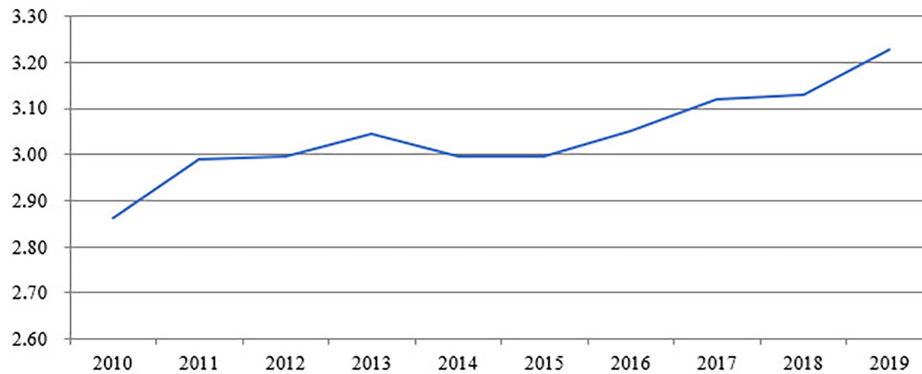

Figure 4. Chart of the development of the main indicators of gender equality in Uzbekistan in the period from 2010 to 2019

Source: World Economic Forum (2022)

At the same time, it should be remembered that although relative indicators are on a constant uptrend, in absolute terms, all key indicators have great potential for growth. Thus, key indicators of equality were obtained and compared – both as of 2019 and in dynamics over the previous decade. It can be concluded that after gaining independence, all countries are carrying out effective work to restore women's rights and maintain gender balance in all areas of activity – from confronting domestic violence to being represented in leadership positions in the highest state institutions.

Based on the results obtained, it should be noted that among the global trends aimed at the formation of gender equality, the technological development of society plays an important role. The United Nations Development Program (2023) considers equality of access to information technologies among its main tasks and makes every effort to reduce the so-called "Digital Gender Divide", which is that of the 2.7 billion people on Earth who do not have regular access to the Internet, more than two-thirds are women and girls. Also, a recent study showed that men are 21% more likely to use the Internet, while in the least developed countries, this figure reaches 52% (Rodríguez Pulgarín & Woodhouse, 2021). Social networks and the ability to freely communicate online with peers and like-minded people have the most positive impact on the formation of modern values among girls and women, regardless of where they live. Access to contemporary works of art in digital form, information about cultural events, examples of correct gender relations also have a positive impact on the formation of a real picture of the world and the place of women in it. Information campaigns, online seminars and trainings also lead to an increase in a woman's self-esteem in each case. As can be seen from the research results, the indicators of women's access to the Internet are quite high and have a positive trend.

It should be noted that in addition to national legislation and individual political initiatives at the global level, the authorized international UN WOMEN division is engaged in the protection of women's rights. This organization, founded in 2010, addresses the issues of gender equality, as well as the expansion of the rights and freedoms of women. Its powers include both cooperation with the governments of individual countries, and with representatives and representatives of civil society around the world. It is with the assistance of UN WOMEN that the necessary reforms of national legislations, the formation of fair standards and the implementation of sustainable development goals are carried out. At the same time, the organization's strategic priorities have been and remain women's unimpeded access to governance systems, a decent income and economic autonomy, freedom from violence and equal participation in humanitarian missions.

In general, the equal participation of women in labour activity, the expansion of their economic opportunities, the absence of special obstacles in entrepreneurial activity are the key to the harmonious and intensive development of human civilization and technological progress as such. Inertial processes are still strong, which are expressed in the manifestation of the national mentality and male dominance. Women still face a lack of family support and difficulties in raising capital to build personal financial independence. Access to secondary, vocational and higher education is gradually becoming equal for both sexes, but even with the necessary knowledge and a diploma, it is more difficult for a woman, other things being equal, to get a promising job and acquire practical skills. Nevertheless, the indicators of the gender equality coefficient – both at the moment and in the medium term – indicate the strengthening of women's rights in all countries of the former Soviet Union. The positive moment of these processes also lies in the fact that women who have achieved their own rights pass on these values to their children, which influences the formation of the nature of their relations with society in the future and is a guarantee of the development of a just society.

Discussion

From the above calculations and charts, it follows that the experience of resolving the gender issue has a positive trend throughout the post-Soviet space. These indicators are especially interesting if we look at them through the prism of the prevailing gender imbalance in the southern regions of the former USSR. With the advent of the opportunity to find out the sex of an unborn child even before the birth at a relatively early date, a significant part of the parents terminates the pregnancy if a girl is expected. This attitude towards the sex of an unborn child is rooted in traditions and prejudices, according to which the son is considered an assistant in the household and the guarantor of a calm old age for the parents, while the daughter, according to customs, leaves home for her husband's family. For the same reason, under formally neutral inheritance laws, the actual heir to land, real estate, and other property is the son.

This uncivilized custom of terminating a pregnancy because of the sex of a child has formed a whole demographic

phenomenon called the "Generation of Missing Girls" by sociologists in the Caucasus and Asia and has led to an imbalance of the sexes, when 115-120 boys are born per 100 girls. R. Wright (2015) studied the topic of selective abortion in more detail on the example of Armenia. He identified the main misconceptions and concluded that it was necessary to ensure proper sex education in schools and the destruction of anti-scientific superstitions about human reproductive properties. Nevertheless, despite this demographic imbalance in a number of countries, indicators of gender equality have a positive trend in the medium term throughout the entire territory of the post-Soviet space.

V. Bayramov *et al.* (2023), who also studied the issue of women's rights in the former Soviet Union, determined a direct relationship between women's participation in the country's economic life and economic growth using econometric analysis. The coefficients of equality obtained as a result of this paper for all states of the region confirm and supplement these conclusions. Similar observations, but already at the global level, were also stated by A. Saboor *et al.* (2023), who conducted a study of the evolution of society and confirmed a stable relationship between the civilizational development of certain communities and the empowerment of women in them. Among the prerequisites for development, they name a centralized information system for electronic registration of citizens and the provision of the possibility of unimpeded voting for women and for women by state bodies responsible for the observance of electoral rights. The relationship of women's political empowerment with technological change, which is the locomotive of long-term economic growth, was also studied by S. Dahlum *et al.* (2022). After analysing data from 181 countries for 221 years, they came to the conclusion that the growth of women's political influence, in particular, their right to vote and be elected, in each individual state inevitably leads to an increase in the technological equipment of this state in the short term.

Peculiarities of housekeeping in rural regions of Asian countries were also studied by N.G. Hegde (2020). According to his conclusions, despite the relatively large number of children in families and the low level of education, the development of private craft skills by women and state support for their promotion can significantly strengthen the property and social status of women even in remote areas within 3-5 years. At the same time, it is necessary to remember the high vulnerability of women in rural areas, which are most susceptible to the influence of destructive and discriminatory traditions. Among the priority challenges M. Naushad *et al.* (2022) cite the lack of rights to parental land, different approaches to raising sons and daughters, early marriages, vulnerability in everyday life. At the same time, according to the results of their research, the women's labour contribution to the agro-industrial complex is decisive in the development of the entire agricultural sector.

The cultural features of the regions studied in this article are also mentioned in the paper of P. Giuliano (2020), who studied the relationship between gender and culture. She came to the conclusion that gender roles are not genetically prescribed, but tend to change under the influence of cultural and social environments formed by family, peers and teachers. The study of these metamorphoses in a historical perspective also complements and confirms the regional trends noted in this article in the formation of the coefficient of equality. The experience of addressing the gender issue in the Baltic countries was also studied by E. Brainerd and O. Malkova (2023) through the prism of panel data related to state support for pregnant women and women who have recently given birth. The study showed that even a slight increase in maternity leaves significantly affected the mental health of the study participants and significantly contributed to the strengthening of their marriages.

At the same time, in the process of discussing the problem of gender equality, it is necessary to adhere to a single field of meanings and terminology. The issue of the difference between the concepts of "gender inequality" and "gender gap" was discussed in the paper of B. Shang (2022), where he defined gender gaps as observed differences between men and women in various social and economic indicators, and gender inequality was determined by gender prejudices and unequal rights, as well as opportunities. The influence of the state on the formation of the internal policy of social protection of women cannot be underestimated. The legislative bodies of countries independently bring the documentary base in line with modern realities. However, sometimes they do it too slowly. For example, Law of the Republic of Uzbekistan No. ZRU-562 "On Guarantees of Equal Rights and Opportunities for Women and Men" (2019) was adopted by the Legislative Chamber of Uzbekistan only in 2019.

The factor of physical development should also be taken into account – from a comparison of statistical data from different post-Soviet countries, we can conclude that there is a direct relationship between girls' access to sports and physical education and the general level of equality in the country. Therefore, it is necessary to form physical health support programs for both sexes at the state level, develop a network of sports clubs, as well as build street sports workout facilities. Investments in these programs will eventually pay off with the formation of a civil society of equal rights, which will lead to the growth of the state's economy and an increase in the social level of its citizens. Scientific activities are also one of the dimensions of freedom – a woman who has received sufficient education and the opportunity to actualize herself in science is a priori deprived, as a rule, of an inferiority complex, and her self-confidence becomes the key to further personal growth. The key thesis of many scientific papers, confirmed by the results of this research, is that the restoration of women's rights and gender justice positively affect not only women themselves, but also men, children and the well-being of society as a whole.

The results of the paper and their comparison with the experience of other studies also show that the approach to assessing indicators of gender equality in the countries of the post-Soviet space is correct. At the same time, the methodology for calculating the coefficient of equality proposed in this paper helps to see the picture more fully and pay attention to the trends that the authors listed above noted. In particular, while the Caucasus and Central Asian regions show the largest growth in relative terms, the Baltic countries lead in absolute terms. However, it is important to understand that, purely mathematically, Latvia, Lithuania and Estonia have already come close to the parity of "male" and "female" indicators in a number of indicators, i.e., to a true gender balance, the further development of which is no longer possible.

Conclusions

The data obtained as a result of the research confirm the initial hypothesis that there have been positive changes in

addressing the gender issue in all countries of the post-Soviet space. With the help of a special method for calculating the coefficients of equality for such key parameters as the level of employment, wages, access to information and representation in the highest government posts, it was possible to reduce the statistical data for all the countries under consideration into the plane of comparable values and conduct their comparative analysis. As expected, each of the states has its own speed of achieving gender equality, while the traditionally European-oriented Baltic countries have the highest rates. At the same time, in the regions of the Caucasus and Central Asia, where traditional ways and religious prejudices are strong in some places, the observance of women's rights still requires the close attention of the progressive public and state support at the level of national legislation.

For a more complete assessment of the actual state of affairs with gender equality, an analysis of the indicators in dynamics over the previous ten years was also carried out. Despite the relatively modest absolute indicators "in the moment" for the countries of the Central Asian region, the linear graphs showed that Uzbekistan demonstrates a steady increase in indicators in relative terms, which means it is moving in the right direction. The standard of living in the state and the level of economic well-being of its residents directly depend on the observance of women's rights in this society. The positive experience of Latvia, Lithuania and Estonia consists, in particular, in the unconditional implementation of international documents that guarantee gender justice; introduction of the institution of the Ombudsman for Equal Rights; elections and appointment of women to the highest state posts; coverage of territories, including provincial areas, with high-speed mobile Internet; equal access to credit funds; availability of accessible physical education facilities.

These developments and successfully implemented projects in various sectors – educational, legislative, social, banking, information, sports – should be integrated into the national economies of the rest of the states of the post-Soviet space. This, on the one hand, will solve the issue of gender equality, and, on the other hand, will give countries a tangible impetus for development.

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Conflict of interest

None.

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Досвід вирішення гендерного питання в пострадянських країнах

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Анотація. У статті розглядається досвід вирішення гендерного питання в країнах, що утворилися після розпаду Радянського Союзу. Оскільки національні та історичні особливості всіх незалежних держав помітно відрізняються, метою статті є дослідження викликів, з якими довелося зіткнутися жінкам, виявлення позитивного досвіду вирішення в кожному конкретному випадку, а також визначення загальних тенденцій таких рішень. На основі статистичних даних, опублікованих компетентними органами як самих незалежних держав, так і Європейською економічною комісією, було проведено аналіз ключових параметрів рівності, як-от: зайнятість, середня заробітна плата, рівень доступу до інформації, відносна кількість представниць на керівних посадах у державних установах та представництвах у національних парламентах, а також загальна тенденція законодавчих ініціатив, спрямованих на боротьбу з дискримінацією щодо жінок. У результаті аналізу динаміки показників визначено держави-лідери у вирішенні гендерного питання, а також зроблено оцінку розвитку цієї сфери в майбутньому. Проведений аналіз дав змогу зробити висновок, що перехід питань прав жінок у площину публічного дискурсу, відсутність замовчування проблеми, а також дотримання виборчих прав є запорукою значного зниження рівня дискримінації в суспільстві. Практичне значення дослідження полягає у визначенні країн-лідерів, у яких гендерне питання вирішено позитивно, а також у формулюванні на основі їхнього досвіду рекомендацій для країн, де гендерний баланс усе ще не дотримується, що призведе до загального посилення захисту прав жінок

Ключові слова: гендерна рівність; дискримінація; соціальний захист; традиційні громади; свобода особистості

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Political and legal assessment of the Budapest Memorandum: From Ukraine's renunciation of nuclear weapons to the annexation of the Crimean Peninsula

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Abstract. The current state of Russia's military aggression against Ukraine, which resulted in a violation of territorial integrity and sovereignty, makes this study relevant. The Budapest Memorandum's contents, its importance for Ukraine, and an examination of the post-bipolar international communications system are the work's primary objectives. The scholarly article's methodological techniques aid in illuminating the theoretical and practical facets of these procedures, enabling a political and legal evaluation of the Budapest Memorandum and its effects on Ukrainian politics. The methods of deduction, induction, synthesis, logical analysis, dialectical methodological approach, and others should be included in this category of methodological approaches. The Budapest Memorandum's features and its function in maintaining nuclear security were identified during the study, as was the effect of Ukraine's nuclear disarmament in the context of the Crimean Peninsula's annexation. Other factors that allowed for a political and legal evaluation of the subject under investigation included the foreign policies of nations that guaranteed Ukraine's national security but failed to carry out their commitments. The results of the study helped to establish the effectiveness of the Memorandum in the context of nuclear safety guarantees and provide recommendations on their maintenance, which will help in improving the

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mechanism of international security. By evaluating the political and legal effectiveness of the Budapest Memorandum's nuclear security guarantees for Ukraine, this study provides recommendations to improve the mechanism of international security commitments and prevent future violations of territorial sovereignty

Keywords: foreign policy; nuclear weapons; norms of international law; act of aggression; ratification

Introduction

The increased level of political tension in the international arena in connection with the phenomena of the military and crisis processes on the territory of Ukraine is the subject of research in the field of political science, law and economics. The prominent place in such studies is given to the discussion on the annexation of the Crimean Peninsula from Ukraine and its accession to the territory of the Russian Federation, which has received a large number of assessments from many states and international society as a whole. But despite the considerable amount of research on this topic, there is no objective political and legal analysis thereupon.

As a result, it is worth considering the Budapest Memorandum in the first place, due to the fact that its provisions serve as a guarantor of nuclear safety. This act was concluded between Ukraine, the USA, Great Britain and Russia on December 5, 1994. The reason for this is that Ukraine joined the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) (Budapest Memorandum…, 1994). Studying the history of the Budapest Memorandum's conclusion is required before delving more into its contents and relevance.

Tensions in several areas made it more necessary to prevent the spread of nuclear weapons in the post-Soviet sphere as a result of the events leading up to the dissolution of the Union of Soviet Socialist Republics. Therefore, Ukraine, Republic of Kazakhstan, Belarus, Russia and the USA concluded the Lisbon Protocol in 1992, according to which Ukraine, Republic of Kazakhstan and Belarus renounced nuclear weapons and transferred them to the territory of the Russia (Protocol to the Treaty…, 1992). But along with the conclusion of this treaty, Ukraine still sought to obtain security guarantees in exchange for giving up nuclear weapons. Thus, in this regard, a meeting of the heads of state was held in Budapest, the capital of Hungary, to reach exact agreements and ensure the territorial integrity of the republics of the post-Soviet space. As a result, in the context of a state like Ukraine as a non-nuclear weapon state party to the Treaty, the Budapest Memorandum has evolved into an agreement that certifies the fulfilment of obligations and the provision of guarantees on the territorial integrity of the OSCE Final Act, the UN Charter, and the NPT (Haupt, 2021).

Many scientists support the idea that the Budapest Memorandum is an international agreement that includes safeguards against the use of nuclear weapons and breaches of Ukraine's territorial integrity (Belkin, 2017). But it's crucial to remember that Russia violated this deal when it annexed the Crimean Peninsula, especially in view of the current situation in Ukraine. Following this, the Budapest Memorandum's provisions being broken causes the commitments to refrain from using nuclear weapons to start seeming like rhetoric. As a result, for the full functioning of the nuclear non-proliferation regime, the issue of creating an international agreement that is more perfect according to the legal technique begins to acquire special relevance (Pacek & Pavelko, 2019; Meyer, 2019). There are those who maintain that the Budapest Memorandum effectively guarantees the territorial integrity and security of nations that do not have nuclear weapons, while others contend that the Memorandum never included guarantees regarding the non-use of nuclear weapons or the preservation of state sovereignty (Yost, 2018).

Taking into account the current implications for Ukraine, it is imperative to perform a thorough analysis of the provisions of the Budapest Memorandum, as well as its role as an international agreement and guarantor of nuclear security. Additionally, it is important to investigate other aspects that can offer a broader political and legal assessment.

Materials and methods

The relevance of carrying out scientific work within the framework of the Budapest Memorandum study and providing its political and legal assessment is conditioned upon the legal analysis of its provisions, the impact on the situation in Ukraine in the context of the annexation of the Crimean Peninsula, which is possible because of various methodological approaches used in this research.

Thus, the method of legal hermeneutics is quite important, which provides an opportunity to study the provisions of the Budapest Memorandum through an objectified and subjective interpretation of the understanding of its provisions. Highlighting further the dogmatic method of legal cognition, which makes it possible to trace the trend of development and formation of the Budapest Memorandum, the reasons for its adoption and its place in a number of international treaties regulating the nuclear disarmament of States.

Also considering such a special method as the analysis of the structure of legal doctrines, it is possible to learn in more detail the structure of the Budapest Memorandum and explore its legal provisions in the context of nuclear disarmament of Ukraine, with the relevant events being taken into account.

By studying complex legal phenomena as parts of a unified legal system, the systematic approach makes it possible to examine international treaties that govern states' rights and obligations in nuclear disarmament through the lens of a unified framework for guaranteeing state security in nuclear disarmament, particularly the guarantors of Ukraine's rights to security and territorial integrity.

The sociological method used in the research allows exploring the value of the provisions Budapest memorandum through the lens of the phenomenon of aggressive actions against the national security and integrity of Ukraine, in particular, in the context of the annexation of the Crimean Peninsula. Also, this methodological approach makes it possible to track the condition of the inhabitants of the Crimean Peninsula and the guarantor of their rights and freedoms in modern conditions of manifestation of military aggression of Russia against Ukraine.

Quite important in carrying out scientific work is the method of logical analysis, which also allows analysing the impact of the military aggression of the Russia on the policy and the Ukrainian state, and whether Ukraine really contradicted the national interests of the Russia, for the resolution of which the annexation of the Crimean Peninsula was

mandatory. The axiological method of research shows the impact of the Russian aggressive actions in relation to the politics, security and integrity of Ukraine and what place the provisions of the Budapest Memorandum occupy as their guarantor.

Thus, the authors identify the following main stages of the ongoing scientific work:

1. The first is the study of the theoretical component of this study, namely, the analysis of the Budapest Memorandum as a guarantee of nuclear safety and a source of international law, as well as highlighting the inherent characteristics of this process.

2. The second is based on a comparative analysis, namely, the consideration of Ukraine's policy in terms of renouncing nuclear weapons in connection with the annexation of the Crimean Peninsula.

3. The third aids in integrating the data gathered on the subject matter, which subsequently offers a chance to accomplish the primary objective of scientific endeavours – obtaining an evaluation of the political and legal significance of the Budapest Memorandum and Ukraine's nuclear disarmament.

Results and discussion

Budapest Memorandum in the system of the International nuclear safety regime

The nuclear non-proliferation regime is one of the constituent elements of the modern treaty system in the international arena. It is defined as a security regime that includes the principles of functioning, rules and norms through which the behaviour of states is regulated (Meyer, 2019).

The majority of States parties to the NPT renounce the right to develop and possess nuclear weapons; conversely, a smaller number of States parties refuse to transfer such weapons to non-nuclear countries. This provides the legal foundation for the international nuclear security regime (Treaty on the Non-Proliferation…, 1968). In today's conditions, the nuclear non-proliferation regime should be understood as a system of normative legal acts and treaties in the field of nuclear disarmament and nuclear non-proliferation, as well as various organizations and institutions whose activities are aimed at maintaining this international regime (Hamidi, 2020). In general, compliance with the international regime disarmament and non-proliferation is one of the key areas in the field of international security.

In an international legal regime, there are two primary components that need to be distinguished: general and special. The general section contains universal documents that serve as the cornerstone for ensuring nuclear safety, i.e., the use of this material for peaceful purposes and the prohibition of its distribution in any manner. Considering the special part, it contains documents that are applied within a specific territory, and also allow for specifying and detail the provisions of the documents of the general part (Mian, 2021).

The general part documents should be understood as intended to be used as a guide when armaments are eliminated by the use of atomic weapons and the transition to a peaceful use of this energy. These consist of the NPT, the United Nations Security Council (UNSC) resolution on the prevention of the use of nuclear weapons, International Atomic Energy Agency acts regarding the peaceful use of nuclear energy, and other agreements (Plokhy & Sarotte, 2020).

Considering the documents that should be attributed to a special part, these include such as the Draft Model Convention on Nuclear Weapons, Bilateral Agreements on the Reduction of Nuclear Capabilities of Contracting States, the Treaty of Tlatelolco, the Treaty of Rarotonga, the Bangkok Treaty and others (Cella, 2020).

The Budapest Memorandum is not limited to the territorial scope of its application, it contains obligations of nuclear States not to use nuclear weapons of a legal nature and, as a result of this definition, it can be considered as providing an effective guarantee to ensure nuclear safety. Based on this, it is to determine role of this document in the international system for the non-proliferation of nuclear weapons.

First of all, it is necessary to analyse the provisions of the Budapest Memorandum. Generally speaking, its text can be divided into two semantic parts: the first is the obligations related to abstaining from actions that might violate Ukraine's territorial integrity and sovereignty, such as rules pertaining to aiding the country in the event that it is the target of nuclear-armed aggression; the second is the obligations related to the non-use of nuclear weapons against nations that do not possess them, with the exception of situations in which a nation uses them against nations that do (Budapest Memorandum…, 1994).

It is noteworthy that, in line with the terms of the Vienna Convention on the Law of Treaties (1969), the Budapest Memorandum has the status of an international treaty. Thus, it is concluded in the format of a written opinion between states and this Memorandum is governed by international law, namely such legal acts as the OSCE Final Act, the UN Charter, the regime established by the NPT, as well as CFE. Also, the circumstance that defines the Budapest Memorandum as the status of an international treaty is that an international treaty acting as an agreement between states and defining legally significant circumstances for the participating states can be called a "memorandum".

The countries participating in the agreement sent a letter to the Secretary General, who is the depositary of the Conference on Disarmament, requesting registration of the Budapest Memorandum as an official document of the Conference on Disarmament. As a result of these actions, the Budapest Memorandum was qualified by the UN in the status of an international agreement on nuclear disarmament (Cladi, 2021).

Based on the above, the Budapest Memorandum should be qualified as an international treaty. Further analysing the Budapest Memorandum, it should also be mentioned that it has the character of a regional treaty that was adopted after the NPT entered into force, i.e., it is a subsequent treaty. However, if we proceed from the obligations of nuclear states, namely Russia, Great Britain and the USA, on the obligation not to use nuclear weapons worldwide, and the allocation of territorial coverage of nuclear weapons, then in this case it can still be summed up that the Budapest Memorandum will be a higher priority international treaty than the NPT, since the Budapest Memorandum contains guarantees of an effective nature in the event of a nuclear war, therefore the provisions of this international treaty are of fundamental importance as the embodiment of the NPT regime (Haupt, 2021).

Based on these statements, it can be concluded that the violation of the obligations of the Budapest Memorandum will be considered not just as a violation of an international treaty.

Thus, when examining the terms of Art. 60 of the Vienna Convention (1969), it is important to keep in mind that the parties to the Budapest Memorandum have the right to suspend it in whole or in part because, in the event that its provisions are broken, improper measures to prevent the use of force in international affairs will result, particularly when the obligation to refrain from using nuclear weapons is violated.

In the provision of Art. 5 of the Budapest Memorandum, which outlines procedures and means for protecting States that have suffered as a result of the States parties to the Memorandum using nuclear weapons (Budapest Memorandum…, 1994). In this case, it is also worth considering Art. 35 of the Vienna Convention (1969), which gives only third States that are not parties to the agreement the opportunity to enjoy the rights that are highlighted in this agreement, without considering the provision of protection to such States in case of violation of their rights. Provided that the Budapest Memorandum is positioned as provisions of special norms in relation to the NPT, it provides an opportunity for countries that have suffered from nuclear weapons to take advantage of the regime interpreted in the NPT as providing a guarantor of recognition of the rights of the State violated.

Thus, after analysing the provisions of the Budapest Memorandum, it should be concluded that this agreement should be considered as an international treaty that ensures the implementation of the NPT regime. Proceeding from this, the issue of the effectiveness of such a regime, guaranteed by the Budapest Memorandum, on the territory of Ukraine is gaining particular importance.

The significance of the Budapest Memorandum as a guarantor of national security and sovereignty of Ukraine

Russia's full-scale aggression against Ukraine resulted in actions that caused the international relations system to collapse. They are linked to the latter's integrity and national security being violated, which makes it crucial to assess the act's significance as well as its legal and political aspects with regard to Ukraine.

The path towards achieving a nuclear-free state was one of the important factors in forming Ukraine's foreign policy in the context of the formation of independence and the strategy of subjectivity in international relations. This course helped to ensure the strengthening of the international position of Ukraine. According to some scientists, in case of non-compliance with such a policy, it would be impossible for the Ukrainian state to receive the support of the international community (Casey-Maslen, 2021). The disarmament of Ukraine had an impact not only on the security sector, but also provided an opportunity for the state to take a place in the international community among the democratic states of the world and take part in various integration associations. The situation was made worse at the time by the fact that, despite its advantageous geopolitical location, Ukraine would remain *terra incognita* to the world after the USSR collapsed because it lacked trustworthy allies and the diplomatic war for independence was only getting underway. Based on this, the young independent state needed economic and political support for reforms (Baskakova, 2021).

The Russia was willing to sign the Budapest Memorandum in order to legitimize Ukraine's nuclear disarmament and to guarantee its territorial integrity and sovereignty, but it was unwilling to fulfil its obligations because it saw the post-Soviet space as a domain of its "privileged interests," which led to the former Soviet republics' involvement in initiatives for geopolitical and economic integration.

Having received assurances of public confirmation by the nuclear states of the provision of guarantees for the national security of Ukraine at the OSCE summit in Budapest on November 16, 1994, the Verkhovna Rada of Ukraine adopted the Law "On Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968". This document confirmed that Ukraine possesses nuclear weapons, which were inherited from the USSR. The fact that applying economic pressure to Ukraine will be viewed as a threat to the country's security and national interests, as will the threat or use of force against the country's inviolable borders or independence, is the subject of much attention. Paragraph 6 of the Law on Ukraine's accession to the NPT states that this law will come into force after the nuclear states provide Ukraine with security guarantees, which will be formalized by the relevant international legal document (Law of Ukraine No. 248/94-VR…, 1994).

During the Budapest Summit, which took place on December 5, 1994, the OSCE ensured the exchange of instruments of ratification of the START-1 Treaty (Treaty Between the United States…, 1991). This meant that the document came into force, and, consequently, its practical implementation by the participants. Also, the documents on Ukraine's accession to the NPT were handed over by the President of Ukraine Leonid Kuchma to the depositary states. The leaders of Ukraine, the United States, Great Britain and Russia signed a Memorandum of Security Guarantees.

In this document, the four nuclear states acted as guarantors of security and pledged to refrain from economic pressure aimed at subjugating the implementation of rights by Ukraine, and thus gain any advantages (Treaty Between the United States…, 1991). Moreover, the US, UK and Russia have pledged to seek immediate action from the OSCE if Ukraine becomes the victim of aggression. In the event of circumstances threatening Ukraine, the guarantor states are obliged to hold consultations. On December 5, 1994, France and China unilaterally provided their security guarantees to Ukraine (Treaty Between the United States…, 1994).

The significance of the Budapest Memorandum is quite large in ensuring the national security of Ukraine. Considering the positions of some scientists, they believe that this agreement has actually changed the geopolitical situation in Europe, and, moreover, the unprecedented situation was highlighted and the nature of this document is international legal, which clearly fixes the territorial integrity and sovereignty of Ukraine (Bolton & Minor, 2021). However, such overestimation of the significance of the Budapest Memorandum was inherent only in the initial period of the establishment of Ukraine's independence. The Budapest Memorandum is not an international agreement in the way it is formulated in the Vienna Convention. This conclusion is based on the fact that the obligations are fixed on a formal basis, although in essence, they are international legal obligations. Moreover, considering the title of the document c – Budapest Memorandum on Security Assurances, it can be concluded about the compromise nature of the Budapest Memorandum, because instead of the word guarantees, assurances are used (Egeland *et al.*, 2018).

The lack of ratification of the Budapest Memorandum by the participating States deprived it of its political and legal

character, reducing the legal obligations of the participating States to being only political. This in turn contradicted the Law of Ukraine "On Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968" (1994), because it noted that it comes into force after the nuclear states provide Ukraine with security guarantees, which are formalized by signing an international legal document.

The Budapest Memorandum, which imposed political obligations on the nuclear-weapon States of the permanent members of the UNSC, was a crucial document during the establishment of the post-bipolar system of international relations. Similar today were the Minsk agreements, which, despite the absence of a ratification procedure by the parliaments of the participants in this process, were agreed upon by the leaders of the Normandy Four states and approved by a resolution of the UNSC (Minsk agreements, 2014). In essence, the Minsk agreements were not legally binding, but their political significance was enormous, since their implementation was precisely what the Western sanctions against Russia were connected with.

International relations are deeply in crisis as a result of Russia's invasion of Ukraine's territorial integrity and sovereignty. Moreover, Russia refuses to negotiate in the Budapest format, trying to distance itself from the political and diplomatic solution of de-occupation of the territory of Ukraine. Russia's aggression against a state that voluntarily renounced its nuclear potential in exchange for security guarantees called into question the entire security system in Europe and the world, and also became a serious test for the nuclear non-proliferation regime, levelling the NTP (Trofimovich, 2020).

Proceeding from the above, the Budapest Memorandum, which is noted as a factor in legitimizing the nuclear disarmament of Ukraine, made an important contribution to the formation of Ukraine's foreign policy in the new geopolitical conditions and the implementation of the strategy of subjectivity in international relations. In those international conditions, the preservation of nuclear potential threatened Ukraine with deep international isolation, and in the future, the loss of Ukraine's sovereignty at all because of another possible subordination to Russia. It is also noted that without Ukraine's ratification of the START-1 Treaty and accession to the NPT, it would be impossible to form a new post-bipolar system of international relations and strengthen the nuclear non-proliferation regime. Receiving financial assistance and security guarantees from nuclear states provided Ukraine with an opportunity to continue integration into Pan-European financial and security structures, and, no less importantly, to continue implementing market reforms and liberalizing socio-political life.

Violation of the territorial integrity of Ukraine in the context of the annexation of the Crimean Peninsula

However, in the end, Russia attacked Ukraine, which, along with the signatory states' insufficient response, revealed a significant gap between the widely accepted norms and principles of international law and geopolitical reality. This is particularly evident in the circumstances surrounding the annexation of the Crimean Peninsula.

Studying the reasons and effects of the annexation of the Crimean Peninsula in greater detail is necessary in order to assess the extent to which the Russia violated the sovereignty and territorial integrity of Ukraine.

First of all, it is necessary to consider how Ukraine might violate Russia's national interests and strategic priorities in the territory of the Crimean Peninsula and why the only option for the Russian Federation to resolve the issues existed was to annex this area. Russia's National Security Strategy states that the country's interests are in developing democracy and civil society, making the economy more competitive, preserving the integrity of the constitutional order, and becoming a global state whose actions are intended to uphold strategic stability and mutually beneficial cooperation in a multipolar world (Decree of the President…, 2021). Russia's security or national interests are not threatened by Ukraine's policy, according to an analysis of specific threats to national security in the areas of military security, economics, science, technology, education, healthcare and public health, and culture, among other areas. On the other hand, Russia's actions on the Crimean Peninsula go against the fundamental ideas governing the security of European states.

The annexation of Crimea provided space for military and political manoeuvres for the Russian Federation. There was a possibility of using the territory of the peninsula to deploy missile systems and aircraft closer to the borders of Romania and Bulgaria as a new counterargument in the dispute with the United States over the deployment of a missile defence system in Europe. The Russian Federation, in its turn, would be able to strengthen its transport infrastructure in the Caspian-Black Sea region (Baskakova, 2021). In this case, the national interests of Ukraine are again being oppressed. There is a full threat to transport security due to the loss of Ukraine's access to the seaport in Kerch, and the loss of soapy territory from the extreme points of each coast of the peninsula, which as a result provides Ukraine with the loss of the status of the state with the longest line of the Black Sea coast.

The next reason is the prevention of political changes in Ukraine, which may subsequently pose a threat in the future to change the power, structure and foundations of the formation of the vertical of power in the Russia. The destabilization of the situation in Crimea leads to a split in relations between the Russian and Ukrainian peoples, as a result of which the Russian people do not support the ongoing changes in Ukraine. The state structure in Russia in this case remains adamant (Pacek & Pavelko, 2019).

By annexing Crimea, Russia established full control over the Kerch-Yenikalsky canal. As a result of this act, the profit can be up to 100 million US dollars per year (Plokhy & Sarotte, 2020). Also, having the canal controlled, Russia can significantly strengthen its influence on Ukrainian enterprises located in the territory of the Donetsk basin. Having lost the Strait, the Donetsk basin will lose a significant part of communication with the world, in particular, transport communication. This applies to the export of metal, coal, grain and other export goods. Russia needs the assets of the economic segment of the south-east of Ukraine in order to have time to complete the modernization of the army. This is impossible without a number of high-tech enterprises in Ukraine (Temnycky, 2022). In addition, control over the situation in Ukraine can strengthen the stability of the economic sector of the Russia. This reason has a significant impact on the continuation of aggressive actions, but already in the continental part.

After analysing only some of the causes and possible consequences of the military invasion of Crimea, it can be

concluded that Ukraine's policy did not threaten the interests of Russia. The invasion of the Russian troops on the Crimean Peninsula 'over the protection of Russian citizens and ethnic Russians' was not the true reason. Thus, there is an urgent need to amend the legislation of Ukraine, which regulates and ensures the country's activities in the field of military and national security.

In addition to violating the territorial integrity of Ukraine, Russian authorities systematically commit human rights violations on the territory of the Crimean Peninsula. International actors must adequately respond and prevent such violations. Eliminating international conflicts and new violations of human rights and freedoms by nations within the relevant territory are the goals of international law. First and foremost, this is about the limitations placed on the rights of the peninsula's native people, the Crimean Tatars, and those who oppose the peninsula's annexation and return to Russia. These rights include the freedom of speech and peaceful assembly, as well as the arbitrary detention and arrest of people who support the Ukrainian Crimea, the shut-down of Ukrainian channels, and many other things (Belkin, 2017).

Thus, the Russian-Ukrainian hybrid war demonstrated the declarative nature of the Budapest Memorandum, because, despite the open armed aggression of Russia, the signatory states, faced with the threat of a new stage of the Cold War, could not fulfil their obligations in Ukraine.

Conclusions

The Budapest Memorandum is declarative in nature because the signatory states are unable to fulfil their obligations to Ukraine in the context of the Russian-Ukrainian War, to guarantee its national security and the preservation of territorial sovereignty. This conclusion was reached after conducting a scientific study in the field of studying the Budapest Memorandum and Ukraine's renunciation of nuclear weapons in the conditions of the annexation of the Crimean Peninsula. These conclusions were made based on the study of theoretical and practical aspects that allow analysing the significance of the Budapest Memorandum.

First of all, an important stage is the analysis of the Budapest Memorandum, according to which this agreement should be considered as an international treaty that ensures the implementation of the regime of the NPT.

It was also mentioned that the Budapest Memorandum plays a role in justifying Ukraine's nuclear disarmament, which significantly influenced the country's foreign policy development in light of the country's new geopolitical environment and the application of the subjectivity strategy in international relations. In those international conditions, the preservation of nuclear potential threatened Ukraine with deep international isolation, and in the future, the loss of Ukraine's sovereignty at all because of another possible subordination to Russia.

Nevertheless, in the end, Russia attacked Ukraine, and this, along with the signatory states' insufficient response, revealed a significant gap between the widely accepted norms and principles of international law and geopolitical reality. This is particularly evident in the circumstances surrounding the annexation of the Crimean Peninsula.

After analysing only some of the causes and possible consequences of the military invasion of Crimea, it can be said that Ukraine's policy in no way threatened the interests of Russia. In addition to violating the territorial integrity of Ukraine, the authorities of Russia commit systematic violations of human rights on the Crimean Peninsula. The international community should adequately respond and prevent such violations, since the purpose of the international legal system is to prevent international conflicts, as well as to prevent States from failing to ensure human rights and freedoms in the relevant territory. Because of the aforementioned, it is essential to think about whether a larger range of measures could be incorporated into the legislation in order to protect Ukraine's national security.

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Conflict of interest

None.

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Політико-правова оцінка Будапештського меморандуму: від відмови України від ядерної зброї до анексії Кримського півострова

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Анотація. Актуальність дослідження зумовлено сучасною ситуацією прояву воєнної агресії Росії проти України, яка призвела до порушення територіальної цілісності та суверенітету. Основні завдання – вивчити зміст Будапештського меморандуму, його важливість для України та дослідити постбіполярну систему міжнародних комунікацій. Методологічні прийоми наукової статті допомагають висвітлити теоретичні та практичні аспекти цих процедур, уможливлюючи політико-правову оцінку Будапештського меморандуму та його впливу на українську політику. До цієї категорії методологічних підходів належать методи дедукції, індукції, синтезу, логічного аналізу, діалектичний методологічний підхід та інші. Під час дослідження визначено особливості Будапештського меморандуму та його функцію в гарантуванні ядерної безпеки, а також вплив ядерного роззброєння України в контексті анексії Кримського півострова. Серед інших факторів, що дали змогу здійснити політико-правову оцінку досліджуваного об'єкта, була зовнішня політика держав, які гарантували національну безпеку України, але не виконували взятих на себе зобов'язань. Визначено ефективність Меморандуму в контексті гарантій ядерної безпеки та надано рекомендації щодо їх забезпечення, що сприятиме вдосконаленню механізму міжнародної безпеки загалом. Оцінюючи політичну та правову ефективність гарантій ядерної безпеки України, передбачених Будапештським меморандумом, це дослідження дає рекомендації щодо вдосконалення механізму міжнародних зобов'язань у сфері безпеки та запобігання порушенням територіального суверенітету в майбутньому

Ключові слова: зовнішня політика; ядерна зброя; норми міжнародного права; акт агресії; ратифікація

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Comparative analysis of war veterans' adaptation programs to civilian life in Ukraine, Great Britain and the USA

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Abstract. The relevance of the study is due to the full-scale invasion of Russia into Ukraine with the use of brutal and aggressive actions, which entail consequences in the form of a large psychological impact on the health of the population, especially the military. The purpose of the article is to determine the most favourable programs for adapting the military to civilian life, which can be distinguished using a comparative analysis of the experience of different countries. During the research, a number of such methods were used, such as the theoretical method, the method of comparative analysis, the functional method, the method of logical analysis, the method of deduction, and others. It was determined that it is important to apply the experience of Great Britain and the United States during the development of adaptation programs, since a feature of the policy of these countries is the use of the labour potential of servicemen released into the reserve, which is characterized by high efficiency. The main directions during the implementation of adaptation programs in the analysed countries are cultural and socially significant events, providing veterans with preferential medical care, assistance in training according to their own unique programs, in employment, as well as providing assistance to the families of military personnel. An analysis of Ukraine's experience was carried out, in accordance with which the contents of such programs of military adaptation to civilian life as "NATO-Ukraine" and "Ukraine-Norway". It was determined that they are characterized by high efficiency, which is due to significant results and the implementation of programs in difficult conditions, which pose complex tasks

Keywords: combatants; medical and psychological rehabilitation; post-traumatic stress disorder; mental health; prevention system; international experience

Introduction

Eight years of experience and modern challenges created by the full-scale war of 2022 convince that the success of social adaptation of war veterans depends on a complex of social, economic and psychological rehabilitation measures. After all, the success of adapting the socio-economic plan depends on a significant list of prerequisites of a medical, economic and psychological nature. If the task of medical rehabilitation is to restore the lost functions and properties of the human body, then socio-psychological rehabilitation aims to overcome or reduce the impact of psychological problems for the normal existence of an individual in society and prevent its degradation. However, one of the prerequisites for the successful adaptation of the studied population category should be the growth of the country's economy, which would allow for an increase in funding for social protection of this category. Unfortunately, the existing system of rehabilitation of war veterans in Ukraine is not comprehensive and does not meet the standards of advanced countries in the world in working with military personnel. Examples of unsuccessful adaptation to the conditions of peaceful life of many servicemen also prove the relevance of this problem (Buryak, 2014).

The relevance of the implementation of psychological rehabilitation in the complex manifestation of military personnel, released to the reserve, as well as their relatives is due to a sharp change in their living conditions and the lack of prior psychological preparation for the corresponding changes in life. It is worth noting that since the majority of servicemen are released into the reserve at a working age, the issue of adaptation to new living conditions in a peaceful society of discharged servicemen and their families, as well as the rehabilitation of their mental health, which will provide an opportunity to bring benefit to society and the family (Kokun, 2014). For people who have devoted their entire conscious life to military service, the issue of their social adaptation remains paramount. They usually take a long time to adapt to civilian life. The following circumstances complicate this situation: a radical change in all aspects of one's life; urgent need for career guidance after leaving the service; the employer gives an indisputable preference to younger employees; inconsistency of the level of military education with the requirements of the market and employers (Buryak, 2015).

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Thus, it is important to retrain servicemen released to the reserve for new professions, to help them overcome a certain psychological barrier in choosing a new profession that has a stable demand on the labour market, to help them develop personal qualities for further employment or mastering skills, and skills to create your own business (Shapovalova, 2014; Zlyvkov, 2017).

The novelty of the problem and its growing relevance forces to look for non-standard solutions, to review existing approaches and methods. In order to create an effective system of socio-economic and psychological adaptation of servicemen, their families and the families of the deceased, it is necessary to build an effective system of adaptation of servicemen to civilian life and, first of all, to make a thorough analysis of the current situation, existing experience, and only on this basis to improve and develop new forms of social work with servicemen released from military service. Additionally, there are fewer incentives to serve in the military and a fall in the prestige of serving, which has a negative impact on the social adaptation system.

The purpose of the research is to determine the most favourable programs for adapting the military to civilian life, which can be distinguished using a comparative analysis of the experience of different countries.

Literature review

The social, economic and military-political processes taking place in Ukraine in recent years have actualized the issue of adapting the social orientation of military personnel, released into reserve and their relatives. The importance of research in this area is due to the difficulty of adapting discharged servicemen to civilian life, the transformation of their social and legal status, the change in the external environment, the loss, as a result of military service, of a professional speciality for work in civilian professions, as well as the low level of personal income and material well-being of families. In the period between World War, I and II, scientists held the opinion that only persons whose psyche is weak and unstable are prone to psych traumatization, and mental trauma itself was ridiculed and considered synonymous with cowardice. However, such views were refuted during the World War II, because despite the use of psychological selection measures for military service, which were used in different countries, psychological losses only continued to grow (Zlyvkov, 2017). Researchers of military social work H.-G. Hofer *et al.* (2011) point out that nervous disorders are a natural result of the impact of significant mental stress on people, that is, it is a reaction of a mentally healthy person to death, and a mental disorder is a means of avoiding these horrors. Similar opinion and researchers M.J. Horowitz and G.F. Solomon (1975), for example, they studied the emergence of neurosis on the battlefield is caused by excessive demands on the personality of a military person, which are much greater than his own psychological resource.

At the same time, Israeli scientists have a different opinion. Through their own empirical research, they provide convincing evidence that there is a correlation between the lack of combat experience, the presence of previously received trauma of a mental nature and the possibility of developing a mental disorder in the course of hostilities. Studying the war in Lebanon (1982), they came to the conclusion that psycho-traumatization depends on the level of intensity of hostilities. It is important that, according to a study by Israeli specialists, psycho-traumatic disorders often occur not during active combat or after it, but under conditions of waiting for a long-term enemy attack without the active use of weapons (Shevchuk & Mentukh, 2017). In the period of the hybrid war with Russia, when, despite the Minsk agreements, Ukrainian servicemen have to constantly expect and repel attacks by Russian troops, such information is extremely important for this study. The "denial-denial" theory was frequently used in the process of developing the psychological support system for military personnel in different armies across the globe. For example, Great Britain during the First World War sent wounded servicemen as far away from the front line as possible. However, the French command abandoned this practice, the French military began to receive psychological help near the combat zone, which immediately increased the percentage of people who returned to the army, unlike the British military, who, after evacuation, usually remained in peaceful territories. Subsequently, such experience was applied by the American command, which proved that a few days of rest in the rear would allow restoring mental balance (Zlyvkov, 2017).

In general, analysing scientific sources, it can be stated that science in Ukraine has not yet sufficiently studied the psychological aspects of the process of rehabilitation of participants in local wars. Confirmation of this opinion is the absence of state scientific programs dedicated to researching the problems of combatants. Considering the fact that the majority of military personnel are unable to return to the system to the norms of civilian life and peacetime, there is a need for a special, fixed period of organized psychological return of participants in military conflicts to peaceful life. That is, in the process of social and psychological rehabilitation. Therefore, in the opinion of I.B. Kovalova and V.I. Mozgoviy (2016), in order to solve the tasks of rehabilitation of a psychological orientation, the creation of a single Centre for the rehabilitation and adaptation of combatants, whose functions would be interdepartmental and interdisciplinary in nature, namely scientific, practical, informational, expert, diagnostic, and educational-methodological, is relevant. In general, it can be noted that a significant number of works devoted to the social adaptation problems of servicemen released to the reserve are represented in the scientific literature. This problem was the subject of attention of many special conferences and scientific-methodological seminars held in Ukraine in recent years, as a result of which collections of articles were published, which proves the relevance and multifacetedness of this problem both in Ukraine and abroad. Nevertheless, a thorough approach to resolving the issue of military personnel's difficulty adjusting to civilian life is absent from scientific sources, which only cover a portion of the issue.

Materials and methods

Conducting research, the field of study of which is the implementation of a comparative analysis of programs for the adaptation of veterans to civilian life in Ukraine, Great Britain and the United States of America (USA), was carried out using various methods, which provided an opportunity to reveal the content of the work from various aspects. Applying the functional method, the relevance of the research, its key purpose and practical value were determined. The method of logical analysis provided an opportunity to analyse the experience of implementation of programs for the adaptation

of military personnel to civilian life in Ukraine and in certain other countries, which helped to identify characteristic features, principles of implementation, content of programs and inherent characteristics. By implementing the method of comparative analysis, the common and distinctive features of the adaptation programs were characterized, and their effectiveness was assessed. The theoretical method made it possible to conduct an analysis of the basic principles of the process of providing psychological assistance to military personnel, which consists in the diagnosis of psycho-emotional conditions, conducting psychological counselling in the form of individual conversations or family counselling, psycho corrective work, training, teaching self-regulation skills and professional help in professional self-determination.

The dogmatic method helped to clarify the peculiarities of the policy of Great Britain and the United States regarding the implementation of programs for the adaptation of the military to civilian life, which consist in carrying out cultural and socially significant events, providing veterans with preferential medical care, assistance in training according to their own unique programs, in employment, and as well as assistance to the families of military personnel. The formal and legal method helped to conduct an analysis of Ukraine's experience, in accordance with which the contents of such programs of military adaptation to civilian life as "NATO-Ukraine" (North Atlantic Treaty Organization) and "Ukraine-Norway. Retraining and social adaptation of military personnel and their family members in Ukraine" were revealed; it was determined that they are characterized by high efficiency, which is due to significant results and the implementation of programs in difficult conditions, which pose complex tasks. The deduction method made it possible to evaluate the analysed programs based on their inherent features, principles and signs of implementation. In turn, the method of induction based on the selected characteristics helped to evaluate the effectiveness of the specified adaptation programs. The synthesis method, which embodies the summary of the obtained results, made it possible to determine further prospects for the implementation of the programs.

Thus, the research was conducted in several stages. The first stage consisted in a theoretical analysis of the basic principles of providing psychological support and the process of rehabilitation of military personnel, determining the main stages of implementation and characteristic features. The basis of the second stage was the study of international experience of implementation of adaptation programs in practical activities, namely the analysis of such activities in Great Britain and the USA. Accordingly, it was determined that the functioning mechanism is characterized by high efficiency and success. The third stage involved an analysis of Ukraine's experience in assessing the effectiveness of military adaptation programs to civilian life. Based on the conducted study, it was highlighted that the programs are highly rated according to the criteria of compliance, quality and efficiency, but there is a need for further improvement.

Results

The events taking place in Ukraine in recent years are characterized by complexity, ambiguity and unpredictability. Russian aggression, violations of the integrity of the state, political and economic instability, numerous human losses have led to the fact that many people feel depressed, confused, irritated, worried and anxious. Eight years later, when there were not enough personnel to protect the Ukrainian state from the enemy, it became necessary to form battalions that initially functioned on a voluntary basis, but over time, due to the complication of the situation, the Ministry of Defence of Ukraine was forced to conduct the process of mobilizing men of draft age for the protection and defence of territories in the eastern part of Ukraine. Since the situation was difficult and the Ukrainian army suffered numerous losses on the front lines, the mobilized servicemen were usually trained using the express method and sent to the battlefield much earlier than the expected period. Based on this, they did not always have time to go through the process of psychological and emotional adaptation to actions of a military orientation, violence and death. It is worth noting that these factors, as well as others, cause traumatic stress and are characterized by an extreme impact on the human psyche (Gorbenko, 2013).

The operation of the United Forces (anti-terrorist operation) passed through large masses of young people, and after demobilization returned them to society, making certain corrections in their minds related to the militarization of consciousness, which had an impact on the development of society in general. The change of consciousness occurred directly not only in the participant of hostilities, but also in his close environment – family, friends, acquaintances, who quite often did not know how to behave and react. A distracting factor for the military is the instability of family relationships, which usually only worsens during service, and the lack of an action plan to implement family support results from a soldier's forced discharge. However, it should be noted that the most serious problematic aspect is the return of a military man from service. This is due to the fact that when the soldier returns, he takes over some of the household chores, his spouse often feels that her/his efforts are not appreciated. It is worth noting that the responsibility for the rehabilitation of the psyche of the military and their adaptation lies with the army, the family of soldiers and society, which must unite to provide real and effective support in current and future military operations (Semigina *et al.*, 2017).

Russia's military aggression in Ukraine exacerbates the issue of building a modernized army, its effective leadership, raising the prestige of the military profession, and overcoming the consequences of hostilities on a serviceman and his family members. Taking into account the specifics of military training, a certain stereotype of thinking and behaviour formed in him during military service, their social adaptation is significantly worsened. Significant difficulties are associated with the retraining and further employment of servicemen released into the reserve. In Ukraine, there is only one budget program CPCEC (code for program classification of expenditures and crediting) 1501040 "Measures for psychological rehabilitation, social and professional adaptation, provision of sanatorium-resort treatment for injured participants of the Revolution of Dignity, participants in the anti-terrorist operation and persons who carried out measures to ensure national security and defence, repulse and deter armed aggression of the Russia in the Donetsk and Luhansk regions", the implementation of which is entrusted to the Ministry of Veterans Affairs of Ukraine. The implementation of this program has a number of shortcomings and is ineffective, the mechanisms are blurred and create the basis for corruption schemes. Taking this into account, there is a need to analyse the international experience of social adaptation

of military personnel in order to identify the functions, goals and tasks of state institutions and the public sector and create relevant programs in Ukraine.

The author decided to examine the social adaptation mechanisms of the United States and Great Britain – two nations that make the best use of the labour potential of military personnel released into reserve – in order to analyse the experience of military personnel adjusting to civilian life. In the United States of America, there are many legal norms that regulate the social adaptation and social protection of servicemen released to the reserve or retired. Adaptation of military personnel and their social protection is carried out through the activities of the USA Department of Defence, the USA Army and the USA Department of Veterans Affairs. Work with military personnel begins with psychosocial support during their military service and includes the following stages. The sectors of protecting mental health are established on the basis of departments of mental for the purpose of primary, secondary and tertiary care for the control of combat stress. This sector consists of a psychiatrist, psychologists and military social workers. Its tasks are: provision of clinical services; consulting on issues of mental health of commanders and surgeons of the division; cooperation with military chaplains and medical personnel who are sent abroad; mentoring and familiarization of medical personnel with modern practices of diagnosis and treatment of post-traumatic stress disorder, depression, combat mental trauma and the need for the use of psychotropic drugs; assessment and diagnosis of the risk of possible suicides among military personnel. For this purpose, the "Battlemind" program was implemented, which aims to increase the adaptability of military personnel to stressful situations. Also, the program is aimed at military spouses and commanders and relies on mutual support of military personnel and their strengths (Semigina *et al.*, 2017).

An important role is assigned to military chaplains, who conduct religious services, conduct religious ceremonies, advise commanders on religious and everyday issues, conduct training and education of personnel, strengthen the combat condition and moral and psychological training of the military, and carry out patriotic education. The work of a chaplain is so important to the USA Army that every soldier receives a pocket Bible after being sworn in, and a "chaplain's hour" is held every week during military service. In addition, servicemen can communicate with the chaplain in the "seclusion house" and "chaplain's corner" (Vorona, 2018). American researchers also note the importance of chaplains and religion in the army. According to their data, the success rate of adaptation to civilian life of servicemen who regularly attend church is 67%, compared to 43% for less religious servicemen. Before the deployment of combat operations, specially created units for the control of combat stress conduct an assessment of the mental health of military personnel and determine which resources can be used to protect, preserve and restore mental health in the conditions of a military operation (Semigina *et al.*, 2017). The important directions of the policy of adaptation to civilian life are:

- pension provision and life and health insurance of military personnel;
- the possibility of obtaining higher education, advanced training and retraining courses;
- care for the health of war veterans and preferential medical care;
- social support for families of military personnel;
- assistance in employment and building a career in a civilian profession (EUROMIL…, 2010).

Each American military member has the opportunity to participate in the state pension savings program and build his own investment plan aimed at increasing the size of the pension after leaving the service. It is assumed that the military can independently mark the percentage of the salary that is transferred to the pension savings account. In this way, the pension system is built on the principle that the more a soldier transfers funds during his service, the larger his pension will be after it ends. The advantage of this program is the absence of taxation on accumulative pension accounts (Gorbenko, 2014). No less interesting is the system of life and health insurance for military personnel in the USA, which is not always state and mandatory. The state provides life insurance for a serviceman in the amount of $250000 when he serves in a hot spot. However, there is an opportunity to refuse such insurance and additionally receive a salary supplement in the amount of $10. There is an opportunity for servicemen under the age of 35 to increase insurance coverage up to one million US dollars. The serviceman can insure his life, while the monthly insurance contribution is transferred from the salary of the serviceman to the account of the insurance company. With a monthly insurance premium of $4, the insurance amount reaches $50000.

For the health insurance of military personnel, the USA Congress adopted the "CHAMPUS" program. This program helps veterans of the armed forces, their family members and family members of military personnel partially pay for medical services. The "CHAMPUS" program covers part of the costs of medical services only in civilian medical institutions that have a contract with the Department of Defence (Zhidchenko, 2016). The state allocates significant funding for the education of military personnel during service and after discharge from it. The tuition assistance program is very popular among military personnel. The program provider, the Department of Veterans Affairs, covers the main costs, and the military fee is only $100. Its significant advantage is the constant updating of specialities that can be studied. At the same time, the list of specialities is formed by the Ministry of Defence and educational institutions that conduct retraining focused on the needs of the labour market of a particular state and the country as a whole. Those servicemen who are engaged in conducting scientific research, creating innovative technical and humanitarian developments for the defence department receive separate funding. Children and women of military personnel are also not left without the attention of the state, they have the right to receive free education or its partial payment (Husak, 2008).

It can be also noted the American system of prevention and combating depression, post-traumatic stress disorder as a result of military service. For this, modern technologies are introduced, namely: online consultation with specialists through the Skype program, a 24-hour hotline, specialized Internet sites, forums, blogs, and social networks. It is not possible to hear often conversations about fear from the American military, usually they talk about regret, shame and guilt, because they are under pressure from the fear of appearing "weak". Thus, they can no longer fully trust friends and family. In their opinion, the only ones who understand them are other military personnel who were also "there". Therefore, the use of the "Friend-to-friend" system is

effective in the USA. After special training, volunteers (friends) help other war veterans. They can persuade a veteran to consult a psychologist or visit psychotherapeutic self-help groups of veterans based on the principle of "Alcoholics Anonymous", consult on legal and financial issues, help with receiving benefits, professional retraining (Zhilenko, 2017).

Employment assistance is one of the most important elements of the social adaptation of servicemen in the United States. In the late 1980s, the Department of Defence, the USA Department of Veterans Affairs, and numerous military organizations that provide employment assistance to veterans created the Reservist Employment Service. The employment service has created a program "combination" of military and civilian specialities. Thanks to cooperation with corporations, companies and labour recruitment bureaus, everyone can get information in which area and in which sector specialists of his profile are needed. There are also programs that are focused on employment for spouses of servicemen (Gorbenko, 2014). When studying the experience, place and role of the USA non-governmental sector in the social adaptation of war veterans, it is necessary to note their significant number and the number of members of the organizations themselves, as well as the tasks they perform. One of the largest such organizations is the organization "Veterans of Iraq and Afghanistan". The organization unites more than 300 thousand veterans and positions itself as the largest in the USA. The key areas of its activity are:

- providing veterans with preferential medical care;
- assistance in learning according to one's own unique programs;
- assistance in employment – established contacts with small and medium-sized business companies facilitate rapid employment after the end of military service;
- assistance to families of military personnel: assistance in finding employment for spouses of military personnel, organization of leisure activities for children, psychological support for families of war veterans;
- the organization "Veterans of Iraq and Afghanistan" annually holds more than a hundred cultural and socially significant events for military personnel: job fairs, trainings, seminars, round tables, conferences, donations for veterans in need of immediate treatment, etc.

"American Legion" is an organization founded by veterans of the World War I in 1919. Today, the number of members of the organization exceeds two million people. The Legion implements more than 100 different social programs, which can be divided into two types:

1. Programs aimed at veterans of military service: assistance in retraining for civilian professions; employment; insurance; assistance in obtaining free medicines; investment and financial literacy program.

2. Programs aimed at family members of military personnel: organization and conduct of sports events; payment of scholarships to children of retired military personnel who have significant achievements in sports or academic success; guardianship of families that have lost a breadwinner (EUROMIL…, 2010).

Experience of social adaptation of servicemen of Great Britain. First of all, it can be noted that the Ministry of Defence of Great Britain conducts significant work with future military personnel during their military service. Since, an important direction of the Ministry's work is the formation of the morale of servicemen, the education of patriotism, a sense of pride for the country and its armed forces, and the development of qualities necessary for defending the interests of the state. The assigned tasks are carried out by means of civic education, thanks to which it is conveyed to the consciousness of military personnel that the command, the leadership of the state and all citizens respect his profession and value it highly. The responsibility for such educational work is assigned to the pedagogical apparatus consisting of military chaplains and the education service, which organizes leisure time and arranges the life of military personnel. Also, during such pedagogical work, servicemen receive information about their privileges and benefits after leaving the ranks of the army (Buhun, 2015). The very system of social protection of military personnel in Great Britain is one of the best in the world. In 2011, the government approved a new program "The Armed Forces Covenant", which highlights the basic rights and obligations of military personnel. The program specifies deadlines for service conditions, regulation of education, housing, health care, financial support, exemption from taxes (Avtushenko, 2014).

The British government allocates significant funds to support servicemen in order to popularize service in the Armed Forces. Financial support depends on years of service and military knowledge and has several components: salary, allowances for the officer's personal qualities and the specifics of military service and type of troops. These can be allowances for serving in Northern Ireland, for being at sea or in overseas territories, benefits for paying communal services, extra payment for knowledge of foreign languages (Shkuropatskyi, 2016). The pension provision of military personnel also depends on years of service (minimum from 16-22 years and above) and is determined by a fixed monetary amount. Additional pension allowances are provided for persons injured or disabled during military service. One of the priorities of the Ministry of Defence is providing servicemen with housing. Considering the fact that during service in the army, most soldiers are not provided with their own housing, so they have to live in barracks. Military servicemen who have a family are provided with official housing from the housing fund, which can be purchased by them later on preferential terms. It is assumed that a soldier can take out a home as a mortgage, and the country helps to pay 30% of the loan. If in the USA, the Ministry of Defence deals with the professional retraining of servicemen released into the reserve, then in Great Britain, the retraining of servicemen is carried out by the State System of Personnel Retraining created by the Ministry of Education. Features of Great Britain's practice in the retraining of servicemen released to the reserve are:

1. Retraining programs are carried out at the expense of the state, and not at the expense of employers, the military, public organizations or grant programs.

2. Providing the opportunity for retraining after 5 years of military service, it is mandatory for privates and voluntary for officers.

3. Two to two and a half years before a military serviceman is discharged from service and one year after discharge from military service, the Ministry of Defence provides free assistance in matters of retraining and employment.

4. The possibility of obtaining grant aid of £534 to pay for retraining courses not developed by the Ministry of Defence.

5. Every year, 25 thousand servicemen are subject to release into the reserve, half of whom are given full support

in retraining and employment, partial support is given to absolutely all released servicemen.

6. During the retraining of servicemen, the Ministry of Defence reimburses travel and accommodation expenses. The duration of retraining depends on years of service and ranges from four weeks after five years of service to seven weeks after sixteen years of military service.

7. Weekly publication of new vacancies and courses for discharged military personnel, publication of an annual guide to the topics of retraining courses, a directory of employment and regional opportunities for discharged military personnel; the possibility of obtaining a few days' leave to get acquainted with the working conditions (Husak, 2008).

The results of employment assistance programs are quite successful: half find work immediately; 75% within three months after dismissal; 7 – undergoing training; 18 – do not find a job, but after a year only 7% of those who did not find a job. Also, all contract soldiers can receive higher education with the help of the Ministry of Defence. A few months before the end of military service, they are offered help in finding a job or training. At the same time, the Ministry of Defence conducts negotiations with companies that are guaranteed to be able to hire a former soldier or pay him a salary during his studies at the university, as a future employee (Husak, 2008). An important role in practical assistance to veterans belongs to public organizations financed by the government and charitable foundations. For example, the active organization Royal British Legion. The organization was created by veterans of the First World War in 1921 in order to solve the material problems of military personnel. Such a program of the organization as "Civilian Street" helps to find employment for servicemen who have been discharged from the reserve and those who will be released from military service in the near future. In addition to war veterans, widows, widowers and family members can participate in the program. One of the ways to solve employment problems is the self-employment of servicemen, so the Legion offers help in creating a business: mentoring, business planning trainings, help with finding sources of funding for a business plan.

Another important element of the institution for the protection of military rights, which operates in most European countries, is military trade unions. Although the current legislation in Great Britain prohibits the establishment of military trade unions. However, at the end of their service, military personnel can join professional unions of a civilian nature in their professional fields with the aim of creating a connecting link for the transition to civilian activity (Datsyuk, 2007). Having studied the experience of social adaptation of military personnel in the USA and Great Britain, author notes their success and efficiency, which is ensured by the following key positions:

- positive coverage of a person – a military serviceman in society;
- psychosocial support of military personnel occurs during military service and after its completion;
- military social workers and chaplains play an important role in educating, strengthening morale, and providing psychological assistance;
- excellent material support of military personnel;
- the possibility of obtaining higher education while in military service;
- retraining of a military serviceman begins long before he completes his military service;
- grant assistance in the retraining of military personnel outside the government retraining system;
- the non-governmental sector does not perform the tasks that the state is engaged in;
- the synergy of state institutions and public organizations will optimize the process of retraining and employment of servicemen, as well as employment of spouses of servicemen;
- state and non-governmental institutes already have a developed base of employers for retrained military personnel.

After studying the international experience, it can be stated the fact that despite the problem of implementation of the budget program, which is supposed to finance measures of social-psychological and professional adaptation of veterans, Ukraine has its own experience of implementing international projects. Thus, programs for retraining and social adaptation of military personnel and members of their families are successfully operating in Ukraine, within the framework of the "NATO-Ukraine" and "Ukraine-Norway. Retraining and social adaptation of military personnel and their family members in Ukraine" and "Norway-Ukraine. Professional adaptation. Integration into the state system" (NUPASS).

Since 2000, Ukraine has been home to the "NATO-Ukraine" program, which helps military personnel retrain and adjust to civilian life. The program operates in more than sixty cities and towns throughout Ukraine and is implemented by retraining and social adaptation centres in cooperation with city employment centres and public organizations with NATO funds. The organization also provides assistance in the form of expert plan consultations on policy development in this area and the application of best practices of NATO countries. The process of retraining takes place taking into account the needs of the labour market of the region in which the Program is implemented and is conducted on the basis of educational institutions of secondary and higher special education. Usually these are computer and economic fields of study. A significant advantage of the Program is the opportunity for servicemen who are discharged from military service in the current year to undergo retraining at the expense of service time. The duration of retraining depends on the direction, but usually the courses last for five days for 6 hours over two months. Not everyone copes with this intensity of study, so the first week of the courses is a trial, after which it is not possible to refuse to study. The level of employment in the amount of at least 75% after passing the NATO program for the retraining of servicemen during all the years of its existence proves its high efficiency and need among servicemen. In addition, during retraining courses, trainees can establish social ties and, in case of opening their own business, by employing fellow soldiers, contribute to their socio-economic adaptation (Ministry of Defense of Ukraine, 2022).

"Ukraine-Norway. Retraining and social adaptation of military personnel and their family members in Ukraine" project started in 2003 and until 2014 was implemented exclusively on the territory of the Autonomous Republic of Crimea. With the beginning of the aggression of the Russia in 2014, the project in Crimea was closed and moved to the mainland of Ukraine. Financing was provided by the Ministry of Foreign Affairs of Norway – the coordinator is the International Fund for Social Adaptation (IFSA). Thanks to the project, a partner network was created in almost all regions

of Ukraine, which includes leading universities and public associations of veterans. During the years of operation of the project, a model was created that provided a high-quality, flexible and responsive system of effective professional and social adaptation of veterans and their family to civil society. In 2020, the project "Ukraine-Norway. Retraining and social adaptation of military personnel and their family members in Ukraine" found its development and continued under the name "Norway-Ukraine. Professional adaptation. Integration into the state system". The main goal of the NUPASS project is to integrate the model of professional and social adaptation, developed by the "Ukraine-Norway" project during 2003-2019, into the state system of Ukraine for the effective adaptation of the professional and social nature of veterans and their family members into civil society. The proposed model poses the following tasks:

1. Retraining of military personnel and their family in civilian specialities that are in demand on the labour market in Ukraine, to increase their level of professional competitiveness.

2. Providing project participants with psychological adaptation to increase their level of motivation to actively adapt the social plan in civil society.

3. Ensuring legal adaptation of project participants in order to improve their social protection in the conditions of life in civil society.

4. Provision of employment assistance to project participants in order to improve the living conditions of their families.

5. Providing project participants with assistance in creating their own business in the conditions of unemployment in Ukraine.

6. Promotion of cooperation between educational and business institutions of Ukraine and Norway.

Beneficiaries of the project (i. e. participants) are:

1. Military officers of the Armed Forces of Ukraine and other military formations created to protect the sovereignty and territorial integrity of Ukraine. Professional soldiers who were educated in military schools and who dedicated their lives to military service.

2. Participants of hostilities in the East of Ukraine, called up to the Armed Forces of Ukraine for mobilization, from the reserve or from the reserve under contract.

3. Family members of servicemen and combatants.

4. Family members of those who died for the independence of Ukraine in the war with the Russia in Eastern Ukraine.

All these groups vary in terms of their educational background (higher, secondary, technical, military, civil, technical, humanitarian, etc.), whether or not they have a civilian specialty, their practical work experience, the availability of benefits and their pension rights, and their mental health, which can range from normal to post-traumatic stress disorder in combatants. All this complicates group organization of socio-psychological and professional adaptation of the specified category of persons. The Norwegian project is significantly different from the previously discussed NATO program. The essential difference is that its executors are higher educational institutions of Ukraine and the Norwegian NORD University. Therefore, graduates of the project "Ukraine-Norway. Retraining and social adaptation of military personnel and their family members in Ukraine" and "Norway-Ukraine. Professional adaptation. Integration into the state system" receive three documents at once: a certificate from the Ukrainian educational institution and NORD University, a diploma from the Ministry of Foreign Affairs and the Ministry of Defence of Norway, and a certificate of professional retraining of the state standard. That is, the received documents are internationally recognized. Another significant advantage of the Norwegian project is the comprehensiveness of the assistance received by its participants. They have the opportunity to receive services:

- professional retraining for civilian specialities and their competitiveness in the labour market;
- psychological rehabilitation;
- increasing the level of motivation of the participants of a specific group to actively adapt the social plan in the conditions of civil society with a market system of relations, thanks to the organization of specialized measures for the adaptation of the social plan;
- legal adaptation to increase social security in new living conditions;
- assistance in the employment of trainees of professional retraining courses by conducting trainings and informational and advisory meetings;
- assistance in creating entrepreneurship among the military through the creation and functioning of special trainings, the purpose of which is to study aspects of starting one's own business and organizing a business.

No less striking difference in the composition of the group. After all, the Norwegian project has the following differences:

- the possibility of participation of family members of military personnel;
- gender aspect, up to 30% of the group are women;
- participants of the Higher Education Project must have at least a bachelor's degree;
- age restriction, participants must not be more than 50 years old.

The importance of the Project lies in the fact that it is aimed not only at military personnel and their families, but also at the development of cooperation between educational institutions of Ukraine and Norway, the creation of joint research and educational projects. And also, for the development of business relations between enterprises of both countries (International Fund for Social Adaptation, 2022). The effectiveness of the project "Ukraine-Norway. Retraining and social adaptation of military personnel and their family members in Ukraine" was proven by a monitoring mission in 2019 commissioned by the Government of the Kingdom of Norway. The assessment was carried out by the Advisory Group on International Security of the Centre for Democratic Control of Armed Forces. The evaluation covered the following areas: relevance, effectiveness/impact, quality, sustainability and coordination. So, the assessment showed:

1. The relevance of the content of the training courses offered by the partner universities, including the subject training materials, as well as psychosocial and psychological support, and the method of meeting the needs of the participants was highly appreciated by all focus groups and further confirmed by the effectiveness of the project. The project has demonstrated the ability to identify and test innovative approaches, as well as continuously adapt the content of training courses to reflect needs or opportunities.

2. The results achieved by the project remain significant and correspond to or even exceed the achievements

that could be expected from a project that works in difficult conditions and has complex tasks in front of it, and also, the project has a significant positive impact on the psychological state of the participants, which is one of his tasks.

3. Quality. The project is executed with high quality and during this time implemented a clear management system to ensure timely and efficient implementation. There are further opportunities to improve the quality of the project through a review of management responsibilities and budget balancing to better reflect the gradual transfer of management responsibilities and its implementation at the national and local levels in Ukraine.

4. Stability. In the absence of Norwegian funding, the sustainability of the project remains a major, critical issue. The main focus of this program was on conducting training events, providing services and increasing the number of participants. To a certain extent, this reflects a reasonable and measured approach in conditions where the attention of the Ukrainian government is concentrated on the conflict, and funds are not allocated for long-term personnel management and organizational development.

5. Coordination. Despite a fairly clear division of labour between the relevant projects in this area, little proactive effort has been made in the sector to develop more coherent approaches related to advocacy, knowledge sharing and outreach to ensure that more support and services are available to veterans. Therefore, the lack of coordination sometimes led to the layering and incoordination of limited resources, competition and overabundance of even a limited number of training programs implemented in this area.

The Advisory Group on International Security of the Centre for Democratic Control of Armed Forces in the report on the evaluation of the project Effectiveness of the project "Ukraine-Norway. Retraining and social adaptation of military personnel and their family members in Ukraine" came to the conclusion that, in general, the program is highly rated according to the criteria of compliance, quality and efficiency. However, there is a need to further strengthen the project by applying more concrete efforts to coordinate with partners and to attract more local interest among national public authorities to introduce the main components of the project into national systems and create more common and transparent decision-making processes related to the main elements of the project (International Fund for Social Adaptation, 2022).

Discussion

Among the scientific studies, the work of E.V. Abramov (2016) is noted for its deep analysis. The scientist singles out the following types of adaptation of servicemen released to the reserve:

1. Social adaptation – mastering the rules of behaviour and communications in a civilian environment.

2. Professional adaptation – improvement or mastering of new professional knowledge, abilities and skills for successful employment.

3. Legal adaptation – assimilation of legal norms that regulate the personal status of a serviceman released into reserve and determine his rights, opportunities, and obligations.

4. Psychological adaptation – mastering those norms, institutions, patterns of behaviour that exist in society.

The researcher emphasizes the importance of social and professional adaptation of war veterans in order to ensure competitiveness in the labour market. A slightly different opinion O.O. Bukovska (2015), which, unlike E.V. Abramov (2016), singles out the legal, professional and psychological component, but does not single out the social component. In modern science, several areas of study of the problem of social adaptation of servicemen released to the reserve have been formed, namely: employment of servicemen released to the reserve, medical and psychological rehabilitation and psychological assistance O. Shcherbinin (2009), M.M. Medvid (2010) and E.V. Abramov (2016) claim that professional rehabilitation should take place in the following directions: retraining and employment of servicemen released to the reserve; training of specialists from among the released war veterans for their further employment in newly created organizations, institutions and enterprises. And in that O. Shevchuk and N. Mentukh (2017) provides convincing evidence that the sources of scientific doctrine represent only one component of the problem, leaving out the study of legal aspects of career guidance work with servicemen who are released from military service. As a result, the state institutes did not create a professional orientation system for the participants of the OUF (Operation of United Forces), and, accordingly, many war veterans lost their jobs or cannot find them after being released from the reserve.

It should be noted that there are different views in science regarding the solution to the problem of employment of servicemen released into reserve, since Law of Ukraine No. 5067-VI "On Employment of the Population" (2012) provides an extended terminological list of professional means of social rehabilitation of military personnel. In particular, the Law provides for "professional rehabilitation", "labour rehabilitation", "professional orientation", "professional adaptation". In this way, the corresponding directions in the study of this issue were formed. Among the fundamental studies of medical and psychological rehabilitation, should be mentioned the article of A.I. Yena (2014). In the scientist's work, it was investigated that the consequences of combat mental trauma are: an acute reaction to stress, post-traumatic stress disorder and chronic personality change after experiencing a disaster. The author emphasizes that it is necessary to provide only comprehensive medical and psychological rehabilitation in the form of preventive, clinical, functional and psychological assistance with measures of psychodiagnostics, pharmaco-correction, psychotherapy, physiotherapy, psycho-correction, training and self-training. Also, A.I. Yena indicates that medical and psychological rehabilitation should be carried out at the following levels: recruitment and completion of the preparatory process in a specialized centre, participation in combat operations, the process of withdrawal from the combat zone for rest and retraining, treatment in medical facilities and adaptation to peaceful life.

According to S.M. Kucherenko and N.M. Khomenko (2017), the process of psychological assistance to combatants should include the following stages:

1. Diagnostics of psycho-emotional states, characteristics of behaviour and adaptation to the civilian life.

2. Psychological counselling in the form of individual conversations or family counselling. The purpose of psychological counselling is to enable the client to express, discuss painful issues and help him understand that the condition he experienced is a temporary phenomenon that is common to all combatants.

3. Psycho-corrective work. Psychological correction is a system of psychological influences aimed at correcting those features of mental development that do not correspond to the norm. First of all, psychotherapeutic help is needed for those war veterans who have been diagnosed with post-traumatic stress disorder, alcoholism, impaired adaptation to civilian life, and deviant behaviour.

4. Psychological trainings to increase the adaptability of the personality and personal development of the serviceman.

5. Teaching self-regulation skills – relieving tension using self-training methods, relaxation, breathing exercises, and meditation.

6. Expert assistance with career guidance for retraining and future employment, as well as professional self-determination.

Conclusions

Summarizing the above, it can be noted that international projects such as the NATO program and the "Norway-Ukraine. Professional adaptation. Integration into the state system" projects are crucial to the budget program's execution since they help servicemen who are discharged from the military adjust to society and their careers. The presence of a partner network and a proven model of social and professional adaptation of war veterans can become the basis for eliminating problems in the implementation of state programs, in particular the budget program of the CPCEC 1501040 "Measures for psychological rehabilitation, social and professional adaptation, provision of sanatorium-resort treatment for injured participants of the Revolution of Dignity, participants in the anti-terrorist operation and persons who carried out measures to ensure national security and defence, repulse and deter armed aggression of the Russia in the Luhansk and Donetsk regions".

An important stage of the work is conducting a comparative analysis of the experience of military adaptation programs to civilian life in Ukraine, Great Britain and the USA. Thus, it was established that the presence of key positions that provide an opportunity to ensure its effectiveness and success is inherent to the policy of different countries in the functioning of the mechanism under study. These include the implementation of psychosocial support for military personnel, a high level of financial support, the provision of the opportunity to obtain higher education while in military service, the allocation of grant assistance for retraining, as well as the provision of a specialized base of employers for military personnel who have already undergone retraining. Thus, the analysed international experience made it possible to find out the fact that, despite certain problematic principles regarding the implementation of the budget program, which aims to finance adaptation measures for veterans of a professional and socio-psychological nature, Ukraine has its own experience in the functioning of international projects, which are characterized by high efficiency and success. The goal of conducting additional research will be to identify suggestions for improving the efficacy of social-psychological rehabilitation and transitional measures for military personnel into civilian life.

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Conflict of interest

None.

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Порівняльний аналіз програм адаптації ветеранів війни до цивільного життя в Україні, Великій Британії та США

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Анотація. Актуальність дослідження зумовлено повномасштабним вторгненням Росії в Україну із застосуванням брутальних та агресивних дій, що тягне за собою наслідки у вигляді великого психологічного впливу на здоров'я населення, особливо військовослужбовців. Метаю статті – визначити найбільш сприятливі програми адаптації військовослужбовців до цивільного життя, які можна виділити за допомогою порівняльного аналізу досвіду різних країн. Під час дослідження було використано низку методів, як-от: теоретичний метод, метод порівняльного аналізу, функціональний метод, метод логічного аналізу, метод дедукції та інші. Визначено, що під час розробки адаптаційних програм важливо застосовувати досвід Великої Британії та США, оскільки особливістю політики цих країн є використання трудового потенціалу військовослужбовців, звільнених у запас, який характеризується високою ефективністю. Основні напрями під час реалізації програм адаптації в аналізованих країнах – культурні та соціально важливі заходи, надання ветеранам пільгового медичного обслуговування, допомога в навчанні за власними унікальними програмами, у працевлаштуванні, а також надання допомоги сім'ям військовослужбовців. Проведено аналіз досвіду України, відповідно до якого визначено зміст програм адаптації військовослужбовців до цивільного життя «НАТО-Україна» та «Україна-Норвегія». Визначено, що вони відзначаються високою ефективністю, що зумовлено суттєвими результатами та реалізацією програм у важких умовах, що ставлять перед собою складні завдання

Ключові слова: учасники бойових дій; медико-психологічна реабілітація; посттравматичний стресовий розлад; психічне здоров'я; система профілактики; міжнародний досвід

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Consolidation and crisis: The evolution of the European Union's legal framework in pursuing peace, stability, and unity amidst global challenges

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Abstract. In light of recent events like the coronavirus pandemic and the Russian-Ukrainian war, which pose serious obstacles to the European Union's ability to operate normally, research into the unique characteristics of the EU and future prospects for its growth and survival is especially pertinent. The purpose of the article was to learn about and examine the founding history of the European Union, the difficulties it has experienced throughout its existence, and the opportunities for it to continue to exist and develop as a special alliance of European nations. The main methods that were used in the work are the following: systematic, historical research method, forecasting method. The findings allowed for the construction of an understanding of the EU's past, its subsequent formation, and the peculiarities associated with its institutional structure. The article also highlighted a number of challenges that accompanied the development of the European Union and how the EU struggled with their solutions, in particular, attention was mostly paid to three main ones: the withdrawal of Great Britain from the EU, the pandemic that was caused by the coronavirus infection, and also the ongoing Russian-Ukrainian war, expected and forthcoming energy and inflation crises, as well. A special place in the results of the article is the highlighting of the prospects for the further development against the background of modern problems that the European Union is facing. In particular, given a historical analysis of the functioning of the European Union, the main scenarios regarding the forms of further existence of the Union of European countries are proposed. The results of the work can be used in further research on relevant topics by historians, sociologists and lawyers as reference material for researching the peculiarities of the European Union

Keywords: unification of European states; pandemic; Brexit; Russian-Ukrainian war; development scenarios

Introduction

The necessity of consolidating efforts for the restoration and normal functioning of European society became one of the main prerequisites that provided the world with the European Union as a result. The purpose of the research work, in view of the above, is the disclosure of the main historical aspects regarding the founding of the European Union, highlighting a number of specific features inherent in it, as well as outlining the prospects for the further existence of the European Union. In order to find out in more detail and in depth the questions included in the purpose of the work, it is necessary to get acquainted with the most interesting scientific studies on the relevant topic. Thus, in the work of S. Bulmer (2020) there are considerations that the basis of the functioning of the European Union is the specific nature of the relationship between the EU and the member states, which is manifested in three main aspects: intergovernmental, institutional and management Also, the understanding of the meaning of the EU as a union, according to the author, cannot be considered separately from its internal political foundations.

In the work of the Polish author K. Goniewicz (2020) there are considerations about the pandemic caused by the coronavirus infection as one of the main challenges faced by Europe. In particular, the author focuses his attention on how the European Union reacted to the pandemic; analyzes the management decisions made by the institutions and governing bodies of the Union, which related, for example, to the organization and control of the medical field of the EU member states, the implementation of strategies regarding the need to implement distancing, isolation, treatment and vaccine development.

Another book, which is worth paying attention to, is the American author J. McCormick (2020), in which he offers several aspects of understanding the meaning and essence of the European Union: the institutions of the Union have some autonomy; decisions that are important for the EU and its internal and external policies are made through negotiations and agreements between governments. One more essential aspect that will help to understand the European Union is

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its inherent similarity with other regional blocs and associations, such as the Association of Southeast Asian Nations, for example. The European Union, in the opinion of the author, is a unique case and the result of the coincidence of a number of circumstances, which excludes the possibility of repeating such a union association. Some features inherent in the EU functioning mechanism are noted by J. McCormick (2020), are tangential to those of other ordinary states. The concept of the EU should be formulated taking into account federalism and confederalism.

The American authors M. Cini and N. Pérez-Solórzano Borragán (2022) single out the historical aspects regarding the emergence of the European Union. The main reason for the establishment of the EU highlighted by the authors is the need to maintain peace in the region, which was the initial desire. It is also worth adding the allocation of a new place for Europe in the world order, as well as the need to preserve the European national state from decline by consolidating the efforts of countries, economic post-war recovery of the countries of the European continent. D. Hodson *et al.* (2022) point out that the main reason for the successful development and functioning of the European Union is the uniqueness of its institutional structure, which differs from all existing institutional bodies of other international organizations. D. Hodson *et al.* (2022) also note that, although EU institutions have been dynamically and continuously developing since their formation, however, in the authors' opinion, they lack democracy. The works outlined above and familiarization with them allow to deepen the understanding of the essence of the supranational entity – the European Union, as well as to look at the problems of such an entity from different angles, taking into account the relevance and urgency of their solution.

Materials and methods

The research work was carried out using a number of methods of scientific knowledge, among which it is appropriate to single out the historical method. It made it possible to outline the retrospective on the main stages of the creation of the European Union, to follow its development and functioning over the years, those achievements, as well as the most large-scale challenges that accompanied the development of the EU, etc. It is also expedient to single out the systematic method of scientific knowledge, which made it possible to consider the institutions of the European Union separately as its constituent elements, and how in their integrity they affect the mechanism of the European union. Another method that was used during the research is the forecasting method. With its help and with the use of data obtained as a result of the use of historical and systematic methods, it was possible to assume and characterize some of the probable scenarios and forms of further development and existence of the European Union.

The research was conducted in three main steps. At the first, the question of the ideological origins of the European Union, the main prerequisites, the chronology of its creation and further development was clarified. The research was also conducted using the analysis of European law based on the sources – the founding documents of the European Union. This stage is devoted to the main defining features of the EU, its uniqueness, specificity and values; the issue of the specifics of the work of the most important institutions of the European Union and their main features was also outlined. Attention was also paid to the biggest challenges that accompanied and accompany the existence of the European Union. At this stage, it was also outlined what administrative decisions were taken by the European Union to solve these problems.

The second stage of scientific research is characterized by the presence of considerations regarding the further position of the European Union as an intergovernmental and supranational entity. A number of prospects for its further functioning, attraction of new members, etc. are highlighted. In particular, at this stage it was proposed to consider the main scenarios of the further development of the European Union, which may be determined by both internal and external factors.

At the end of the third stage of the study, the considerations and work of other scientists and authors on the relevant topic were parsed, in particular, regarding the legal nature of the European Union, its features, the greatest challenges during its existence, as well as opinions regarding the future of European unification and the main forms of such existence under by the influence of these or others' problems that may arise in the process of functioning of the EU. As a result of the analysis of such considerations and their comparison with the results of this work, a conclusion was formulated. The final stage of the research work also contains recommendations for the disclosure of further topics related to the subject of the respective research.

Results

Ensuring peace and sustainable development in Europe became possible only after the countries realized the significance and power of the union. In particular, it is worth noting that the very idea of unifying European countries dates back to antiquity, but significant impetus to the improvement and further development of such visions should be dated to the 19th and 20th centuries. Among the ideological inspirers of united Europe, it is worth noting Immanuel Kant, French writer Victor Hugo, political figure and Prime Minister of Great Britain Winston Churchill, as well as Charles de Gaulle (Rhinard, 2019). Most of the projects that were developed by the above-mentioned figures were aimed at eliminating the prerequisites and causes that caused the war in Europe, as well as ensuring long-term peace, overcoming the fragmentation that prevailed in the internal politics of countries, as well as ensuring post-war recovery and economic well-being; with the advent of the socialist regime, one of the main goals of the association also became the need to distance itself from the communist influence on European countries. It is also appropriate to note that the end of the Second World War should be defined as the beginning of an active and modern stage of European integration. Against the background of destruction, economic decline European countries felt the need to consolidate forces and resources, which had to be directed to post-war reconstruction, as well as to confirm the pre-war status of Europe.

Thus, on May 9, 1950, R. Schuman proposed the creation of a single market for steel and coal products between France, the Federal Republic of Germany and other European countries (Mhatre, 2021). A year later, on April 18, the Treaty of Paris was signed, which created the European Coal and Steel Community, which included Germany, France, Luxembourg, Belgium, Italy and the Netherlands (Kinross, 2020), which already signed the Treaty on the Establishment of the European Defense Community in 1952 (Johansson-Nogués *et al.*, 2020). The next important step in

European integration is the signing of the Treaty of Rome in 1957, which created two communities: the European Atomic Energy Community and the European Economic Community (Ladrech, 2022). Later, in 1957, the main executive bodies of the ECSC, Euratom and the EU merged. Such a merger made it possible to create and further develop a certain institutional structure, which consisted of the following bodies: the European Commission, the Council of the European Communities, the European Parliament, the Court of the European Communities, as well as the European Council, founded in 1974 (Ladrech, 2022). During 1968-1969, the main stages of European integration were completed, in particular, a free trade zone, a customs union, and the formation of a common market were formed.

The further tasks of European integration were determined by the Single European Act of 1986, which provided for the creation of a single internal market, common policy in social, economic and other spheres, and the document revealed the issue of the creation of the European Union not only as an institution of an economic nature, but also of a political nature (Schimmelfennig, 2021).These ideas were developed and outlined in the Treaty on the European Union in Maastricht, which entered into force on November 1, 1993 (Bellier & Wilson, 2020). This Treaty also defined three main "foundations" on which the EU rests: European communities, joint conduct of foreign and security policy, as well as cooperation in the spheres of internal affairs and justice. In the future, the activities of the executive and other EU bodies were aimed at the expansion of the Union, the creation of the Economic and Monetary Union, the introduction of the Schengen zone, the introduction of a single currency and other important actions and decisions that created the European Union that we see now.

The specificity of the European Union lies in two things: its institutions, as well as in the values that are the driving force of the EU's activities. In particular, the main institutional bodies can be considered: the European Parliament, which performs the functions of legislative power, exercises control over the budget and other EU institutions; The European Commission, as an executive body, makes legislative proposals, implements the policy of European unification, and its scope of powers also includes the allocation and disposition of the budget, approval of international agreements; the central bank of the EU is the European Central Bank, which determines the monetary policy of the European zone, and also directs efforts to ensure price stability in eurozone, etc. (Beltrán-Esteve, 2019).

The second aspect of the specificity of the EU is the value, which is the driving force both for the policy of expanding the union and for carrying out reforms, internal and external policy, etc. It is appropriate to highlight six main ones (Zeitlin, 2019):

1. Respect for human dignity.

2. Freedom, that is, the ability of a person to make a conscious choice on his own, without any influence on him.

3. Democracy, which is the capacity of the people to voice their opinions, evaluate government acts objectively, and comprehend that those opinions will be taken into consideration when making decisions about the allocation of power.

4. Equality of people should exclude discriminatory treatment of a person based on one or another characteristic: race, gender, orientation, etc.

5. The rule of law consists in the fact that all state authorities must obey the law, norms and rights without any kind of exceptions.

6. Respect for human rights is recognition of his uniqueness and individuality, awareness of a person's belonging to society, understanding that he has the same rights and taking this into account.

Yes, these values are the framework, the basis of the European Union, their observance is the basis of the policy of unification of European countries, which distinguishes this union from any other entities.

It is important to keep in mind that the operation of the EU has both advantages and disadvantages, such as the free movement of people and the creation of a free trade area. It is appropriate to single out some of the biggest in the history of the existence of the European Union: the withdrawal of Great Britain from the EU member states, the pandemic and the Russian-Ukrainian war (Keukeleire & Delreux, 2022).

The issue of Great Britain's exit from the EU, the so-called "Brexit", has been repeatedly raised by British parties, politicians and, in particular, the public. It is worth noting that the exit process was accompanied by the slogan "Return power from Brussels to Britain" (Amato *et al.*, 2019). The main reasons for "Brexit" are the growing role of the supranational association in the internal politics of Great Britain, which did not suit the government. As a result, a referendum on EU membership was held in 2016, the majority – about 52% – voted to leave the Union and did not agree with the policy pursued by the EU (Amato *et al.*, 2019). And the exit finally took place in 2020. It is worth noting that this was a significant problem for the European Union due to the unprecedented nature of the situation and the strong economic and other ties that already existed between the EU and Great Britain. In particular, the main consequences of global significance accompanying the process of Great Britain's exit from the EU are the weakening of the EU's position on the world stage, the revision of European-American relations, etc. (Leruth *et al.*, 2019). To a large extent, this also affected the image of the European Union, but it remains important that the EU still adhered to its basic guidelines and values regarding the guarantee of democracy and equality and noted the full freedom of member states in deciding their future foreign policy.

The next significant challenge was the coronavirus disease COVID-19, which caused the pandemic (Rudan, 2020). It is worth noting that during the first waves of the coronavirus, the member states of the European Union were not fully united and consistent in their decisions, in particular, contrary to one or another contractual obligation, they reduced the export of medical equipment and imported it in large quantities from foreign markets (Rudan, 2020). Despite the embarrassment of individual governments, European institutions have shown solidarity and readiness to face the challenges of the pandemic, in particular, they have proposed approaches to solving the crisis, developed plans for economic assistance to countries affected by the impact of the pandemic on the economy, softened aspects of the rules on financial thrift through difficult conditions (Rudan, 2020). The resilience of the EU authorities managed to reunite the individual governments of the member states and call them to cooperate, in particular through the reception of other citizens for treatment, the transfer of humanitarian and medical aid. The decisions of the European Union related to the

organization of the purchase of protective equipment, the closing of the EU's external borders, the introduction of distance education, social distancing, the reduction and cancellation of large-scale measures to reduce crowding, etc., are quite important (Lynggaard, 2019). It is appropriate to note that the impact of the pandemic on the economy of the EU and the world had a sharply negative meaning, however, the unity of European states, in particular the activity of the leaders of the European Union regarding the allocation of common debt to finance the European recovery program called Next Generation EU, showed that even in critical conditions, the European Union adheres to values and is ready to face challenges (Léonard & Kaunert, 2019).

A full-scale conflict between Russia and Ukraine would be the next major shock for the EU. The outcome of this conflict and the extent of the European Union's involvement in it will have a significant impact on the future of the EU. On February 24, 2022, Russia carried out a full-scale invasion of the territory of the sovereign and independent state of Ukraine (Kaukeleire, 2022). It is worth noting that a few days after the invasion, the President of Ukraine, Volodymyr Zelenskyy, signed an application in which he testified to Ukraine's desire for EU membership. Already on March 1, the European Parliament made a statement-recommendation on granting Ukraine the status of an official candidate for membership (Hix & Høyland, 2022). During the spring of 2022, Ukraine filled out a questionnaire, after checking which the European Commission recommended to the European Council to grant Ukraine the status of a candidate for the European Union, which was done on June 23. In particular, the Ukrainian government hopes to start accession negotiations at the beginning of 2023, and accession itself will be possible no earlier than 2029 (Hix & Høyland, 2022).

It is worth noting that the primary purpose for the EU at the moment is the need to reorient the import of energy fuel due to the EU's dependence on Russian fuel supplies. It is also quite important to further support Ukraine in the fight against the aggressor country, which consists both in sanctions against Russia and in the promotion of Ukraine's accession to the European Union. In particular, with regard to sanctions, already at the beginning of the full-scale war, the EU introduced several packages of significant restrictions for Russia, such as, for example, closing Russia's access to the EU capital markets, a ban on lending to the Russian government and banks, a ban on trust services for the rich Russian population, ban on accounting and auditing, tax consulting, etc., ban on large deposit investments for Russian citizens in EU banks (Cini & Pérez-Solórzano Borragán, 2022). Disconnection of Russia's large banking sector from the SWIFT system, along with other key sanctions such as a ban on investment in Russian-origin projects and a ban on the supply of euro banknotes to Russia, are other key measures (Cini & Pérez-Solórzano Borragán, 2022).

A summary of the other achievements of the European Union throughout its history would also be appropriate. These include the abolition of the death penalty, the strengthening of the guarantee of respect for human rights, the fight against racism and non-discrimination, the protection and promotion of gender equality and freedom of expression, the promotion of the protection of children's rights, the preservation of cultural diversity, education in human rights and the cornerstones of democracy, the improvement of the quality of medicines and medical care, and the promotion of international solidarity and cooperation. In view of this, it should be noted that the space of the European Union has become a safe place for everyone who is on its territory (Brodny *et al.*, 2021).

The unwavering support of Ukraine becomes a direct proof and testimony of the readiness of the EU to follow the values that became the basis of their unification. The tough policy towards the aggressor country testifies to the desire of the European Union to cooperate with Ukraine, which seeks to join the European space. Therefore, the question now arises: what are the future and prospects of the European Union against the background of crisis phenomena and war?

This question can be answered through a demonstration of several possible scenarios for the further development of the European Union:

1. Focus on increasing EU military security. In order to maintain its rightful place in the world order, the European Union will invest more and more forces and resources in the development of the military sphere (Wallace *et al.*, 2020). It may be possible to create a joint army of the European Union, the number of which will be close to the number of the largest world armies, for example, the army of the United States of America, China. Facilitating dialogue with world leaders to ensure partnership and security.

2. Mediation policy. The European Union will have a sufficiently developed defense sphere, but will show a mostly neutral position, acting as a mediator in resolving conflicts between states. In particular, it is obvious that such an approach is being pursued in view of the ongoing conflict between Russia and Ukraine. As a result, some representatives of EU member states are trying to negotiate a solution to the problem of the escalation of the war on Ukrainian soil.

3. Disintegration of the European Union. Due to the devaluation of the basic principles around which the countries of Europe united, the EU is gradually disintegrating. Only a few permanent alliances between countries remain, but most of them pursue a policy of independence and separation from external influence. There is no cooperation between the countries regarding foreign policy, defense and security policy, and justice. Due to the weakening of Europe's position on the world stage, the influence of the USA, Russia and China is most felt on geopolitics.

4. The European Union: expansion or stability. Currently, it is appropriate to note that Ukraine actively seeks to join the European Union, professing the same values as the member states of the union. However, in the opinion of, for example, E. Macron, the President of France, the European Union needs time to recover and reform, so he proposes to abandon the expansion of the European Union for a certain time (Wurzel *et al.*, 2020). On the other hand, it is appropriate to note that if the policy of not attracting new members to the Union continues, it will lead to a decrease in trust in the EU, will threaten the image and position of the EU in the world as an association open to all, the Union will gradually collapse from the outside, and this, in turn, will lead to destruction from within.

5. European values: policy of non-imposition. It is worth noting that the six basic principles that the European Union professes are the initial provisions not only of the said association, but also of most democratic countries. One of the likely scenarios for the further development of the EU is its refusal to impose on other sovereign states a method of conducting policy based on certain values that are universal and

uniquely correct for the EU. It is impossible to incorporate these principles into the culture and thinking of people from other countries, so it is appropriate to note that in the future, the EU will take into account cultural differences, etc., when conducting dialogue with individual states.

Discussion

In order to form the conclusion of the relevant scientific research more thoroughly and fully, it is advisable to analyze the results of the works of other authors and scientists. So, for example, S. Hix & B. Høyland (2022) notes that this association is unique in its legal nature. The author emphasizes the voluntary integration between the countries of Europe, which took place around the fundamental values and basic principles of existence of the respective states. S. Hix & B. Høyland (2022) also emphasizes that the current state and appearance of the European Union dates back to the 1950s and began with the common market of the steel and coal industries. It is worth noting that the American author's reasoning largely coincides with the obtained results, in particular in terms of the uniqueness of the association. It is worth taking into account the opinions of the researcher regarding migration as a challenge for the European Union, and to add that against the background of the Russian-Ukrainian war, more and more Ukrainians, suffering from armed aggression by Russia, are forced to seek refuge in European countries (Geddes *et al.*, 2020).

According to G. Wallace *et al.* (2020), the European Union faced a number of challenges from the global world system in the second half of the 2010s. These challenges included Britain's decision to leave the EU, as well as EU member states' controversial views on U.S. foreign policy under President Trump, the COVID-19 coronavirus pandemic, and the Russian-Ukrainian war. G. Wallace *et al.* (2020) also note that these challenges had an impact on solidarity and integration, and in some places on the stability and support of European values, however, as the author points out, the European Union managed to show resilience in overcoming these challenges.

Indeed, despite external problems, such as "Brexit" (Leruth *et al.*, 2019) or the pandemic (Rudan, 2020), the European Union directed all its efforts to their quick and effective overcoming. As it was mentioned, in the case of responding to the spread of the coronavirus disease, the policy of the European Union showed its ability to make important administrative decisions, for example, closing the external borders of the EU, distancing, indemnifying the countries most affected by the pandemic, etc. With regard to the Russian-Ukrainian war and the EU's response to the relevant situation, it is appropriate to mention the support from the association by imposing sanctions on the aggressor country and promoting Ukraine's accession to the EU. But the question of the EU's energy dependence on Russian fuel and the need to find solutions regarding alternative suppliers, etc., remains relevant.

The British author D. Chalmers (2019) notes about some aspects of the successful functioning and development of the European Union, among which it is advisable to single out common borders, which made it possible to better develop the tourism sphere of countries, as well as attract investments for the development of certain regions, trade etc. D. Chalmers (2019) also notes some of the reasons, according to which Great Britain decided to leave the European Union, which have a historical aspect. In particular, the author quotes the Prime Minister of Great Britain, Tony Blair, in which he notes that the country will not accept any agreements aimed at changing the legislation of the United Kingdom. The author also focuses attention on what are the future prospects for the existence of the European Union. Thus, D. Chalmers (2019) notes that for normal functioning, the European Union needs to revise its security and foreign policy.

It is worth agreeing with the author's conclusions and adding them to the obtained results, noting also the thesis about the dissatisfaction with Britain's membership in the EU and European policy on the part of the British themselves (Tagliapietra *et al.*, 2019; Bórawski *et al.*, 2019). The outcome of the referendum on Britain's exit from the EU, which was supported by some 52% of voters, is evidence of this. Regarding prospects and further development scenarios, as already mentioned, they will mostly depend on external factors and certain requirements of the present. The Belgian author S. Keukeleire and T. Delreux (2022) outline the nature and features of the European Union as the example of conducting foreign policy. In particular, for example, in matters of trade, the EU itself has an exclusive range of powers. The author emphasizes that the EU member states in conducting their foreign policy rely mostly on the internal needs of the country and do not aim to replace this method of policy implementation with a common foreign policy or a single foreign policy activity. This is significantly related to the close connection of foreign policy with the country's sovereignty and independence (Keukeleire & Delreux, 2022).

Appropriate agree with the given results of the author and take them into account. Indeed, the member states of the association retain their independence in their foreign policy, as evidenced by, for example, the Russian-Ukrainian war. Although the EU's support is steadfast and aimed at supporting the sovereignty of Ukraine, the policies of some individual member states show an unwillingness to confront energy dependence on Russia or reluctance to participate in the implementation of sanctions, etc. The American author L. Buonanno (2020) emphasizes the climate policy of the union and points out several interesting aspects. In particular, with regard to vehicle emissions, the European Union's policy is centralized, in contrast to issues related to climate change goals and objectives, which are jointly adopted by EU member states. According to the author, the policy regarding climate improvement is one of the main achievements that leads to the reformation of such related areas as agriculture, industry, transport, energy efficiency. L. Buonanno (2020) also points out that the policy of combating climate change is a means of promoting "green technologies", i.e. such farming methods that are associated with minimal resource costs and maximum effective results.

A. Geddes *et al.* (2020) emphasize that the treatment of migrants as asylum seekers is "undesirable", but the labor migration is regulated at the national level and is the responsibility of each state separately, as well as the integration of such persons to the European space. A. Geddes *et al.* (2020) also pointout that after 2015, border control of passport-free travel has been significantly strengthened to curb migration waves along with the construction of fences, etc. It is only necessary to partially agree with the author's conclusions and add that currently the migration policy of the European Union shows openness and readiness to receive so-called "asylum seekers". This is largely due to the Russian-Ukrainian war, which forced Ukrainians to look for safer places to

live. The European Union must be ready for new challenges, which may be related both to the prospects for the continued existence of the union, and to the nearest threats: the search for alternative fuel suppliers, the introduction of tougher sanctions, the strengthening of security policy, readiness for migration waves caused by food crisis, etc.

Conclusions

The conducted research allowed for a deeper knowledge of the legal framework of the European Union. In particular, the aspect regarding the fact that the European Union became a consequence and desire of a number of countries to establish and maintain peace in Europe is important against the background of the research subject. The unification of European countries made it possible to consolidate efforts to more effectively contribute to the post-war recovery and stabilization of the economy. According to the results of the work, the main specific features of the European Union are its institutional structure, which in some places determines its unique and supranational character, as well as the values that are the basis of the unification of member countries.

It was also possible to find out and analyze the issues related to the biggest challenges faced by the EU in the process of its functioning, in particular, the withdrawal of Great Britain from the EU member states, the pandemic caused by the coronavirus infection, migration, as well as the Russian-Ukrainian war. Important administrative decisions regarding the response to Russia's actions on the territory of Ukraine are the unwavering support of the sovereign state, the imposition of sanctions on the aggressor country, as well as the provision of asylum for Ukrainians who suffered as a result of Russian aggression. Based on the analysis of the works of various scientists, it was possible to single out the main achievements of the European Union during its functioning, among them: the establishment of the equality of people and their rights, guaranteeing their protection, the introduction of a free trade zone, the introduction of a free movement zone, the establishment of a gender equality and its promotion, the establishment of democracy and its development by individuals, the fight against climate change, etc.

Especially, has to be emphasise the importance of the EU comprehensive foreign and security policy, with the aim of preventing new or existing threats and managing regional and critical points in the global geographic area. The issue related to the prospects and future of the European Union is also important in this work. By analyzing and forecasting certain external factors it is advisable to single out several main scenarios for the further development of the EU: focus on increasing military security, mediation policy, disintegration of the European Union, European Union: expansion or stability, European values: policy of non-imposition, European Union: proper management of energy and economic crisis. It is advisable to devote further research on the relevant topic to the following questions: the expansion of the EU as a guarantee of the consolidation of the dominant position of the union, the reaction of the European Union to migration processes related to the ongoing war, an unprecedented catastrophe of human misery, which is extremely dangerous and affects world order, peace and stability. Despite everything, there is a word that the EU will survive and continue to be an example of a great and deep unification and a successful model of the democratic value of modern times.

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Conflict of interest

None.

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Консолідація і криза: еволюція правової бази Європейського Союзу в прагненні до миру, стабільності та єдності в умовах глобальних викликів

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Анотація. У світлі останніх подій, як-от пандемія коронавірусу та російсько-українська війна, які створюють серйозні перешкоди для нормального функціонування Європейського Союзу, дослідження унікальних характеристик ЄС та майбутніх перспектив його зростання і виживання особливо актуальне. Мета статті – вивчити історію створення Європейського Союзу, труднощі, з якими він стикався протягом свого існування, а також можливості для його подальшого існування та розвитку як особливого союзу європейських держав. Основні методи, які використано в роботі, такі: систематизації, історичного дослідження, прогнозування. Отримані результати дали змогу побудувати уявлення про минуле ЄС, його подальше становлення та особливості, пов'язані з його інституційною структурою. У статті також висвітлено низку викликів, які супроводжували розвиток Європейського Союзу, і те, як ЄС боровся з їх вирішенням, зокрема, найбільше уваги приділено трьом основним з них: вихід Великої Британії з ЄС, пандемія, яка була спричинена коронавірусною інфекцією, а також російсько-українська війна, очікувані та прийдешні енергетична та інфляційна кризи. Окреме місце в результатах статті займає висвітлення перспектив подальшого розвитку Європейського Союзу на тлі сучасних проблем. Зокрема, з огляду на історичний аналіз функціонування Європейського Союзу, запропоновано основні сценарії щодо форм подальшого існування об'єднання європейських країн. Результати роботи можуть використати історики, соціологи та юристи як довідковий матеріал для вивчення особливостей функціонування Європейського Союзу в подальших дослідженнях відповідної тематики

Ключові слова: об'єднання європейських держав; пандемія; Brexit; російсько-українська війна; сценарії розвитку

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Features of political psychology in a digital society: Managing and defining disinformation

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Abstract. Public opinion management is reflected in a balanced approach to the information policy of the country, where the rationalistic outlook of the community promotes the social, economic, and political development of the state values. The formation of an individual's political consciousness is subject to the influence of the information space in which they live, and this poses the relevance of investigating the issue of managing and defining disinformation at the stage of rapid digitalisation of society. Therefore, the purpose of the study was to determine the specifics of the development of patterns of political behaviour and consciousness of an individual in the process of forming a public stance in the context of socio-psychological, informational, and political determinants. The basis of the theoretical and methodological approach in this study was a combination of qualitative methods of systematic analysis of the specifics of psychological factors shaping political views and community behaviour, as well as content analysis of countering disinformation at the current stage of development of society. Furthermore, several surveys were conducted regarding the views and perceptions of the population on information in the media space in the country. The article also presents data that reflect the issue of the psychological phenomenon of society, in particular political judgments, moods, needs and motives of people, which are the result of social and political relations and are realised in a certain political behaviour and actions of both an individual and society as a whole. This article discusses the issues of combating disinformation in the digital space of the state and ways to improve the information literacy of the population. The results of the research are of practical value for educational, social, and psychological organisations that have a direct impact on the formation of legal behaviour and a conscious attitude to information processes in the digital space

Keywords: infodemia; public opinion; absenteeism; social responsibility; electoral behaviour

Introduction

The digitalisation of the modern world places new demands on the quality of the information space, where attempts to raise the significance of information can lead to unintentional distortion or contribute to deliberate misinformation. These conditions create the need for meaningful information management at all levels of society. In particular, special attention is being paid to the process of forming the political consciousness of citizens and their responsible decisions in the field of the political activity of the country. At the same time, the legal aspect of informatisation regulation is gaining relevance, ensuring the development of legal norms and rules, as well as defining the rights and obligations of participants in this process. In this regard, the issues of political psychology as a mechanism for studying the patterns of behavioural characteristics of people in the context of their political activity are becoming more relevant.

Exploring the issues of political consciousness of different generations, O.I. Tsurkanova (2022) notes that the key role in shaping one's political attitude is played by the information that one receives from formal and informal sources (political authorities, organisations, rumours). Completeness and reliability of information allow a person to form certain political beliefs that contribute to their self-identification in the political system, in particular, this is reflected in the system of personal values, where a person can realise their own expectations, guidelines and goals, which allow them to critically assess political processes and implement relevant political activities. S. Doskach and L. Kostyk (2021) studying the issue of technologies of information and manipulative influence on people's political behaviour, points to the need to develop political consciousness among the younger generation in order to form their ability to analyse and understand the essence of the socio-political activities of the authorities, in particular the ability to navigate and actively participate in the political life of the country.

At the same time, the authors see the purpose of shaping the political consciousness of the population at the current stage of the digitalisation of society as avoiding and preventing manipulative acts by the authorities. Besides, political orientations are also influenced by the exchange of personal

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experience between people regarding a particular political event or process. Thus, E. Kubin *et al.* (2021) studying the differences in the formation of an individual's electoral behaviour in the context of adopting the experience of others and official political facts, determine those moral beliefs, which are validated by the life experience of another person, have a greater impact on an individual's participation in political activities than facts. At the same time, the key motivation for this, as noted by M. Gurytska and V. Ryhlik (2023) is an individual's desire to influence the government, to evaluate its efforts and achievements. Studying the issue of modelling electoral behaviour, the authors note that the lack of a formed political consciousness is the main factor of absenteeism.

The modernisation of state processes in Ukrainian society, including the transformation of the social order, reassessment of values and awareness of the importance of information management, is increasingly challenging the formation of the political culture of the population. Thus, A.V. Sakun *et al.* (2021) studying the problem of the prospects for the development of Ukraine's political culture, note that the integration process of entering the European space should be implemented on the basis of a set of values, beliefs and appropriate political behaviour of the population, where legal norms should ensure regulation and orderliness of political activity and political relations between citizens and the authorities. At the same time, legal regulation of the information space is of particular importance. Studying the political socialisation of the population in the context of the rapid development of the information culture of society N.S. Ukhanova (2020) highlights the crucial role of mass media in shaping the political outlook of young people. The author also argues that the transmission of personal socio-political values and opinions by the everyday environment of the younger generation (teachers, family, friends) plays an important role in the formation of their political consciousness. However, such preferences and positions may not always correspond to actual political processes, which raises the issue of developing appropriate knowledge and skills among the population to identify disinformation.

The dynamics of political processes in the context of global digitalisation require a change in information security standards. In particular, psychological aspects of the political life of society play a fundamental role in managing the information space of the state, which is an urgent issue of political psychology in modern society. The main goal of the study was to determine the specifics of the formation of political consciousness of citizens in the context of studying the specifics of political psychology and revealing ways to counteract disinformation at the public level.

Materials and methods

The basis of the methodological approach to the analysis of the issue under study is a qualitative combination of methods for establishing the structural components of political psychology and the features of its development in the context of the digitalisation of society, as well as determining the content of the problem of social reality in terms of managing the information policy of the country, in particular, means of combating disinformation at all levels of public life. These issues included determining the conditions for shaping the political consciousness of citizens and finding effective methods of countering disinformation within the country's legal system. The planning of the research and the implementation of its empirical part were based on the systematisation and unification of the world experience of studying the problem of the development of political psychology, which became the basis for revealing the content of its features in the digital society and a source of determining methods of countering disinformation.

The study of the theoretical framework on the problem of political psychology and the study of the global experience of protecting the state from manipulative violations in the information space allowed for the analysis of the scientific achievements of researchers from Ukraine, Germany, Denmark, Sweden, Canada, Ireland, Chile, Indonesia, the USA, Brazil, Norway, France, Finland, and the UK. In addition, this approach involved the use of methods of generalisation, synthesis, and comparison of the results of theoretical analysis of the subject matter. In particular, the considered scientific achievements contributed to the identification of key aspects of the development of the political culture of the population, which made it possible to identify the main directions of managing disinformation and ensuring its counteraction at the legal level.

The main approach to the organisation of practical research on this issue was to identify the incentives for the development of psychological components that are formed as a result of social and political relations between people and their environment and are implemented in the process of their political activity. This approach made it possible to analyse the structural elements of political psychology, synthesise its features and identify methods of combating information manipulation, which contributed to the identification of the fundamental provisions and principles of the research problem and led to the formation of the scientific apparatus of the study.

The outlined goal and analysed theoretical approaches to the study of political psychology in the period of digitalisation of society guided further empirical research, which was based on the method of a sociological survey and aimed at determining the formed political ideology of citizens at the current stage of the country's development, as well as their knowledge and skills to recognise disinformation. Also, the analysis of the theoretical framework led to the hypothesis that modern youth are more critical of information related to the political life of the country, and their media literacy rates are higher than those of the older generation. Kyiv residents were invited to participate in the study. The sample was formed in several stages. The first stage was carried out by interviewing passers-by on the streets of the city. Ultimately, 482 people aged 19 to 63 took part in the study. Further research was carried out using an online survey. Respondents received a link to it via email or SMS, according to the personal data they provided in the interview. The online survey was aimed at determining a person's subjective assessment of their own awareness of disinformation ("Determining the formed knowledge regarding disinformation" (2023)). This allowed to divide the sample by age to identify possible differences in the respondents' political values (IDRlabs 8 Political Values Test (Test on 8…, 2023)) and their level of media literacy (Media Literacy Test (A test to determine…, 2023)). This approach involved an analytical comparison of the results obtained with the findings of other researchers, which helped to identify the key features of controlling and managing disinformation in the context of political psychology.

Results

Building a state that focuses on the interests of the population is a priority for the Ukrainian people. The development of a digital society, where every citizen has free access to the information space provided with up-to-date and accurate data, is the conceptual basis of the country's current political system. Thus, the world practice shows the results of progressive social development in the context of active interaction between the authorities and the population, which is achieved by the introduction of digitalisation at the political, social, economic, cultural and educational levels (Berg *et al.*, 2022). At the same time, a new challenge is the formation of digital culture among citizens, which becomes a determining factor in their social and professional mobility (van Kersbergen & Vis, 2022). The rejection of stereotypical thinking about the dynamics of political processes in a digital society leads to the growing role of political psychology, which can help normalise and optimise the psychological climate of political life in society (Hedling & Bremberg, 2021).

The study of the issue of political psychology is becoming critically important for this age. In particular, political psychology can be viewed within the framework of a mental process, mental state or mental properties. Since politics is created and implemented by people, each individual is guided by their own motives, perceptions, emotions and attitudes, which are reflected in their acts and behaviour. Investigating the regularities, conditions, mechanisms and facts of the manifestation of politics in the socio-psychological aspect, M.F. Golovatyy (2006), J. Blais *et al.* (2021), O.T. Muldoon *et al.* (2021), C.R. Kaltwasser (2021), and A. Mashuri *et al.* (2022) interpret political psychology as a separate scientific field designed to study the psychological aspects of the political life of society and which can form political portraits of voters and leaders, in particular, to justify their motives, goals, behaviour and actions. This approach gives political psychology a practical direction and considers it in the context of conscious (rationalism) and extra-conscious (irrationalism) aspects. The authors generally agree that the development of the political-psychological concept is based on understanding the psychological elements of the process of political activity, predicting the outcome of this process and transforming its external properties. Thus, the features of political psychology reflect the monitoring and management influence on the political consciousness of society, including its culture, behaviour, activities, and motivations. Therefore, it is important to define the place of political psychology in the context of human political consciousness.

Previous scientific sources analysed indicate that the reflection of the formed political consciousness is observed in the knowledge of a person and their views on political relations. At the same time, the political consciousness of an individual synthesises their values, experience, and knowledge into appropriate behaviour. In this context, the development of critical and analytical thinking contributes to the awareness of the need for people to take an active part in the political processes of society. It is also worth pointing out that the inability of the political and ruling elite to overcome the crisis and implement the necessary reforms stimulates negative changes in the political consciousness of the community and can become a certain lever for aggravation of the political space and conflict reactions on the part of the population (dissatisfaction with the authorities, protests) (Lund, 2015). Since the political elite uses information as a means of manipulation to force people to make wrong decisions, this may result in a divergence from the public's perception and lead to political conflicts. Therefore, it is necessary to form and raise the level of information culture of the population.

The rapid development of digitalisation creates a certain dependence on information technologies, in particular those that inform people about certain news (blogs, social networks, messengers). In this case, the issue of infodemia (dissemination of false information) is gaining widespread prominence in the modern world. This problem has become particularly acute during the COVID-19 pandemic. Thus, studying the impact of the COVID-19 pandemic on the human psyche, A. Bonafé-Pontes *et al.* (2021) and S. Dash *et al.* (2021) found that disinformation, especially in the context of active digitalisation of society, produces negative emotional reactions in people (fear, uncertainty) and affects the political and economic security of the country. In particular, disinformation causes differences in the views of society and creates a polarity in the perception of the situation, which produces conditions for evading political participation (Tarkin, 2021). Thus, information has exceptional properties based on its scale, universality, influence, and secrecy. In the digital age, this poses a threat to certain segments of the population at the psychological, technical, linguistic, and technological levels and raises the issue of people's political culture, their ability to recognise false facts, manage them and act in accordance with the legal law of the state within the framework of the regulations on the dissemination of information. Therefore, it is important to determine the level of knowledge of the population about disinformation at the current stage of the development of the country.

Residents who lived in Kyiv at the time of the survey were invited to participate in the study. Respondents were selected on the streets of the city over the course of two weeks. At the preparatory stage, random passers-by were asked to complete a quick survey to learn their attitudes and perspectives on the news in the information space. In particular, questions were asked about their trust in the authorities, their position on state policy and their awareness of political relations within the country. Residents were also asked to take an online survey to determine their media literacy, political values, and ability to recognise disinformation. The further study involved 482 adult respondents, including 34 people over the age of 55. The conditions for evaluating the results were the same for all respondents.

The subjective assessment of the respondents' knowledge of recognising disinformation, including political disinformation, was carried out through an online survey compiled using the Google Forms platform (Survey "Determining formed…, 2023). This survey also aimed to determine the political views of people by age aspect. The results of the survey show that young people prefer to learn news from Internet resources (Ukrainian sites 22%; foreign sites 20%) and hardly trust news from television (2%). In particular, the majority of respondents aged 18-35 verify political news from official sources and foreign websites (70%). At the same time, respondents aged 35 to 55 actively use messengers (32%) and social networks (21%) (Telegram, Facebook), Ukrainian-language Internet resources (20%) to watch the news, and TV to a lesser extent (6%). However, the overwhelming majority do not verify information in other sources, but trust what they hear or read in

Table 1. Results of the subjective assessment of respondents' awareness regarding disinformation

No.	Questionnaire questions	Response option	Respondents by age, %		
			18-35	35-55	55+
1	What sources do you use to get acquainted with news on a daily basis?	TV	2	6	41
		(Internet) Ukrainian news sites	22	20	18
		(Internet) foreign news sites	20	12	3
		messengers	52	32	15
		social networks	4	21	24
2	Which information service do you trust the most?	TV	2	9	68
		Ukrainian news sites	39	54	18
		foreign news sites	21	27	3
		messengers	37	9	6
		social networks	1	1	6
3	Do you verify information in other sources?	yes	70	36	6
		no	30	64	94
4	Whose perspective would you rather accept when hearing news about the government's foreign policy efforts?	news	65	51	71
		inner circle	5	15	26
		accept information only from an official source	30	33	3
5	Do you always vote?	yes	80	74	94
		no	20	26	6
6	How do you view anti-advertising by political opponents in their preparation for the elections?	I consider it to be a manipulation	70	68	38
		inclined to believe	1	1	53
		this reduces the degree of trust in the politician	30	30	9
7	Assess your ability to recognise fake news?	high	46	32	26
		average	53	54	68
		low	1	13	6

a single source (64%). The results of the online survey on disinformation awareness are presented in more detail in Table 1.

The results of the survey indicate lower levels of information culture among the older generation. This suggests the likelihood of a low level of political consciousness or established authoritarian views characterised by state-centrism. Therefore, in addition to political participation of an individual in society, political psychology should also consider the political values of a person, which directly affect their behaviour and serve as a source of political socialisation. In particular, political values are an exceptional phenomenon of human consciousness and an integral part of its political culture, which together form a scale of assessments on the way to the implementation of its political activities (Golovatyy, 2006). The results of the study of respondents' political values reflect the predominant position of centrism in all age groups, which indicates that they see the political life of society in the context of a balance between equality and social hierarchy in opposition to political perturbations in any direction. At the same time, affiliation with views on a political regime where the government should be totalitarian in legislative, executive, and judicial decisions is reported among the lowest in all groups. It should be noted that among the respondents, there were no political values that indicate radical beliefs about preventing state authorities from making economic, industrial and managerial decisions in society. A visual representation of the results of this survey is shown in Figure 1.

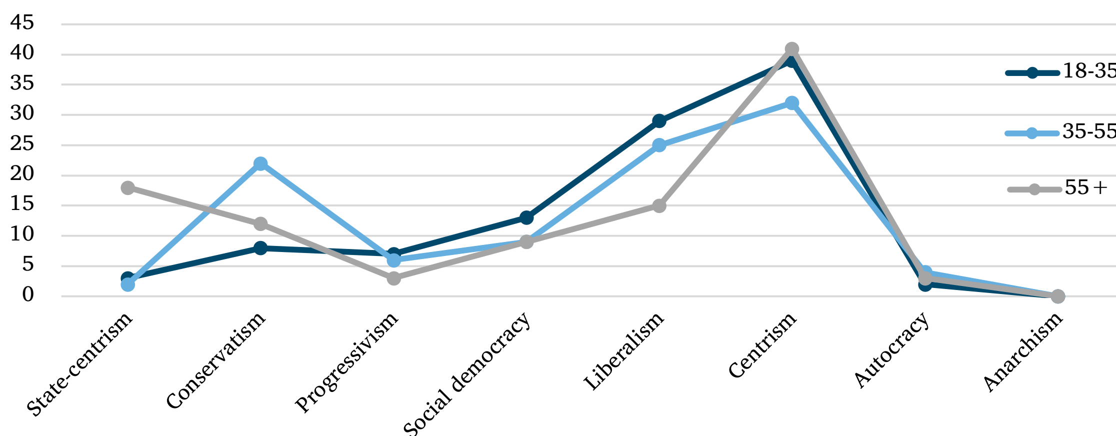

Figure 1. Analysis of survey results to determine political values of respondents

The development of a person's political culture is closely connected with the formation of their spirituality, which is based on moral, legal, social, and managerial principles. At the same time, the political culture of society determines its civilisation, competence, professionalism, and morality (Golovatyy, 2006). Performing social functions, political culture is designed to increase the political consciousness of citizens, ensure their influence on the political process, protect the political values of society, contribute to forecasting the behavioural reactions of society, and ensure the ideological and political connection of a person with society and the political system as a whole (Barandiarán *et al.*, 2020). Given the depth of development of elements of a person's political consciousness, it is important to understand their political education and the maturity of political culture. In particular, when considering these issues in the context of a digital society, media literacy is a key issue. Thus, the development of relevant knowledge and skills, as well as information managing skills, allows a person to critically evaluate the information received. At the same time, media literacy also provides an analysis of people's behavioural and emotional reactions, which makes it possible to create various information messages for the media space to influence society, including false facts (Rasi *et al.*, 2019). Therefore, it is extremely important to understand the development of this knowledge and skills. Analysis of survey results determining the level of media literacy indicates low scores among respondents over 55 (76%) (A test to determine…, 2023). Considering the subjective assessment of this group regarding knowledge about disinformation, only 6% of respondents have this indicator corresponding to reality. The majority of respondents aged 18-35 (69%) and 35-55 (58%) have an average level of media literacy. Generally, the overwhelming majority of respondents could not answer the question about the information medium as the primary source (letters, photographs, texts and data from government agencies and statistical institutions). Difficulties also arose in the survey on standards for verifying the veracity of information, where only 110 respondents in the groups of 18-35 years old (62 respondents) and 35-55 years old (48 respondents) were able to answer in full. For example, some respondents highlighted the items "reliability of information" and "completeness of information". Others marked irrelevant points, in particular, omitting the point about the criticism and distinguishing facts from opinions and assessments, which indicates the need to increase media literacy among the population as a practical method of combating disinformation in the political space of the state. The results of this test are presented in more detail in Figure 2.

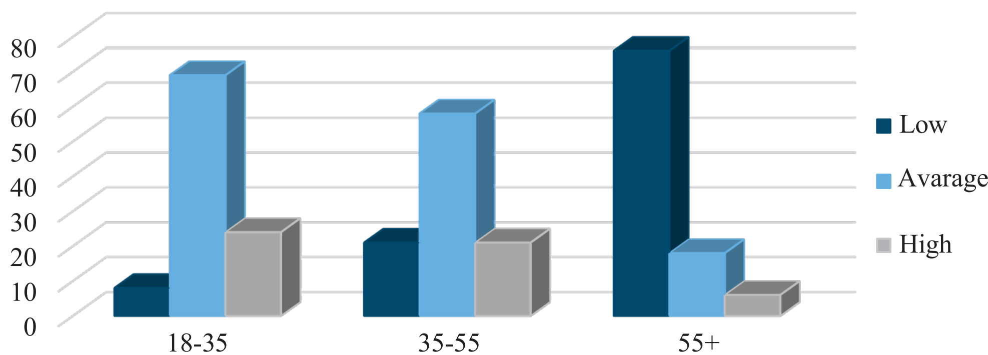

Figure 2. Analysis of the results of the study to determine the media literacy of respondents

The analysis of the empirical study indicates a limited ability of the older generation (55+) to determine the reliability and accuracy of information, especially of political content. However, the aggregate of indicators for young people (18-35 years old) in this study reflects their ability to understand and detect false facts, which suggests that respondents are able to optimise information and store and disseminate it wisely. Indicators of their media literacy and political values reflect the formed system of political knowledge, assessments, motives and orientation in political activity. Similar indicators were also recorded for the 35-55 years old group, but at a slightly lower level. However, only a small percentage of respondents over the age of 55 are willing to change their stereotypical thinking in line with the new realities of the modern digital world. Thus, the study shows that political consciousness is a plastic system of reflection of a person's political culture, intended to facilitate their political activity based on the knowledge, assessments, attitudes, and values they have formed. In the context of studying political psychology, targeted development of a person's political consciousness and information literacy can counteract disinformation at the social level. The implementation of public information education plays a key role in eliminating stereotypical thinking about political activity and is of particular importance in the digital society (Bundy, 2002).

The empirical research stage involved testing the hypothesis, which was successfully confirmed. For the older generation, entering the digital world, which is oversaturated with information, especially political information, is characterised by a certain difficulty in rethinking the activities of the modern government and personal participation in the political life of the country. This creates difficulties in increasing political awareness and developing media literacy. However, young people are able to critically evaluate information in the digital space and analyse it in accordance with the norms and rules for determining its reliability, including referring to the original source to confirm or refute it. These indicators demonstrate the interest of the younger generation in engaging in political activity, including the formation of consciousness and culture. The findings nevertheless indicate a lack of awareness of disinformation and counteraction among the older generation, which necessitates the creation of appropriate social programmes to improve their information literacy.

Discussion

The introduction of information technologies in the political process creates conditions for strengthening democracy, promotes the development of new forms of communicative communication between the authorities and society, reduces the monopoly on the dissemination of information, provides transparent access to political decisions, forms mechanisms of political mobility and expands the opportunities for mutual activities of the authorities and the population. At the same time, information overload can create risks of falsely informing society and manipulating its consciousness (Carriere, 2022). A special place in the political life of the country is assumed by the mass media, which significantly influence the development of public opinion and views on various political issues. According to P.J. Davies (2022), media play a crucial role in shaping political system change. Investigating the media phenomenon in politics, the author notes that its influence on public opinion is not limited to the period of election campaigns, but is constant, which gives the population an idea of a certain political reality. Similar conclusions can be traced in the study by P.S. Hart *et al.* (2020) on the politicisation of news about crisis events, where the author points out the significant impact of mass communication on public consciousness.

At the same time, R.M. Perloff (2021), studying the dynamics of political communication, media and politics in the digital age, notes that mass media are used in political activities as a means of promoting certain political projects. In particular, the author emphasises that mass communication is a source of the process of political socialisation of the individual, which is characterised by the acquisition of political knowledge, the formation of values and relevant political activity. At the same time, deliberate politicisation of the media leads to a decrease in trust and suspicion about the activities of the political elite. The results of the empirical study also correlate with these conclusions. Thus, the analysis of the data obtained suggests that trust in the media among the younger generation is rather low. Young people are critical of political news and seek reliable information from primary sources, while the vast majority of respondents perceive political advertising as manipulative and an attempt to influence their political consciousness.

Modern scientific research on the political influence on the system of knowledge and assessments of a person, their attitudes and behaviour, in particular, the scientific contributions by M.F. Golovatyy (2006), V.A. Gorton (2016), S. Doskach and L. Kostyk (2021), J. Blais *et al.* (2021), U. Reisach (2021), demonstrate that this phenomenon is generally studied in two directions. The researchers refer to the first one as apologetic orientation, which is based on political manipulation as a way to control mass consciousness. The second direction is seen by the authors as a socio-critical aspect that allows political manipulation to be directed towards the development of a new perception of social reality. It should be noted that in the context of the rapid digitalisation of social processes, both approaches are used to suit the goals of the political elite. In particular, as argued by D. Susser *et al.* (2019), the technology of political manipulation consists in including the desired content in the consciousness of individual population groups, introduced into their political attitudes by influencing vulnerable factors through fear or anxiety. Thus, studying the connection between political technologies, autonomy and manipulation of public consciousness, the author also emphasises that political manipulation is based on the implementation of hidden goals that a disinformer cannot achieve without the full support of society.

Exploring the issues of political manipulation, disinformation and fake news J.E. Fossum (2023) divided political manipulation into mass and interpersonal manipulation, emphasising that each has its own purpose and is subject to certain technologies that help to achieve the desired. Thus, to implement interpersonal manipulation, it is necessary to identify the type of person and their characteristics (motives, views). However, in an attempt to manipulate a group of people, it is necessary to determine its general characteristics and vulnerability criteria. Political manipulation distorts the reality of the political process, which leads to its uncontrollability due to disruptions in the system of mutual exchange of information between society and the authorities. Studying the concept of political manipulation G. Whitfield (2022) determines it by a set of means of psychological, spiritual and ideological influence on the consciousness of the population. According to the author, the purpose of this is the desire to impose targeted political ideas on society to realise personal interests.

High information literacy of the population contributes to the prevention of political manipulation and disinformation. Research by A. Bundy (2002) indicates that the foundation of the information culture of the individual is a system of scientific principles, laws, concepts and provisions that are subject to general cultural approaches and views. Analysing the issue of the development of information literacy of the population, the author emphasises that information culture combines interrelated and interdependent elements of communicative, lexical, intellectual, moral, legal, and ideological processes of the formation of human consciousness. A similar view is shared by I. Levin and D. Mamlok (2021) in the study on the issues of culture and society in the digital age. Thus, the authors note that the development of an individual's information culture is facilitated by raising the level of their information literacy, which consists in the formation of sufficient knowledge and skills to evaluate and adequately use information. At the same time, as argued by L. Smith (2016), low levels of Information literacy make it difficult to recognise false information, which leads to difficulties in determining a person's political values and creates a sense of disillusionment with the political system. Studying the problem of information literacy, the author points out that its insufficient formation reduces political activity and causes absenteeism. The analysis of the empirical research results also points to low information literacy, which makes it difficult to overcome stereotypes about established views of the government, in particular, the older generation showed a limited ability to recognise disinformation and critically assess the activities of the political elite.

In addition to the positive phenomena of the development of digital society, its information component also produces an increase in the number of violations of legal norms intended to regulate information relations. The analysed studies indicate that disinformation is a method of psychological influence, which is a conscious intention to provide false information in order to achieve a mercenary goal to gain benefits or advantages in one's personal conduct. The study of legal liability for violation of information relations is quite complicated due to the absence of a single regulatory

act that would cover the list of information violations, so in practice, this is generally reflected in the incorrect application of legal norms enshrined in the legislation of Ukraine (Golovatyy, 2006). For example, the Law of Ukraine “On Information” (2023) explains the basic principles of information relations, in particular, the guarantee of the right to receive information, access to it and the possibility of free exchange of information. At the same time, Article 3 of this Law specifies the provisions of the state information policy, which is designed to ensure equal opportunities for society to create, collect, store, use, disseminate and protect information. At the same time, the Law of Ukraine “On Information” (2023) provides for disciplinary, civil, administrative, and criminal liability for violation of legal norms of information use.

According to M.F. Golovatyy (2006), civil liability is imposed on the subject of information relations (individuals, legal entities, associations of citizens, public authorities) as a result of causing damage to institutions, organisations, citizens or enterprises through the dissemination of inaccurate or false information administrative liability relates mainly to the media. According to the Code of Ukraine on Administrative Offences (2023), in particular Article 173.1, it states that spreading false rumours (disinformation) may lead to panic in society or disturbance of public order. Administrative liability is imposed regardless of the method of dissemination of information (social media, messengers, Internet resources). Criminal liability is imposed in cases of spreading disinformation that harms society on a physical level. According to the Criminal Code of Ukraine (2023), this type of liability covers actions committed with the aim of violent change, seizure of state power, violation of the constitutional order or calls for the commission of the above actions (Article 109), and in case of dissemination of such information by an organised group of people, in particular through the media, a more severe punishment is provided. The Code also provides for criminal liability for disseminating disinformation that threatens human life or entails other grave consequences (Article 250), disclosure of the secrecy of adoption (Article 168), violation of personal privacy (Article 182) and disclosure of commercial secrets at the level of a banking or commercial institution (Article 232). Despite the absence of a single legal act on the list of information offences, the existence of a legislative framework for controlling and disseminating disinformation suggests that there are means to combat it. The key point in this matter remains the use of legal mechanisms to counter disinformation by authorised officials, including training and improving their knowledge, as well as clarification of legal liability for professional inaction.

Modern political processes are interconnected with social and information security, which requires a certain degree of control over the reliability of data. At the same time, the specifics of the impact of informatisation on the public consciousness requires the development of skills to counter disinformation not only at the state level, but also puts forward requirements for the formation of information literacy of the population (Olan *et al.*, 2022). Thus, efforts to counter disinformation in Italy involve teaching media literacy to the younger generation (la Cour, 2019). In particular, since 2017, the government has introduced an initiative called “Stop fake” into the educational process, which involves teaching young people how to recognise disinformation. The training materials include a guide to help identify false information and learn how to consume news consciously and critically. Also, before the elections in 2018, the government of the country developed and introduced the “Red Button service”, which allows citizens to notify the cyber police about fake news in the media space. This has allowed law enforcement agencies to collect, analyse and respond appropriately to cases of disinformation in the media space.

In the US, in 2020, the Cyberspace Commission called on the government to promote digital and information literacy to build a disinformation-resilient society (Cyberspace Solarium Commission, 2021). The commission developed the White Paper, which became the foundation for identifying and managing fakes, manipulation, and disinformation. Thus, research on the issue of disinformation has yielded recommendations for reducing and eliminating its impact on the consciousness of the population. In particular, this document provides advice for creating a set of practical actions to combat disinformation at the state level by providing the educational process with appropriate educational, financial and digital initiatives. This approach allows for real-time monitoring of information literacy. At the same time, in 2020, the Swedish government introduced a nationwide programme to support government organisations in identifying and countering disinformation (MSB: Countering disinformation…, 2020). In particular, the implemented programme “4C Strategies” is based on individual scenarios to help people with low information literacy build knowledge and skills to counter disinformation. The software is designed to work with real-life scenarios, allowing not only to identify manipulations but also to manage them. Also as of 2022, the Psychological Defence Agency to fight fake news, foreign interference was established to identify, analyse, and respond to disinformation that is related to the influence on political activities of the country (Duliman, 2022). The Agency cooperates with scientists, the military, and the media, providing support to regions and various social organisations.

The UK is launching a new strategy to combat online disinformation in 2021 (Department for Digital, Culture, Media & Sport & Dinenage, 2021). For example, the government has made efforts to introduce a programme in educational and social organisations that can teach people media literacy, develop critical thinking, and raise awareness of fakes and manipulations in the information space. In 2019, the French government introduced a set of open-source software tools to counter disinformation in its digital space to meet the political needs of the nation (Dussutour, 2021). And from 2021, internet users will be able to access this software. This allows for the detection of fake social media accounts and the assessment of the legitimacy of a political advertising campaign on them. That same year, the government also introduced the Viginum Digital Interference Protection Agency, which helps to detect and analyse the spread of fake content in the digital space. The government of Finland has included media literacy in the national curriculum from the preschool level (Gross, 2023). Currently, the country ranks first among European countries in terms of resistance to disinformation. Notably, the Finnish public school system is one of the best in the world. Teachers are given a certain degree of autonomy in choosing the methods of teaching and learning, which helps to include many practical tasks in lessons, including those related to the definition of disinformation. The educational process is based on modern digital technologies and is aimed at the targeted development of critical thinking in children.

The analysed previous studies indicate that the threat of disinformation is intensifying on a global scale. Different approaches to its definition and counteraction make it possible to critically evaluate methods of combating disinformation and choose the most effective way to implement relevant concepts at the state level. The scientific study is consistent with the conclusions drawn by A. Ali *et al.* (2023) and also L. Oldenburg and J. Griesbaum (2022), who argue for the need to introduce the idea of improving information literacy into the educational process. Young people's access to the Internet does not guarantee the gradual acquisition of the competence to identify disinformation, especially in adolescence. By examining the indicators of digital and information literacy of the younger generation, the authors conclude that forming skills and knowledge to identify disinformation will not only help develop analytical thinking, but also allow them to critically evaluate the information they encounter on a daily basis. The study highlights the need to develop critical and analytical thinking, which is an important condition for the formation of a person's electoral behaviour and political activity in adulthood. The results of the study also correlate with the Law of Ukraine "On Information" (2023), which enshrines transparency of access to information, the possibility of its processing and free exchange, including in the digital space.

The conducted study identified the forms of political psychology manifestation, which are political values, emotions, thoughts, beliefs of people, their aspirations, goals, habits, and traditions. In particular, this contributed to highlighting the features of political psychology in the digital society (Zmigrod, 2022):

- the formation of this scientific field is carried out within the framework of political activity of society in the context of interaction of the subjects of this activity in the social and information space;
- the study of human political behaviour, values, motives and attitudes helps to analyse the position of political psychology in the process of digitalisation;
- political processes are forecasted by studying the political consciousness of society, in particular the emotional components of human behaviour.

Political mobility allows reacting to changing political situations:

- the political process is seen as a competition, which allows the advancement of digital technologies and skills in managing them while combating different ideologies and unauthorised interference in the political process (Jost *et al.*, 2022);
- the influence of various factors on the process of political activity is considered within the framework of the present and allows to identify and influence the current needs and interests of citizens (Richards *et al.*, 2022).

The results of the study indicate a significant influence of the media on processes of modern political life. World practice shows that the media actively influence the formation of political consciousness of citizens, the activities of the political elite, and are also used as a means of persuading the political beliefs of society. Since political views allow people to identify themselves in the system of political activity of the state, to form relevant values, motives, and goals, to understand their own political orientations and expectations, it is necessary to develop and implement social programmes and initiatives that will help to increase the information literacy of society.

Conclusions

Global digitalisation is characterised by the rapid development of innovations and technologies that have a significant impact on the acceleration and modernisation of economic, educational, and political sectors. At the same time, the impact of digitalisation produces significant changes in the behaviour patterns of modern society, which is reflected in the modernisation of its cultural sphere, the transformation of its worldview and values. However, the consequences of the use of digital technologies can be unpredictable, which necessitates raising the level of awareness among the population, including the development of practical skills for adequate perception of information.

The study indicates that the political practice of modernity is distinguished by skilful manipulation of the political consciousness of the population, in particular, this influence is reflected in a certain implementation of the hidden incentive to achieve the results required by a certain political elite. Therefore, the key direction of the process of informatisation in modern society is the individual development of the individual, in particular their information culture, which will be based on improving knowledge and skills in processing information sources, searching for them, optimising them, determining their reliability and legitimate distribution.

The formed hypothesis was fully confirmed at the stage of empirical research. Notably, the indicators according to the criterion of subjective assessment of respondents' ability to identify disinformation were significantly overestimated by the older generation of respondents, while young people critically assess their own capabilities and show a desire to advance their information literacy. Based on the study of international experience in countering disinformation in the context of state educational and political activities, effective methods of countering disinformation were identified, including the introduction of a media literacy programme in the educational system, which allows young people to form a conscious management of information in the digital space and promotes the development of knowledge and skills to identify and counter disinformation. A promising area for further study is the analysis of methods for developing information literacy programmes and ways to implement them in the public life. The findings of the study can be used by educators, psychologists, political scientists, and social organisations that have a direct impact on the formation of information literacy of the population.

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Conflict of interest

None.

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Особливості політичної психології в цифровому суспільстві: управління та визначення дезінформації

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Анотація. Управління громадською думкою відображається у виваженому підході до інформаційної політики країни, за якого раціоналістичний світогляд суспільства сприяє соціальному, економічному та політичному розвитку цінностей держави. Формування політичної свідомості особистості відбувається під впливом інформаційного простору, у якому вона живе, що зумовлює актуальність дослідження питання управління та визначення дезінформації на етапі стрімкої диджиталізації суспільства. Тому метою дослідження стало визначення специфіки розвитку моделей політичної поведінки та свідомості особистості в процесі формування громадської позиції в контексті соціально-психологічних, інформаційних та політичних детермінант. Основою теоретико-методологічного підходу в цьому дослідженні стало поєднання якісних методів системного аналізу специфіки психологічних чинників формування політичних поглядів та суспільної поведінки, а також контент-аналізу протидії дезінформації на сучасному етапі розвитку суспільства. Крім того, було проведено кілька опитувань щодо поглядів та сприйняття населенням інформації в медіапросторі країни. У статті також представлені дані, які відображають питання психологічного феномену суспільства, зокрема політичних суджень, настроїв, потреб і мотивів людей, які є результатом суспільно-політичних відносин і реалізуються в певній політичній поведінці та діях як окремої людини, так і суспільства загалом. У статті розглядаються питання протидії дезінформації в цифровому просторі держави та шляхи підвищення інформаційної грамотності населення. Результати дослідження мають практичну цінність для освітніх, соціальних та психологічних організацій, які безпосередньо впливають на формування правомірної поведінки та свідомого ставлення до інформаційних процесів у цифровому просторі

Ключові слова: інфодемія; громадська думка; абсентеїзм; соціальна відповідальність; електоральна поведінка

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Tolerance to uncertainty as a factor in the mental health of the population in conditions of war

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Abstract. The relevance of the study is determined by the problem of preserving the mental health of society during crisis events that can influence the development of various forms of destructive mental disorders in the population. In this regard, the purpose of the research work was to determine the characteristics of a person's personal characteristics in the context of preserving his mental resources to fight uncertainty, as well as finding effective ways to restore the psychological well-being of the population in war conditions. The theoretical and methodological basis of the scientific research was a combination of qualitative methods of structural and functional analysis of providing psychological support to society during the period of martial law, as well as a systematic approach to the study of the social conditioning of the formation of tolerance to uncertainty in a person. In particular, several surveys were conducted on the problems of intolerance to uncertainty and psychological well-being of the individual. The scientific work presents the results that reflect the problem of the personal qualities of a person to withstand the burden of crisis events that are associated with situations of uncertainty, in particular, psychological self-regulation, which allows to adequately perceive problems and find productive solutions to solve them. The article also highlights the issues of intolerance, self-identity and personal maturity of a person, which reveal the content of his individual perception and interpretation of situations of uncertainty. The obtained data also reflect the problem of the impact of crisis circumstances on the formation of a person's predisposition to mental disorders. At the same time, the research paper highlights issues of personal anxiety and worries about the future, as well as reveals the specifics of public health care in different countries

Keywords: armed aggression; anxiety; intolerance; personality disorders; self-regulation; therapy

Introduction

Global changes in the social life of society are accompanied by psychological stress, especially when it occurs under the influence of crisis events, which increase the likelihood of the development and exacerbation of neuropsychological disorders in the country's population. At the same time, the issue of preserving the psychological well-being of people becomes important. This problem is especially acutely actualized in the period of armed aggression, where numerous social changes lead to situations of uncertainty, stress, and frustration (Riad *et al.*, 2022). This necessitates the search for effective methods, approaches, and ways of providing psychological support to the population. The problem of ensuring the conditions for the implementation of psychological assistance to the population during martial law increases the need to create a certain psychological space within the country, where social and educational organizations will contribute to the development of tolerance for uncertainty among the population, as a factor in preserving the mental health of the nation. In particular, this determines the relevance of studying the content of the problem of forming a person's readiness to make decisions in conditions of uncertainty, contradiction, the novelty of the situation and the lack of complete information about the consequences of the choice.

Investigating the role of a person's personal characteristics as a source of his psychological resources in maintaining the psychological well-being of O.V. Klepikova (2021) points out that the problem of forming tolerance to uncertainty is interconnected with the development of perseverance,

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a conscientious attitude to the performance of duties and the ability to realize one's own creative potential. In particular, the author emphasizes that these traits help a person overcome frustration in personal development and effectively tolerate ambiguous situations. A similar conclusion can be traced in the study of O. Chykhantsova (2021), where the author also notes the need to develop adaptive capabilities for the formation of a person's tolerance for uncertainty. Thus, studying the problem of the psychological basis of the vital stability of the individual, the author points out that a person's adaptation to changes is a process of ensuring his psychological well-being and at the same time is a system of self-regulation that allows a person to quickly adapt to external changes. At the same time, the author emphasizes the relationship between the level of an individual's adaptation capabilities and the preservation of his psychological balance and productivity in social life. At the same time, according to S. Babatina (2021), the purposeful development of components of self-regulation allows forming the necessary system of constructive psychological strategy for socio-psychological transformations in the mind of a person. Studying the issue of mental health of the individual in the context of social restrictions, the author emphasizes that healthy emotional and behavioural regulation produces in a person the skills of tolerance to the unknown and the ability to integrate new knowledge into one's own experience.

Consequences of crisis events can be various negative mental manifestations accompanied by increased anxiety, depression and psychosomatic problems. Investigating the impact of military conflicts on the mental health of young people. V.O. Tyurina and L.O. Solokhina (2022), and also O.F. Yatsyna (2022) note the problem of a violation of their cognitive, emotional and motivational spheres of the psyche. At the same time, the authors emphasize the need for targeted intervention by specialists to reduce destructive behavioural manifestations and increase a person's adaptive capabilities. At the same time, the effectiveness of psychological assistance increases with early referral to a specialist. Similar conclusions are followed by J.B. Damsgaard and S. Angel (2021) and V. Singh *et al.* (2022) indicating the need not only for psychotherapeutic help, but also for preventive measures. In particular, while researching the peculiarities of recovery and strengthening of mental health, the authors emphasize the reduction of acute stress reactions by strengthening the social support of the population, where the work of specialists consists in helping a person develop his self-identity and personal integrity. At the same time, scientists emphasize the need to provide psychological conditions for the formation of people's tolerance for uncertainty, where the key aspect is the use of a humanistic approach for the individual's understanding of existing problems in life and determining ways to solve them.

The development trend of modern society creates new demands for life, where constant changes and traumatic events lead to feelings of insecurity, fear, and insecurity. This determines the need to study the concept of developing tolerance to uncertainty in the population and determines the main goal of the research work, w hich is to reveal the content of intolerance to uncertainty, which is caused by the consequences of military aggression. At the same time, the study of the theoretical basis of the research problem made it possible to put forward a hypothesis (H_0): the higher the level of intolerance to uncertainty, the lower the level of psychological well-being of a person.

Materials and methods

The key approach of the theoretical and methodological basis for considering the peculiarities of the development of tolerance to uncertainty and the provision of psychological assistance to people living in a state of war was the synthesis of methods for determining the cause-and-effect relationships of the influence of personal characteristics of a person on the perception of the ambiguity of situations in relation to crisis events and the ability of the psyche to cope with them, as well as a systematic study of ways to provide psychological assistance to people who are in danger. This involved determining the features of the formation of tolerance to uncertainty in the context of preserving the psychological stability of a person in the process of transition to new realities. Planning and ensuring the implementation of scientific research tasks was implemented using methods of generalization and structuring of the world experience of studying the genesis of tolerance to uncertainty as a component of the resourcefulness of the human psyche, which made it possible to analyse the specifics of the conditions for the development of tolerance and formed the basis for revealing the importance of the principles of providing psychological assistance to the population.

The analysis of the theoretical base regarding the provision of conditions for preserving the mental health of people experiencing traumatic events allowed to reveal the key aspects of the development of the psychological potential of an individual. Thus, the use of methods of axiomatic and comparative analysis made it possible to determine the principles of modern concepts of providing psychological assistance to the population in wartime in the context of the development of plasticity in the perception and interpretation of information full of contradictions. In particular, the identified methods contributed to the analysis of scientific sources of researchers from Ukraine, the USA, Denmark, Spain, Italy, Poland, Germany, and Romania. In addition, it made it possible to analyse the theoretical foundations of the conversion of traumatic experience into psychosomatic conditions, anxiety, post-traumatic syndrome, depression, and other mental disorders. The unification of world experience and the use of the deduction method in this study contributed to the analysis of the features of the development of psychological stability of a person in the conditions of martial law. The basis of the conceptual approach to the organization of scientific research was the determination of factors that affect the development of tolerance to uncertainty, as well as the search for optimal methods of ensuring their improvement. The analysed scientific sources and the formulated goal determined the direction of the empirical research, which involved the determination of methods and means of its implementation, the formation of a sample, as well as the analysis, evaluation, and interpretation of the obtained results.

The research was supported by Charitable Foundation "Caritas-Kyiv" (2023), which provides assistance to people in difficult life circumstances within the framework of legal, psychological, humanitarian and financial support. Part of the survey was conducted by face-to-face questionnaire among people who applied for help to the organization. The other part was implemented through an online questionnaire, which was created on the basis of Google Forms software and distributed using social networks and the charity's website (Social survey, 2023). In total, 177 respondents aged

19 to 59 took part in the study. Further interaction with the participants was carried out through the e-mail address that the respondents indicated during the questionnaire. In order to diagnose the risks of post-traumatic condition among the respondents, the questionnaire "Intolerance to Uncertainty Scale" by N. Carleton (Hromova, 2021) was used. The assessment of the general psychological well-being of the interviewees was determined by using the K. Riff method "Scale of psychological well-being" (2023). Correlations between the obtained data were calculated using the statistical program "SPSS SmartViewer (v. 16.0)" (2023) and the application of the parametric criterion of K. Pearson. At the same time, the use of the praximetric method contributed to the comparison of the obtained results with the conclusions of other scientists and made it possible to single out the peculiarities of the psychological stability of the individual in the conditions of war.

Results

Preservation of the psychological well-being of the population during crisis events is a priority task for the country. This problem becomes very important in the period of war, when people have fear and anxiety about the future, feelings of insecurity and insecurity arise, which can not only reduce a person's psychological resistance to stressful situations, but also lead to serious violations of his mental activity. At the same time, experienced traumatic events allow a person to gain new experience in solving problems and to form an awareness that they are able to cope with adversity. However, only under the condition of reconceptualization, assimilation and adequate interpretation of this experience, there is an opportunity for the perspective of post-traumatic growth, in particular, the acquisition of psychological well-being, personal stability and inner balance. The need to improve one's mental health is a direct part of human evolution, where the key role in these processes is played by the environment and society's desire to preserve its national assets in the context of the country's human potential. Mental health becomes possible thanks to a high tolerance for uncertainty, which involves the formation of a person's ability to change and satisfy his own needs in the conditions of transformation and the surrounding world. This allows the individual to be plastic and open to new experiences.

During the period of armed aggression, a person's psyche is permanently traumatized, which affects his value orientations, relationships with the environment, and life prospects. In particular, there are difficulties with feelings of safety, stability and security, where long stressful events and situations of uncertainty reduce the general level of psychological well-being of a person. The analysed scientific assets of E.D. Kanter (2008), O.V. Klepikova (2021), O. Chykhantsova (2021), A. Riad *et al.* (2022), I. Lim (2022), point to an increase in the problem of emotional exhaustion in people against the background of armed aggression and a decrease in their perception of information about mental health disorders and the consequences of inaction to eliminate these problems. Thus, researching the issue of psychological well-being of the population, the authors note the need to provide social and psychological support to society by developing psychological resilience in them. In addition, the authors define satisfaction with life and awareness of its value, the absence of negative experiences, positive and adequate self-perception, self-identity, the ability to use one's own resources, the presence of social support and awareness of one's responsibility for life, choice and mental health as factors that ensure a person's psychological well-being. The analysis of scientific sources indicates that in conditions of large-scale traumatic events, people develop destructive mental states, in particular, insomnia, tension, feeling of constant fatigue, irritation, anger, decreased productivity, anxiety (Kanter, 2008; Hoffart *et al.*, 2022; Chen & Lucock, 2022). A person with a tendency to anxiety tries to plan and prepare for various events. However, it seems impossible to eliminate all traumatic situations or to completely control them. It should be noted that stress resistance, in particular, an individual's ability to solve difficult life situations and recover from difficulties experienced, is formed as a result of understanding one's own responsibility for thoughts, emotions, problems, and attitude to life in general.

Uncontrolled and contradictory changes in the social environment complicate a person's relationship with the environment, which can lead to conflict and tension. Given this, it is important to reveal the content of the problem of individual tolerance in modern realities, where tolerance, as a component of universal human value, forms the basis of a person's communicative skills and his interaction in society. Firstly, tolerance to uncertainty is of great importance in modern conditions, which serves as a key aspect for revealing characteristic individual psychological features regarding human choice and the process of decision-making, in particular in the context of rationalism, impulsivity, risk, independence, or tolerance. The totality of these processes determines the development of a person's psychological stability, his ability to resist crisis events and recover from trauma. The analysed sources on the problem of the development of tolerance to uncertainty indicate the inconsistency of scientific approaches in understanding this phenomenon (Reis-Dennis *et al.*, 2021; Yap *et al.*, 2023). Thus, one of the directions of consider;ation of the issue of intolerance to uncertainty is the study of this aspect within the framework of a human trait, where an individual perceives unclear information or a situation as a threat to his comfort and can interpret them inconsistently, as well as react to them with polar emotions. At the same time, another approach studies tolerance to uncertainty as a dynamic characteristic of a person that can be influenced by psychotherapeutic means and through the development of a person's awareness of his own thinking. In particular, these processes are related to the motivational and cognitive receptivity of a person in relation to his previous experience.

Thus, tolerance to uncertainty acts as an individual modality of an individual to perceive various events and situations and, on the basis of acquired experience and knowledge, to find ways to solve them. A person's inability to adequately implement these processes leads to a decrease in his mental health. Therefore, it is important to determine the influence of tolerance to uncertainty on the successful functioning of the individual in the social environment. People who applied for help to Charitable were invited to participate in the study Foundation "Caritas-Kyiv" (2023). The preparatory stage of the study involved the collection and analysis of socio-demographic indicators of the respondents. In total, 177 respondents joined the study (n = 177, where n is the number of respondents), of which 94 people completed the questionnaire face-to-face, and 83 people joined by posting a survey link on the website of the charitable organization and in its

social networks (Social survey, 2023). The study was conducted on a voluntary basis, and all participants gave their consent to the processing of the obtained data and their use in this study. The average age of the survey participants was 29.4 years (min = 19, max = 59). To understand the gender differences in the emotional perception of situations of uncertainty, the respondents were divided into two subgroups, which consisted of a male group (MG) in the number of 53 respondents (30%) and a female group (FG) in the number of 124 respondents (70%). Also, in this study, the age criterion was monitored, but it was perceived as an auxiliary component in revealing the impact of tolerance to uncertainty on the mental stability of the individual. The preliminary survey of the research participants made it possible to highlight the features of the respondents' social status at the time of the survey. Table 1 shows the results of the survey.

Table 1. Results of the survey of the socio-demographic status of the respondents according to the answers of the participants

Question	Response options of respondents	Quantity, %
Age	19-30	39
	31-40	31
	41-50	22
	>50	8
Sex	Male	30
	Women's	70
Social status	Married	55
	Roommate	11
	Divorced/Living separately	13
	Unmarried	18
	Widow/widower	3
Education	Full secondary education	24
	Higher education (bachelor/master)	76
Work/study	State employee	19
	An employee of a non-governmental institution	36
	Student	18
	Unemployed (able to work)	27
Number of inhabitants in your city/village	Less than 50 thousand inhabitants	16
	From 50 to 250 thousand inhabitants	32
	More than 250 thousand inhabitants	52
Your activity is related to:	Volunteer (fundraising, medical or psychological assistance, supplies)	10
	Forcedly displaced person (IDP)	72
	In the military reserve	18
Do you have experience of participating in combat operations?	No	100

Source: compiled by the authors

During long traumatic events (wars, pandemics), a person may experience uncertainty or, on the contrary, adapt to stress. At the same time, in such conditions, it is also possible to form a state of numbness, which, with a long course, increases the risks of developing anxiety disorders. The reasons for this state can be personal anxiety, uncontrolled fear, panic, lack of complete information about situations and events, depression, loss of identity, as well as confusion and inability to independently get out of this state (Kanter, 2008). Thus, the analysed previous studies indicate that with long-term traumatic events, intolerance to uncertainty contributes to the development of depression, anxiety and post-traumatic stress disorder (PTSD). Characteristic signs of depressive states are feelings of depression, sadness, unhappiness, and abandonment (Chen & Lucock, 2022). At the same time, the development of anxiety is accompanied by fear, thoughtlessness, illogicality and psychosomatic diseases (Hoffart *et al.*, 2022). With PTSD, a person may experience dissociative reactions that go through the stages of shock, adrenaline period, devastation, adaptation, and hatred (Babatina, 2021). Thus, the impact of war on the mental activity of an individual depends on his ability to find alternative solutions, the ability to adjust and get out of crisis situations. The diagnosis of tolerance to uncertainty among respondents was carried out using the adapted questionnaire "Scale of Intolerance to Uncertainty" by N. Carleton (Hromova, 2021). This technique makes it possible to determine indicators of oppressive anxiety (bodily and emotional reactions to controversial events) and prognostic anxiety (a person's expectation regarding situations of uncertainty and the future). At the same time, in this context, oppressive anxiety is considered as a combination of personal and situational anxiety, where manifestations of a somatic nature (problems with concentration, confusion) do not depend on the source of anxiety. The results of indicators according to this survey are clearly presented in Figure 1.

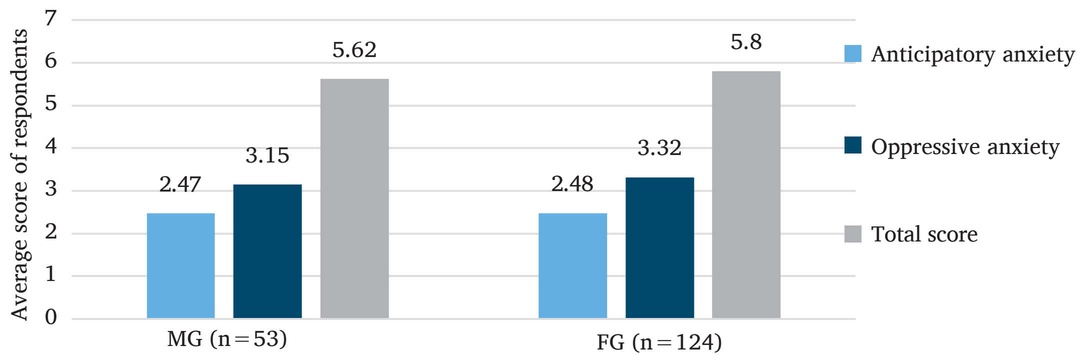

Figure 1. Analysis of the results of indicators of intolerance to uncertainty of respondents of two groups (average score)
Source: compiled by the authors

The obtained data indicate the absence of significant gender differences in the indicators of intolerance to uncertainty among the interviewed respondents. Observation of the difference in age criteria also did not determine significant fluctuations in the results of the respondents, which could significantly affect the change in intolerance to uncertainty with age. The average values of the indicators of the respondents according to the method of intolerance to uncertainty (MG = 5.62; FG = 5.8) allow to assume that at the time of the survey, the respondents' attitude to uncertainty is quite stable and does not depend on age gradations.

An individual's interpretation of situations of uncertainty occurs within the framework of his latent factors of consciousness, and the assessment of the dimension of this uncertainty is assumed through subjective self-perception. Thus, the multiplicity of choice options, the lack of ability to control the results of the decision, as well as the riskiness, novelty, and contradiction of unpredictable situations are the main components of uncertainty, where the subjective evaluation of events can be translated as a need for certainty, but not meet the flexibility of the human psyche. In addition, the attitude to uncertainty can be interpreted in the context of a person's negative experience in similar situations at the behavioural level, emotional experience or cognitive reactions (Yap *et al.*, 2023). The study of the problem of intolerance to uncertainty involves the realization that this construct can change against the background of gaining new experience or through the purposeful activity of a person to contribute to the development of this property.

Psychological well-being involves a person's sense of his own integrity and conscious living of his life. Respondents were assessed for these indicators using the "Psychological Well-Being Scale" method by K. Riff (2023). This questionnaire allows determining a person's ability to make independent and independent choices in decision-making, the ability to satisfy one's own needs in the context of using the conditions of the environment and surroundings, the ability to create trusting relationships with people, set and achieve goals in life, as well as assess a person's ability to perceive himself. Also, this technique allows determining the general index of a person's psychological well-being. The obtained data are visually presented in Figure 2.

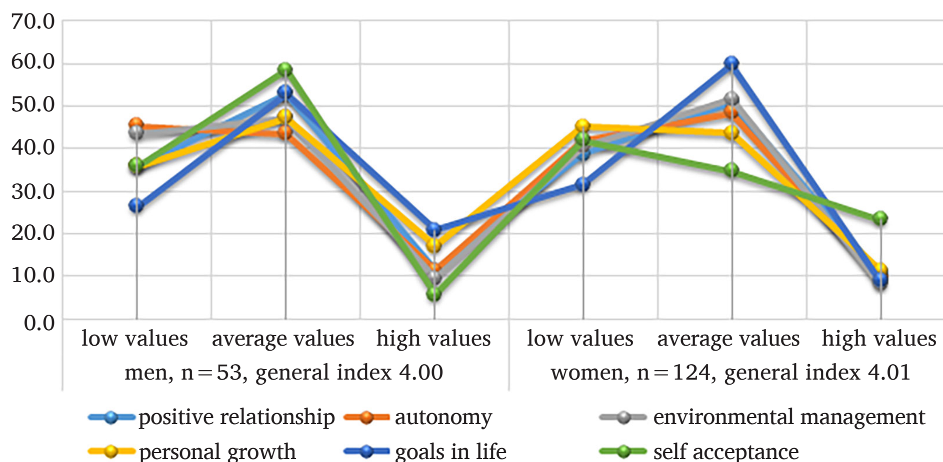

Figure 2. Analysis of the results of indicators of the level and components of psychological well-being of respondents of two groups
Source: compiled by the authors

The obtained results, in particular the comparison of the general index of the two groups, indicate that the surveyed respondents have an average level of psychological well-being, but this indicator is closer to the border with a low level. At the same time, there is a higher level of orientation among men to achieve goals and objectives

related to ensuring well-being in life (MG = 20.8%, FG = 8.9%), personal growth (MG = 17%, FG = 11.3%) and autonomy (MG = 11.3%, FG = 9.7%). However, the obtained data also indicate that women are less critical of themselves, where positive self-perception allows them to accept their own qualities and positively evaluate the past, turning it into experience to overcome future problems. Thus, according to this method, it was determined that 23.4% of the female group has high scores according to the school of self-perception, and this indicator is much lower in the male group (5.7%). It should be noted that decision-making in difficult situations determines the content, process, and effectiveness of a person's psychological stability and his sense of well-being and life satisfaction. At the same time, the content of a person's psychological well-being is not only a sign of subjective satisfaction with life, situations, and events that happen to a person, but also the result of his self-regulation, experience, openness to new things and the ability to overcome obstacles that appear on the way. Thus, the psychological stability of a person and his psychological well-being are related to the development of the personality and the formation of a high level of responsibility for one's own future. The correct development of the components of mental health, the goals, and motives of the individual, as well as the ability to manage one's psycho-emotional state helps to create a quality basis for the purposeful development of her tolerance for uncertainty (Reis-Dennis *et al.*, 2021).

To test the hypothesis regarding the relationship between intolerance of uncertainty and a decrease in the psychological well-being of an individual, a correlation analysis was carried out according to the K. Pearson method, which was calculated in the program for statistical data analysis "SPSS SmartViewer (v. 16.0)" (2023). Visually, the results are presented in Table 2.

Table 2. Correlation between the components of psychological well-being and intolerance to uncertainty

	MG (n = 53)			FG (n = 124)		
	Intolerance to uncertainty, M = 29.5, SD = 6.6	**Prognostic anxiety, M = 18.3, SD = 3.4**	**Oppressive anxiety, M = 11.2, SD = 3.2**	**Intolerance to uncertainty, M = 30.9 SD = 7.4**	**Prognostic anxiety, M = 18.5, SD = 4.1**	**Oppressive anxiety, M = 12.4, SD = 4.3**
Psychological well-being	0.339*	0.142*	0.197*	0.342*	0.159*	0.183*
Positive relationship	-0.029	-0.006	-0.003	-0.024	-0.006	-0.008
Autonomy	0.359*	0.195*	0.164*	0.341*	0.174*	0.167*
Management of the environment	0.279*	0.144*	0.135*	0.271*	0.126*	0.145*
Personal growth	0.273*	0.139*	0.134*	0.263*	0.134*	0.129*
Goals in life	0.058	0.84	0.74	0.05	0.74	0.76
Self-perception	0.248*	0.132*	0.116*	0.261*	0.136*	0.125*

Note: * – correlation of significance at the level of p = ≤ 0.05; M – mathematical expectation; SD – standard deviation
Source: compiled by the authors

The obtained data indicate the existence of a significant correlation between indicators of intolerance to uncertainty and violation of psychological well-being of a person. In particular, the values on the "Autonomy" scale (MG = 0.359; FG = 0.342) reflect the respondents' reduced ability to regulate their own behavioural reactions in decision-making in situations of uncertainty. At the same time, the correlations of intolerance to uncertainty according to the scales "Environmental management" (MG = 0.279; FG = 0.271), "Personal growth" (MG = 0.273; FG = 0.263) and "Self-perception" (MG = 0.248; FG = 0.261) allow assuming the existence of problems among respondents with independence in situations of uncertainty, difficulty in perceiving changes in social life and inability to master new experience, turning it into opportunities to realize one's own potential. It also creates problems with emotional intelligence, which leads to a feeling of fear and lack of confidence in one's own abilities to solve problematic situations. It should be noted that statistically significant correlations between intolerance of uncertainty and the scales "Positive relations" (MG = -0.029; FG = -0.024) and "Goals in life" (MG = 0.058; FG = 0.05) were not established. This may indicate the respondents' efforts to establish favourable relations with the environment and the desire to achieve a certain social status. However, due to the low ability to self-regulate and the presence of psychological imbalance, there is a possibility of a lack of favourable conditions for the realization of these desires. Therefore, it can be noted that intolerance to uncertainty can affect the psychological state of people and the feeling of psychological well-being in these studied groups.

Thus, increasing tolerance to uncertainty in people during traumatic events is a key aspect of preserving their mental health. Thus, long-term situations of uncertainty create predictors of remote experience, which enables the formation of persistent disorders of the human psyche. The results of the research show that it is especially important to create favourable conditions for social and psychological support of the population during the war, where psychological assistance will purposefully contribute to the development of a person's psychological stability, self-identity, tolerance to uncertainty and the ability to regulate one's own emotional states. It is also significant to create preventive measures for the population at the state level for the possibility of increasing the emotional stability of the population and the formation of favourable attitudes towards therapy and rehabilitation in people, which allow reducing the risks of developing neuropsychiatric disorders.

Discussion

The negative consequences of armed aggression on the mental health of the population create conditions for the decline of the country's economic and political potential. Therefore, preserving the psychological stability of society in the conditions of war is an important aspect of overcoming the crisis in the country. Thus, increasing the risk of a person's susceptibility to mental disorders is a natural factor in armed conflicts. Firstly, this is related to the loss of subjective security of a person and the increase in information about traumatic events related to war and spread through media channels. In particular, constant anxiety is capable of producing anxiety-type mental disorders in a person (panic, generalized, obsessive-compulsive, social, post-traumatic, phobias) (Tyurina & Solokhina, 2022.). At the same time, the traumatic experience of war is also associated with mood disorders (depression, bipolar disorder), where the destruction of emotional stability can lead to irreversible mental disorders. Actualization of the problem of preserving people's mental health in the period of armed aggression is conditioned by the scale of crisis events in the world, in particular as a result of the increase in wars and the consequences of the COVID-19 pandemic (Today's Armed Conflicts, 2023). In addition, the increase in the number of studies in the field of recovery of the mental health of an individual after trauma allows not only to select effective methods of treatment of neuropsychiatric disorders, but also to form the public's understanding of the need to preserve psychological well-being and the importance of timely referral to a specialist.

Studying the problem of intolerance to uncertainty S. Reis-Dennis *et al.* (2021), P. Patel *et al.* (2022), and A. Yap *et al.* (2023) determine its interdependence with the personal beliefs of a person, perception of the external environment, as well as with the individual's behavioural reactions. Thus, an intolerant personality shows categoricalness in choice, the need to avoid multitasking situations, to categorize and define events relative to one's own perception. At the same time, an intolerant person is characterized by manifestations of authoritarianism and aggression, where dogmatism, rigidity, and prejudice make it difficult for him to develop the skills of perceiving contradictory and ambiguous information, as well as the ability to feel psychological comfort. In addition, a person with intolerance to uncertainty has difficulty making decisions and being psychologically stable. Studying the problem of human intolerance to uncertainty, R. Inklaar and J. Yang (2012), J. Morriss *et al.* (2022) determine the lack of such an individual's ability to predict events, where the feeling of one's own vulnerability and anxiety can lead to distortions in the perception of information. In particular, it can produce in a person's consciousness the appearance of incompatible concepts in situations of uncertainty, contribute to his resistance to changes, refusal to understand new information, and also lead to categoricalness, cruelty, and regression in behavioural models. At the same time, R. Becerra *et al.* (2023) describe a person with a tendency to intolerance as a person who not only avoids situations of uncertainty, but also considers them a threat to his own safety. Thus, researching the issue of the relationship between intolerance to uncertainty and anxiety, the author emphasizes that intolerance to uncertainty manifests in a person due to his ignorance, lack of previous experience in successfully solving similar situations, as well as due to imposed destructive beliefs that have turned into stable personality attitudes.

Studying approaches to providing conditions for the development of tolerance to uncertainty, J. Shu *et al.* (2022) notes the need for the formation of creative thinking in a person, which allows an individual to creatively solve problem situations. In the opinion of the author, tolerance to uncertainty is self-regulation skills and individual level of openness and risk-taking of a person, manifested in the desire to defend one's own ideas, judgments, and reasoning. Similar conclusions are followed by S. Grenier *et al.* (2005), D. Goyal and U. Sharma (2022). Investigating the problem of tolerance to uncertainty, the authors consider this phenomenon as a person's metacognitive skills. This approach assumes that a tolerant person is able to effectively resolve conflicting and ambiguous situations, regulate information processing, adequately and critically evaluate situations of uncertainty, be receptive to uncertainty, take responsibility for their decisions and choices, and turn the acquired knowledge and information into experience problem-solving. Investigating the issue of tolerance to uncertainty and its connection with human maturity, M. Lauriola *et al.* (2023) defines these aspects as mutually complementary processes, where a person's ability to perceive and understand himself and his emotions, to creatively approach the solution of everyday tasks, as well as to be responsible and open to new experiences contributes to the development of personality tolerance. Studying the issue of tolerance as a personal attribute of a person, the author also notes that the maturity of a person is characterized by his readiness to take responsibility for his actions, behaviour and decisions, which allow the individual to form self-identity and self-respect in his mind.

Modern studies on the development of tolerance to uncertainty and understanding its importance in the context of psychological stability of a person and his well-being note the relevance of this phenomenon in the world space. The research of this problem is devoted to the scientific works of A. Angehrn *et al.* (2020), S. Hidese *et al.* (2022), M. Kestler-Peleg *et al.* (2023), K.A. Knowles and B.O. Olatunji (2023), where the authors stipulate the need for the conscious development of tolerance to contradictory and ambiguous situations. In particular, investigating the issue of the connection between mental disorders and intolerance, the authors came to the conclusion that people who experience instability of mood and have a high level of personal anxiety are prone to the development of mental disorders, where stressful situations and crisis events affect the exacerbation of symptoms. Researchers include depressive states, anxiety, psychosomatic problems with varying degrees of manifestation (sleep disturbances, pain of various aetiologies) as the most common destructive mental disorders as a result of large-scale traumatic events that last for a long time. The obtained empirical research data are also correlated with the research results of the mentioned scientists and indicate a violation of the emotional regulation of the respondents, which leads to obstacles in the establishment of interpersonal contacts in their everyday communication, an increase in conflict and mistrust of the environment, behavioural destructive reactions and cognitive dissonance, which manifests itself in intolerance to situations of uncertainty, new experience and inability to be tolerant of the ideas and knowledge of the environment.

Research by L. Ekselius (2018) and S. Babatina (2021) on the problems of personality disorders and the technology of providing medical and psychological assistance to people

who have suffered damage to mental health indicates the presence of emotional tension, disturbances, and accentuations of a person's character, problems with the sensitivity of the psyche, which produce inadequate behavioural reactions of the individual to various situations. The authors also agree that people with mental health disorders can react in a panic to situations of uncertainty, have inhibition or excitability of the behaviour of their reactions. So, E. Preti *et al.* (2020) and R. Rossi *et al.* (2020), studying the problems of mental health of the population during the period of crisis events, note that during stressful situations, a change in the system of ideas, values, and norms is characteristic for a person, which also provokes changes in life plans and social relations, in particular, increases the conflict of a person and his aspirations avoid communication with the environment. At the same time, the authors emphasize that clinical manifestations of mental disorders may manifest as disorders of an emotionally unstable, depressive and anxiety-like nature. The obtained results of the empirical research are also correlated with the conclusions of scientists, where face-to-face communication with the respondents made it possible to determine that their value and meaning sphere have undergone changes since the beginning of the war. In particular, respondents noted changes in meaningful life orientations, motivation, goals, and a decrease in the desire for self-realization due to a lack of control over one's own life.

Deterioration of the mental health of the population in the context of crisis events actualizes the issue of creating proper conditions for mental health care. Modernization of the health care system and transformation of approaches to providing psychological support to the population can prevent the increase in mental illnesses. Thus, the danger associated with a full-scale invasion of the state, information overload with news about traumatic events, the economic crisis and political changes against the background of armed aggression and the imposition of martial law by the president on the entire territory of Ukraine determine the development of conditions for providing psychological assistance to people who are in difficult life circumstances (Decree of the President of Ukraine No. 64/2022 "On the Introduction of Martial Law in Ukraine", 2022). Thus, psychotherapy helps to overcome the acquired psychosomatic symptoms of impaired mental activity of a person, and also provides adequate support to people with a tendency to personality disorders. Psychological help is especially important for people with a diagnosed mental disorder and those who are in remission, because stressful events and situations of uncertainty can increase the course of the disease or provoke its exacerbation. Therefore, it is important to popularize psychological help as a factor in maintaining mental health. However, not all people apply for psychological help, which also creates the need to provide informational support to the population with possible self-help methods, where the key factors will be the increase and formation of stress resistance skills, the development of human tolerance to uncertainty and enlightenment about the importance of seeking professional psychological help.

In Ukrainian society, the issue of public health protection is fixed at the legislative level. According to Order of the Cabinet of Ministers of Ukraine No. 1018-r "On the Approval of the Concept of Mental Health Care Development in Ukraine for the Period until 2030" (2017) it is important to increase the level of public awareness of the importance of maintaining mental health, reduce discrimination of people with neuropsychiatric disorders, improve knowledge about mental health and prevent disorders of mental activity. Also, this concept envisages the implementation of measures to prevent mental disorders of military personnel, to develop in them skills to overcome stress during service, as well as measures to develop resistance to stress among the civilian population. In particular, the introduction of new standards in the field of mental health care will contribute to the quality control of the provision of psychological care, the creation of modern psychodiagnostic tools for the assessment of mental health, the implementation of appropriate protocols for the creation of standards of social and psychological care for all categories of the population, as well as ensuring the availability of treatment by means of pharmacology and psychotherapy. Achieving the availability of psychological care should be ensured through the introduction of out-of-hospital forms of treatment, in particular, the creation of conditions for the provision of psychological primary care in crisis centres and medical institutions, as well as interdisciplinary cooperation of medical specialists. An important approach in providing psychological assistance to the population is the training of highly qualified specialists, the development of their professional competencies and the creation of conditions at the level of territorial communities for psychosocial support of the population and rehabilitation through the introduction of a standardized system of psychological assistance (psychotherapy, performance monitoring, psychosocial services).

World practice also shows the actualization of the problem of providing psychological assistance to the population. Thus, the Spanish government has created conditions for citizens in terms of free access to the health care system due to the large number of mental disorders in people (insomnia, depressive states, anxiety), where psychological assistance services are introduced for all age categories of citizens (Parks, 2023). At the same time, a model of psychological support has been introduced in Italy, which is based on the fight against emotional exhaustion and impaired communication skills (Frost *et al.*, 2017). This approach does not involve the intervention of specialized specialists (psychiatrist, psychotherapist), but is based on primary medical care. The problem of health care in Germany is solved by popularizing knowledge about the importance of maintaining psychological well-being (Thom *et al.*, 2021). Thus, the purposeful creation of an information space about mental disorders and methods of their elimination, as well as the introduction of a pilot model of data collection, allowed the state to form a database on the mental health of citizens and contributed to the creation of a system for planning and implementing social measures to meet the needs of society. For Romania, access to psychiatric care is through a family doctor, which implies close cooperation with other specialists and access to treatment options (day care, private centres) (Order of the Cabinet of Ministers of Ukraine No. 1018-r "On the Approval of the Concept of Mental Health Care Development in Ukraine for the Period until 2030", 2023). In matters of mental health of the population, Switzerland is based on prevention and early intervention in the process of deterioration of mental health (NHS recovery plan, 2023).

An important step for the country was the digitization of the provision of psychological support to the population,

which also made it possible to introduce a model of cognitive-behavioural therapy with the possibility of remote treatment. This computerized model is designed to provide support to people with personal mental disorders of the affective and anxiety spectrum. In the United States, access to psychological care is provided through the use of a model of mental health recovery, which is based on the improvement of the population's indicators of optimism, communication skills, motivational sphere, enrichment of knowledge and skills, as well as the development of their identity. At the same time, this approach allows correcting the initial manifestations of neuropsychiatric disorders (Coombs *et al.*, 2021). The modernization of the medical system of providing psychological support to the citizens of Poland contributed to the development of the concept, which allows receiving psychiatric help in public centres that are connected with social organizations and provided with state funding (Sagan *et al.*, 2022). The implementation of this concept makes it possible to provide psychological assistance to people with personal mental disorders and a predisposition to them, including depression, anxiety, post-traumatic syndrome, panic attacks.

The conducted empirical research is correlated with the analysed scientific works, which indicate the need to improve the mental health of people who are in conditions of armed aggression by developing their internal determinants of forming tolerance to uncertainty and creating conditions for post-traumatic growth (Kanter, 2008; Yatsyna, 2022; Morriss *et al.*, 2022). In addition, the obtained data are also correlated with the conclusions of A. Angehrn *et al.* (2020), A. Hoffart *et al.* (2022), S. Hidese *et al.* (2022), which indicate the need to study issues related to the manifestations of neuropsychological disorders and to ensure the restoration of human mental health in conditions of danger with the possibility of developing a consistent and effective strategy for solving the problem in matters of the individual's attitude to situations of uncertainty, development of her cognitive skills, self-regulation, and tolerance. In particular, the similarity of the results of the research by J.M. Malouff *et al.* (2005), K.C. Stanek and D.S. Ones (2023) with an empirical study that shows the dependence of uncertainty tolerance on a person's ability to regulate their own behaviour and make choices. Thus, intolerance to uncertainty significantly reduces the level of psychological well-being of a person, his vitality and social interaction with the environment. At the same time, purposeful development of tolerance to uncertainty is able to ensure effective transformation of a person's attitude to decision-making, psychological well-being and stability of mental health in general.

Conclusions

The processes associated with the functioning of the neuropsychic activity of a person ensure the acquisition, processing, and storage of information, which allows the individual to form his own experience regarding the decisions made, solve problematic situations and assess the risks of the choice made. Tolerance for uncertainty is facilitated by a clear and constructive systematization of these processes. However, long-term traumatic events, where the individual is unable to control the situation, create prerequisites for the development of anxiety, panic, depression, and other neuropsychological disorders. A person's tendency to mental disorders is formed as a result of psychological traumas, where the danger factor is the key point in reducing his mental health. In the period of armed aggression, the planned development of a person's tolerance for uncertainty is of great importance, which will contribute to the preservation of his mental health and ensure the restoration of psychological resources.

At the beginning of the study, a hypothesis was formulated, which involved testing the interdependence of intolerance to uncertainty and the psychological well-being of a person. In the process of empirical research, this assumption was fully confirmed. In particular, the conducted study determined that intolerance to uncertainty affects the functioning and self-realization of a person in society. In addition, it was found that the experienced situations of uncertainty, which are related to the war and its consequences, led to the deterioration of the mental health of the respondents (sleep disturbances, anxiety, depression). The study of the global experience of restoring the mental health of the population, as well as ways of improving the health care system, allowed to reveal the features of increasing tolerance to uncertainty in the conditions of martial law. A promising direction of further research is the analysis of methods of psychotherapeutic assistance in working with war victims. The obtained research results and the conclusions formed on their basis are significant for organizations that provide social and psychological support to the population, as well as for employees of educational institutions who can develop, implement and implement in educational activities psychological approaches to the development of tolerance to uncertainty in the younger generation.

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Conflict of interest

None.

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Толерантність до невизначеності як фактор психічного здоров'я населення в умовах війни

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Анотація. Актуальність дослідження зумовлено проблемою збереження психічного здоров'я суспільства під час кризових подій, що здатні впливати на розвиток у населення різних форм деструктивних порушень психіки. У зв'язку із цим метою науково-дослідної роботи постало визначення особливостей особистісних характеристик людини в контексті збереження її психічних ресурсів для боротьби з невизначеністю, а також пошук ефективних шляхів відновлення психологічного добробуту населення в умовах війни. Теоретико-методологічну основу наукового дослідження склало поєднання якісних методів структурно-функціонального аналізу забезпечення психологічною підтримкою суспільства в період воєнного стану, а також системний підхід вивчення соціальної зумовленості формування в людини толерантності до невизначеності. Зокрема, було проведено декілька опитувань щодо проблем нетерпимості до невизначеності та психологічного добробуту особистості. У науковій роботі представлено результати, що відображають проблему особистісних властивостей людини витримувати тягар кризових подій, які пов'язані із ситуаціями невизначеності, зокрема психологічної саморегуляції, яка дає змогу адекватно сприймати проблеми та знаходити продуктивні рішення для їх розв'язання. Також в статті висвітлено питання інтолерантності, самоідентичності та особистісної зрілості людини, які розкривають зміст її індивідуального сприйняття та інтерпретації ситуацій невизначеності. Отримані дані також відображають проблему впливу кризових обставин на формування в людини схильності до психічних розладів. Водночас у науково-дослідній роботі висвітлено питання особистісної тривоги та переживань щодо майбутнього, а також розкрито особливості забезпечення охорони здоров'я населення в різних країнах

Ключові слова: збройна агресія; тривожність; нетерпимість; особистісні розлади; саморегуляція; терапія

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Problems of legal regulation of bankruptcy during armed conflict

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Abstract. The relevance of the study is due to the inconsistency of the national legislation of Ukraine on bankruptcy with the current conditions on the territory of the state, which are connected with the full-scale invasion of the Russian Federation. Martial law causes high risks of destruction of medium, small and large business enterprises, in particular in uncontrolled and temporarily occupied territories. Thus, the purpose of the study is to justify the need to improve the national legislation on bankruptcy, increase the efficiency of the mechanisms for the realization of rights, the fulfilment of obligations and the protection of the interests of economic entities in the conditions of military confrontation. The main methods used to write the work: historical, comparative, statistical, method of analysis, synthesis. The results of this work turned out to be the following: the legislation regulating legal relations regarding bankruptcy was investigated, it was found out which subjects of economic activity are at risk of bankruptcy, and the impact of the war on the state of legal regulation of the economic sphere was investigated. A conclusion was made regarding the main shortcomings of the national bankruptcy legislation. The question of the possibility of preserving the debtor's further reputation and the proportional satisfaction of creditors' rights by following the bankruptcy procedure, which was developed in accordance with modern conditions, was also investigated. The possibility of compensation for losses from the side of the aggressor country for those enterprises that suffered losses and destruction as a result of Russian military aggression is also indicated. The expediency of introducing a moratorium on bankruptcy and the main disadvantages of this type of restriction are discussed. Further directions for improving and increasing the level of effectiveness of the legally provided mechanisms for the implementation of the bankruptcy procedure in the conditions of war on the territory of Ukraine are proposed. The results of research work can be used as a theoretical basis for further legislative developments in the field of bankruptcy

Keywords: martial law; bankruptcy procedure; legal relations; economic sanctions; business entities

Introduction

The effectiveness of the Code of Ukraine on Bankruptcy Procedures (2018) became obvious from the moment of its adoption. However, certain aspects of it need to be clarified and improved in view of the modern conditions and challenges associated with the military invasion of the Russian Federation on the territory of Ukraine. Bankruptcy cases of business entities located in temporarily occupied or uncontrolled territories of Ukraine are considered by commercial courts in accordance with the requirements of the Code. It is clear that arbitration administrators face difficulties in fully complying with all requirements in these territories. Unfortunately, the current legislation does not provide for any exceptions, nor does it define separate procedures or time frames for the resolution of relevant issues that significantly affect bankruptcy proceedings. Also, the impossibility of disposing of the debtor's assets within the time limits established by law remains a problem. Thus, the purpose and objectives of the study are to find out how it is possible to improve the bankruptcy procedure for its effective implementation for those economic entities that suffered from the Russian armed invasion, to study the importance of this procedure in view of ensuring the normal functioning of business and further "rehabilitation" of the debtor.

O.M. Kulyk (2022) analysed models for determining the probability of bankruptcy for enterprises operating in the hotel business. The author points out that most of the relevant enterprises were re-evacuated and moved their business to other areas that are safer, but a large number declared themselves bankrupt for several main reasons; it can be both external and internal factors, errors in management activities. The researcher also provides a list of models that determine the probability of bankruptcy of a particular enterprise: the two-factor model, Altman's modified model, and O. Zaitseva's model. T.I. Shvidka (2022) discussed the possibilities of reforming the legislation on bankruptcy issues during martial law. In general, the author claims

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about the shortcomings of the national legislation in the researched area, due to the fact that the interests of debtors and creditors remain not fully settled in the conditions of war. It also points out the existing contradictions between the current Code of Ukraine on Bankruptcy Procedures (2018) and a number of proposed draft laws that propose changes to the codified act of laws. The author emphasizes the need to improve the national legislation on the bankruptcy procedure in such a way as to ensure the further "rehabilitation" of the debtor, because the Ukrainian economy needs the activities of small, medium and large businesses in order to function normally.

R.I. Sodoma (2022) analysed how it is possible to avoid bankruptcy at the enterprise under the conditions of martial law. The author points out that there are several effective tools of anti-crisis management activities, in particular liquidation, rehabilitation or reorganization of the enterprise. The last two forms are designed to restore business profitability, competitiveness. In turn, liquidation is a form of protection of the basic rights and freedoms of participants and employees of the relevant enterprise. All forms, as the author notes, are intended to be a preventive way to prevent bankruptcy of the enterprise. O. Staschuk *et al.* (2022) also note that the current conditions of waging war on the territory of Ukraine lead to higher risks of bankruptcy for enterprises. The authors also analysed the main reasons that provoke bankruptcy, provided statistical data on the liquidation, rehabilitation, and reorganization of enterprises. Emphasis was placed on the need for changes in national legislation in the relevant field; noted that the relevant changes should be consistent with the needs of small and medium-sized businesses. H.V. Samoilenko (2021) offers in the research several ways to solve the problem of bankruptcy of critical infrastructure enterprises, in particular, a moratorium on the bankruptcy procedure, taking remedial measures, improving national legislation.

In general, it is worth noting the high level of interest in this topic, which is observed in Ukrainian scientific doctrine. It is also appropriate to note that several issues related to the bankruptcy procedure must be additionally investigated. This includes, in particular, the study of statistical data on this problem, foreign experience in preventing bankruptcy, the use of international tools for reparation of damages from the aggressor country, and proposing ways to solve the problem.

Materials and methods

Scientific research was conducted using several methods of scientific knowledge. In particular, the historical one was used to find out and analyse the origins and development of the institution of bankruptcy in Ukraine and abroad. The use of the terminological principle made it possible to reveal the concept of bankruptcy, and to distinguish the main causes of bankruptcy at enterprises. The method of legal hermeneutics, in turn, helped to find out and reveal the development of the legal framework that defines the main legal grounds and procedures related to bankruptcy. Yes, Code of Ukraine on Bankruptcy Procedures (2018) was investigated, legislative initiatives for its improvement. Peculiarities of the bankruptcy procedure are studied in more detail on the example of European countries. It is worth highlighting the systematic approach, which made it possible to form an expanded concept of bankruptcy and to investigate the main models that help enterprises calculate the probability of failure to meet their financial obligations to creditors. Also, with the help of the appropriate method, the manner in which the state of war and the invasion of the Russian Federation on the territory of Ukraine affected the state of business activities by business entities, in particular, critical infrastructure enterprises, was investigated.

Using the analysis method, the issues related to the main problems of the bankruptcy procedure on the territory of Ukraine during the full-scale war were investigated, as well as the main ways and opportunities for solving the relevant problems were proposed. Also, the scientific method of modelling made it possible to form the most suitable options for further improvement of the national bankruptcy legislation in order to balance the rights and obligations between creditors and debtors, as well as to ensure a "remedial effect" on the enterprise that declared itself bankrupt. The synthesis method made it possible to combine and examine all the important characteristics and elements of the institution of bankruptcy in order to identify its prospects for development and improvement. To single out the main shortcomings of the current legislation, which regulates the relevant sphere of legal social relations; aspects that must be taken into account by the legislative body in order to ensure compliance with the rights and freedoms of participants in economic relations when forming bankruptcy legislation.

It is also worth highlighting the comparative method by which positive and negative legislative initiatives to amend the Code of Ukraine on Bankruptcy Procedures (2018) were identified in the scientific study. The comparative method also came in handy during the analysis of the reasoning of scientists and authors regarding the improvement of the institution of bankruptcy in the conditions of martial law. The statistical method, which made it possible to understand the scale of bankruptcy on the territory of Ukraine based on the analysis of open court cases and open statistical data, became quite important. The sources of relevant information in this study are the Commercial Court of Cassation (2023) as part of the Supreme Court. The probability of compensation for damages caused by Russian aggression to enterprises by the aggressor state is clarified, the international legal mechanisms of such lawful recovery are investigated. A general conclusion related to the subject of the study is formed on the basis of certain elucidated elements of bankruptcy.

Results

Bankruptcy is a legal process that occurs when a person, business, or organization is unable to meet its financial obligations and pay its debts (Fir, 2022). Bankruptcy provides a structured framework for managing and resolving financial difficulties, offering both debtors and creditors some protection of rights and freedoms (Zhang, 2023). The bankruptcy procedure is an important tool, especially during the period of martial law and the full-scale invasion of the Russian Federation on the territory of Ukraine, which leads to higher risks of the company's insolvency. The legal definition of bankruptcy is available in the Code of Ukraine on Bankruptcy Procedures (2018), which states that bankruptcy is caused by the inability of the debtor to restore the ability to pay for monetary obligations through restructuring, rehabilitation, which is recognized by the decision of the commercial court; thus, repayment of debts for obligations is possible only through the liquidation of the enterprise.

Thus, taking into account these definitions, it is appropriate to single out the following as signs of the bankruptcy procedure:

- the debtor admits his insolvency and requests the court's intervention to resolve his financial situation;
- after filing the application, the court takes control of the debtor's assets and liabilities, and all financial activities related to bankruptcy are carried out under the supervision of the court;
- suspension of activity regarding payment of monetary obligations;
- valuation of assets;
- debt repayment plan;
- involvement of creditors in the procedure and the arbitration administrator;
- a plan for financial rehabilitation, as well as the occurrence of certain reputational consequences for the enterprise, that is, bankruptcy remains in the credit history of a person, which potentially makes it difficult to obtain credit or loans in the future (Radovanovic & Haas, 2023).

It is worth analysing some statistical data (Fig. 1).

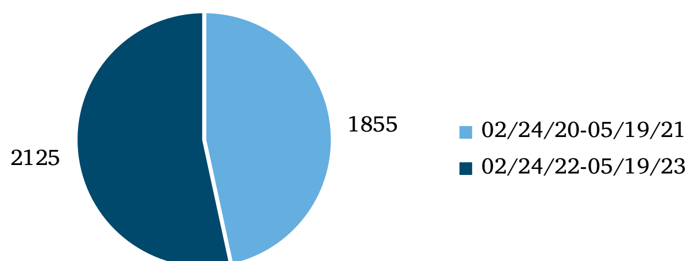

Figure 1. Number of notifications and announcements regarding the opening of bankruptcy/recognition of insolvency
Source: compiled by the author based on Cassation Commercial Court (2023)

Thus, according to the data in the period 02/24/2022-05/19/2023, the number of relevant notifications and announcements is 6% more than the same period during 2020-2021, which indicates the need for an effective bankruptcy procedure that takes into account modern conditions of martial law. However, the main legal act – the Code of Ukraine on Bankruptcy Procedures (2018), does not contain such provisions. Among the main factors causing the insolvency of entities in modern conditions, it is worth identifying the following:

- the company's assets have been destroyed or completely destroyed;
- the enterprise in its entirety or some of its parts (representative offices, branches) are located in the territory temporarily occupied and not under the control of Ukraine;
- the enterprise was seized by the armed forces of the Russian Federation and illegal armed formations;
- the enterprise is unable to carry out economic activities on the controlled territory of Ukraine during the war due to restrictions caused by the disruption of logistics chains;
- insufficient number of skilled specialists (so-called scarce occupations) due to mobilization or migration after the full-scale invasion of February 24, 2022;
- inflationary processes and a sharp decrease in the solvency of the population, which especially affected small and medium-sized businesses.

As a result, this potentially leads to large-scale bankruptcies of enterprises of all forms of ownership, not only during martial law, but also after it ends. For example, it is worth pointing out some of the largest enterprises of Ukraine, which have already suffered large losses due to the armed offensive of the Russian Federation, which causes a higher risk of bankruptcy. This is the "Mariupol giant" – the Azovstal plant and the Mariupol Metallurgical Plant named after Ilyich, the Kremenchuk and Odesa oil refineries, separate gas and oil enterprises in the Kharkiv and Dnipropetrovsk regions, the Sievierodonetsk association "Azot", the Avdiiv coke-chemical plant, the Mykolaiv plant "Zorya Mashproekt", SE "Antonov", Kyiv factory "Coca-Cola".

The problem is that the Code of Ukraine on Bankruptcy Procedures (2018) does not regulate the relevant legal relations if they arise in the territory that is not under the control of Ukraine, in particular for several main reasons. This is the impossibility of conscientiously and properly performing the duties assigned to the subjects of the bankruptcy procedure in uncontrolled territories; lack of communication and exchange of information between the territories that are under the control of Ukraine and temporarily occupied; insufficient amount of data on the persons involved in the case, the impossibility of informing the participants of the case regarding the consideration of their case. Also, the arbitration administrator in bankruptcy cases cannot provide information to the court regarding the determination of the source of payment for the liquidator's services. Usually, the relevant services are paid from the funds provided by creditors from the sale of the debtor's assets, however, due to the fact that such assets are located in temporarily occupied territories, such payment cannot be made. The presence of the debtor's assets in the uncontrolled territory makes it impossible to complete the proceedings in the bankruptcy case and to complete the liquidation procedure. Due to the relevant circumstances, the trustee cannot properly exercise his powers in the bankruptcy case, which means the risk of disciplinary or other legal punishment (Cassation Commercial Court, 2023).

It is expedient to analyse legislative initiatives to change the Code of Ukraine on Bankruptcy Procedures (2018) in order to regulate the activities of the arbitration manager and other subjects in the territories that are temporarily outside the sphere of control of the Ukrainian state. Yes, the Draft Law No. 5010 "On Amendments to the "Final and Transitional Provisions" section of the Code of Ukraine on Bankruptcy Procedures on prevention of negative economic consequences of unscrupulous bankruptcy of enterprises as a result of

military aggression in the East of Ukraine" (2021) stipulates that the court refuses to accept an application to open bankruptcy proceedings regarding those assets and property located within the temporarily occupied territories, settlements located on the contact line. This draft law was not adopted, because it provides for a moratorium on the opening of proceedings, however, the introduction of such a moratorium is considered a violation of the rights of creditors, and also does not correspond to economic legislation, which guarantees the possibility of applying to the economic court in case of satisfaction of interests and observance of individual rights.

It is also worth paying attention to Draft Law No. 7442 "On Amendments to the Code of Ukraine on Bankruptcy Procedures on the Application of Bankruptcy Procedures During Martial Law" (2022), where it is proposed to exempt arbitration administrators from disciplinary liability for non-fulfilment of duties and non-performance of actions provided for by law during the period of martial law and within six months after its cancellation or termination. The removal of such responsibility should occur in the case of proving that the performance of duties was impossible due to the conduct of hostilities and military operations in the places where duties are required to be performed, as well as due to the presence of the creditor, the debtor, the property of the debtor and the creditor in places of increased danger, which cause a threat to the life or health of the arbitration administrator. The analysed draft law is under consideration, but the issue of proceeding in cases of insolvency and bankruptcy regarding creditors, debtors who are in the uncontrolled territory has been left out of consideration. But the Draft Law No. 7442 (2022) provides an opportunity to take into account modern realities and protect the rights and obligations of responsible persons in cases of failure to fulfil the powers assigned to them by law.

It is appropriate to pay attention to the Draft Law No. 8231 "On Amendments to the Code of Ukraine on Bankruptcy Procedures on Prevention of Abuses in the Field of Bankruptcy for the Period of Martial Law" (2022), which, like the Draft Law No. 5010 (2021), proposes to introduce a ban on opening proceedings in bankruptcy cases that arose from the moment of the full-scale invasion of the Russian Federation – from February 24, 2022; it is also proposed to stop already open proceedings that arose after February 24, 2022. The resumption of proceedings in the relevant category of cases according to the draft law is planned after 90 days from the date of cancellation, and termination of martial law on the territory of Ukraine. Again, the introduction of a moratorium on the opening of relevant proceedings creates a conflict between special and general legislation, which guarantees the right to appeal to the economic court for the protection of violated rights. Also, such a ban may contribute to abuse by debtors, which jeopardizes the guaranteed rights of creditors. The project is currently under consideration in committees.

Draft Law No. 4409 "On Amendments to the Code of Ukraine on Bankruptcy Procedures" (2020) provides for amendments to the Code of Ukraine on Bankruptcy Procedures (2018), which are designed to regulate the procedure for approving the liquidator's reporting data, and also establish that in the absence of property assets that are subject to inclusion in the general composition of the liquidation mass, the liquidator is authorized to indicate such property assets in the liquidation balance sheet, which is submitted for consideration within the scope of economic proceedings in order to certify the absence of property of the debtor. The Draft Law No. 4409 (2020) also stipulates that bankruptcy applications are considered in a simplified action procedure; an automated information system on bankruptcy and insolvency data is being created; improvement of the system of selection of arbitration managers; also, if there are no proposals regarding the arbitration manager in the cases of the relevant field of legal relations, he is appointed by the court by automatic selection from the relevant registers. This draft law was registered in 2020 – before the start of the full-scale invasion of the Russian Federation on the territory of Ukraine, but already after the start of the anti-terrorist operation in the temporarily occupied Luhansk and Donetsk regions. It contains general provisions and changes, without taking into account the conditions of martial law and the presence of uncontrolled territories. Despite this, the bill was passed and implemented in April 2023. Changes in the bankruptcy legislation did not solve the urgent problems with bankruptcy proceedings in the occupied territories.

It is time to introduce amendments to the Code of Ukraine on Bankruptcy Procedures (2018) as separate exceptions or a separate procedure for proceedings in cases of insolvency of:

- enterprises whose assets have been destroyed or completely destroyed;
- enterprises, which almost entirely or some of their representative offices/branches are located in the territory temporarily occupied and not under the control of Ukraine;
- enterprises seized by the armed forces of the Russian Federation and illegal armed formations;
- enterprises that are unable to carry out economic activities in the controlled territory of Ukraine during the war due to restrictions caused by the state of war.

When developing further legislative initiatives to simplify the military bankruptcy procedure, it is proposed to take into account the procedural terms and limits of the proceedings; inclusion in the general composition of the liquidation mass of the debtor and those property and assets located in the territories that are temporarily occupied or are outside the sphere of influence of Ukraine, suffered from the armed aggression of the Russian Federation, but belong to the debtor on the basis of the right of ownership; sale taking into account the specifics of the subject composition of the parties in transactions, the object of which is property located in temporarily occupied, uncontrolled territories; implementation of measures that will help preserve facilities and enterprises located in territories outside the sphere of control of the Ukrainian state.

It is also worth considering Ukraine's constant movement towards European integration. Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency) (European Union, 2019), which regulates the bankruptcy procedure and has been successfully implemented in Germany. This Directive contains the principles of preventive restructuring, a system of measures designed to increase the effectiveness of such a procedure, debt repayment and bankruptcy prevention. Also in Germany, in accordance with this

Directive (EU) 2019/1023 (European Union, 2019), it is provided that legal entities can declare themselves bankrupt within 21 days, if there is at least one of the probable causes of bankruptcy and insolvency and there are no possibilities to prevent such a cause (Calu, 2022). The creation of special judicial institutions, which are responsible for the settlement of issues related to both the insolvency of business entities and bankruptcy, is foreseen (Katsanidou *et al.*, 2022).

Thus, further legislative changes regarding bankruptcy issues should relate to and focus on the "rehabilitation" of the bankrupt, early access to restructuring, and should also take into account the current situation – the activities of most enterprises are carried out under martial law and missile attacks, due to which the risks of bankruptcy and the inability to respond according to monetary obligations are growing. It is important to emphasize the rehabilitation of enterprises and financial education in order to prevent cases of bankruptcy, which may include mandatory consultations, financial management courses or other educational programs aimed at increasing financial literacy. (Dobre, 2022). It is possible to involve an intermediary or mediator in the process of "rehabilitation" of the debtor, who will conduct negotiations with creditors regarding debt restructuring, repayment schedules, and provide financial advice.

Discussion

J. Kitowski *et al.* (2022) investigated bankruptcy risks based on forecasting models in the context of the Polish experience. The authors use several bankruptcy prediction models, including Altman's Z-score, Springate's model, Grover's model. These models are widely used in analysis to assess the financial condition and risk of bankruptcy of companies. The study analyses the data of Polish firms in various sectors for a certain period. By applying these bankruptcy prediction models, researchers identify various indicators that may signal a higher risk of bankruptcy, including financial ratios such as liquidity ratios, profitability ratios. The results of the study show that certain financial ratios, such as the current ratio, net income, equity to total assets' ratio, and sales to total assets' ratio, significantly affect the bankruptcy risk of Polish companies. The results of the authors do not coincide with the results of this work, but they are important to take into account in the context of research and to identify preventive methods of preventing the bankruptcy of this or that enterprise.

Research by T. Le (2022) focused on the problem of unbalanced datasets in bankruptcy prediction, when the number of bankrupt companies is significantly lower than the number of non-bankrupt companies. Imbalanced datasets can lead to biased forecasting models and reduced accuracy in determining bankruptcy risk. The author systematically reviews and classifies various unbalanced learning methods for bankruptcy prediction. These techniques include both traditional machine learning algorithms and special techniques designed to efficiently process unbalanced data sets. The paper discusses different approaches, such as sampling-based methods (e.g., oversampling and undersampling), economic learning, and hybrid approaches that combine several methods. The authors examine the strengths and limitations of each method and provide insight into their application to bankruptcy prediction. The article also highlights the challenges and future directions of research in the field of bankruptcy forecasting, further research. Also, author notes that the legal basis for appropriate and accurate forecasting of bankruptcy risks plays a crucial role. The author's results partially coincide with the results of this work, in particular, in terms of the importance of quality legislation for effective fight against insolvency and bankruptcy. It is also appropriate to indicate preventive measures, such as financial literacy.

P. Stamolampros and E. Symitsi (2022) investigated the relationship between the attitude to employees, financial indicators and the quality of legislation and the risk of bankruptcy. The results of the study show that employee attitudes play a significant role in influencing the risk of bankruptcy. Companies that provide better treatment to their employees, such as fair compensation, training and development opportunities, and a supportive work environment, have a lower risk of bankruptcy. In addition, the legal framework, which promotes effective management and balance between the interests of business entities, also affects the probable avoidance of bankruptcy. Also, the results of the authors indicate that one of the ways to reduce the risk of bankruptcy is a favourable attitude towards employees, higher financial indicators and a constant increase in the level of financial literacy and personnel management. Yes, it enables managers, employers, and executives to develop strategies that promote employee welfare and ensure sound financial management, ultimately reducing the risk of bankruptcy. The results of the authors partially coincide with the results of this work, but they are important to take into account, in particular, in order to highlight effective initiatives for creating a working atmosphere, competent financial management, and increasing the level of solvency of enterprises.

In the article A. Fauzia *et al.* (2022) the conflict that arises during registration of collateral objects in case of bankruptcy of the debtor is considered. In particular, the contradiction between the norms related to the provision of liability rights and the norms regulating the bankruptcy procedure is considered. The authors discuss the legal framework for collateral and bankruptcy, analysing the relevant laws and regulations. The article considers the legal consequences, the potential impact on creditors, debtors, and other interested parties involved in the bankruptcy procedure. The authors also analyse court decisions and legal principles related to this issue. In addition, the article offers possible solutions and recommendations for the settlement of the conflict between the rules for registration of collateral objects during bankruptcy. The results of the work partially coincide with the results of the present one, in particular, in the area of conflicts in the legislation. In Ukraine, this conflict arises during the creation of legislative initiatives due to the proposal to introduce a moratorium on the opening of proceedings in bankruptcy cases, however, this ban contradicts the provisions that guarantee the right to apply to court for the protection of the rights and freedoms of individuals.

G. Walter *et al.* (2022) investigated the relationship between the softness of laws on bankruptcy of individuals and entrepreneurship in the countries of the EU. They focused on how the ease with which individuals can obtain personal bankruptcy discharges affects business. The results of the study show that countries with more lenient and simplified bankruptcy laws tend to have higher rates of entrepreneurship, indicating that such debt repayment mechanisms can encourage people to take risks and participate in entrepreneurship, open access to loans and necessary financial

resources for opening and developing a business. However, the authors note that striking the right balance is critical to avoiding moral hazard problems and ensuring fairness and efficiency in the bankruptcy system. The results of the work partially coincide with the results of this study, but they are important for the formation of conclusions and proposals for improving the legislation on the territory of Ukraine in order to ensure the effective functioning of entrepreneurship in the conditions of martial law.

A. Gurrea-Martínez (2020) in the article examines the future of the reorganization procedure in the context of the legislation governing the bankruptcy procedure. The author examines changes in the reorganization procedure, taking into account the challenges and geopolitical conditions. The article discusses the advantages and disadvantages of anti-bankruptcy mechanisms such as debt restructuring, out-of-court settlements and informal negotiations to facilitate corporate reorganization. The author's results coincide with the results of this work. But it's also worth adding that martial law also requires adequate risk assessment and contingency planning: entrepreneurs must conduct a thorough risk assessment to identify potential threats and problems associated with a specific situation. Developing comprehensive contingency plans can help businesses anticipate and prepare for adverse events, allowing them to take preventative measures to minimize the impact on their operations. In addition, the development of adaptability and flexibility of business models can allow entrepreneurs to quickly adjust their strategies according to changing circumstances (Acosta-Ormaechea & Morozumi, 2022). It is also important to implement support policies, such as providing loans at low interest rates, providing financial guarantees or creating special funds to support affected enterprises, which can help reduce liquidity problems and prevent bankruptcy (Papíková & Papík, 2022).

In exceptional situations, temporary relief measures may be required to allow business space. This may include a moratorium on debt repayment, a suspension of interest or penalties, or an extension of time to comply with regulatory requirements. These measures can help reduce financial pressure on businesses and allow them to focus on stabilizing their operations. State aid may also include tax breaks, subsidies, grants, or assistance in accessing new markets or export opportunities. It is important to be open to considering new legislative changes and to constantly monitor them on the part of entrepreneurs. It is also necessary to highlight the possibility of compensation for damages caused by Russian aggression to enterprises from the Russian Federation. In order to receive compensation for the damage caused, it is important to document and assess the damage caused by the war, and in the future to use all available instances: national justice bodies, as well as international ones, in particular the European Court of Human Rights, which will consider the case and award just satisfaction.

Conclusions

The research work carried out made it possible to analyse and understand the main features and characteristic features of the institution of bankruptcy in Ukraine under the conditions of a full-scale invasion of the Russian Federation. It was found that the bankruptcy procedure is currently regulated by the Code of Ukraine on Bankruptcy Procedures, which does not contain special norms that would take into account the state of war and the impossibility of fulfilling the duties and powers of the arbitration manager and other authorized subjects. Statistical data are provided, which indicate that during a certain period during the war, the number of reports and announcements regarding insolvency and bankruptcy increased on the territory of Ukraine. It is stated in the study that growth may be due to the danger of destruction of production facilities. The existence of possibilities of compensation for damages caused by the Russian Federation is indicated. A number of legislative initiatives to improve bankruptcy legislation were analysed. In particular, most of the bills are under consideration in committees or their consideration is suspended due to the fact that they contain contradictory provisions, for example, a moratorium on the opening of proceedings. Legislative changes adopted in April 2023 improved only the form of bankruptcy proceedings, but did not in any way specify the specifics of the consideration of cases during martial law.

It has been found that preventive measures to prevent the company from going bankrupt can include creating a favourable working atmosphere, increasing the level of employee motivation, as well as financial literacy and personnel management. The main aspects that are recommended to be taken into account during the process of rulemaking and improvement of national bankruptcy legislation are proposed, and the need to take into account the foreign experience of the regulation of the relevant institution is emphasized, in particular, the experience of Germany, which embodies the provisions of the EU Directive from 2019. In the future, it is advisable to investigate the following tangential topics: the impact of global economic crises on the institution of bankruptcy; comparative analysis of bankruptcy definition models: experience for Ukraine; the use of innovative technologies in the field of bankruptcy forecasting in wartime conditions.

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Conflict of interest

None.

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Проблеми правового регулювання банкрутства під час збройного конфлікту

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Анотація. Актуальність дослідження зумовлено невідповідністю національного законодавства України про банкрутство сучасним умовам на території держави, які пов'язані з повномасштабним вторгненням Російської Федерації. Воєнний стан зумовлює високі ризики знищення підприємств середнього, малого та великого бізнесу, зокрема на непідконтрольних та тимчасово окупованих територіях. Мета дослідження – обґрунтувати необхідність вдосконалення національного законодавства про банкрутство, підвищення ефективності механізмів реалізації прав, виконання обов'язків та захисту інтересів суб'єктів господарювання в умовах військового протистояння. Основні методи, використані в роботі: історичний, порівняльний, статистичний, метод аналізу, синтезу. Досліджено законодавство, що регулює правовідносини щодо банкрутства, з'ясовано, які суб'єкти господарської діяльності перебувають під ризиком банкрутства, досліджено вплив війни на стан правового регулювання господарської сфери. Зроблено висновок щодо основних недоліків національного законодавства про банкрутство. Також було досліджено питання можливості збереження подальшої репутації боржника та пропорційного задоволення прав кредиторів шляхом дотримання процедури банкрутства, яка була розроблена відповідно до сучасних умов. Указано на можливість відшкодування збитків з боку країни-агресора для тих підприємств, які зазнали втрат та руйнувань внаслідок російської військової агресії. Обговорено доцільність запровадження мораторію на банкрутство та основні недоліки такого виду обмежень. Запропоновано подальші напрями вдосконалення та підвищення рівня ефективності законодавчо передбачених механізмів реалізації процедури банкрутства в умовах війни на території України. Результати наукової роботи можуть бути використані як теоретичне підґрунтя для подальших законодавчих розробок у сфері банкрутства

Ключові слова: воєнний стан; процедура банкрутства; правовідносини; економічні санкції; суб'єкти господарювання

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Development dilemma and solutions to online civil litigation in China: Kyrgyzstan experience

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Abstract. The research relevance is determined by the need to review the regulatory aspects of the digitalisation of civil litigation in the Kyrgyz Republic, given the complex set of problems that exist in this area. The main objective of the study is to analyse the digital civil litigation in China with the prospect of extracting positive experience for possible implementation in Kyrgyzstan. The methods of statistical analysis, analogy, generalisation, as well as formal-legal and formal-logical approaches are used in the study. As a result of the analysis of the peculiarities of legal regulation of online civil proceedings in China, modern mechanisms of this regulation are found to contribute to maintaining stability and improving the efficiency of the judicial system. The scientific research confirms the fundamental concept that the integration of information technologies into the processes of legal proceedings does not affect the fundamental concepts of the theory of judicial evidence. Nevertheless, the analysis also identified significant risks associated with this process, such as an increase in the number of court cases, potential distortion of the nature of judicial activity, and other aspects. This study provides a conceptual approach to facilitating access to justice through the digital transformation of court procedures. This approach includes the use of information and telecommunication technologies and remote alternative dispute resolution methods such as online mediation and online dispute resolution systems. Special attention is paid to the need to consider the interests of all parties when introducing artificial intelligence into the judicial system. The study of different points of view allows for a deeper understanding of the complexity of this process and identifies possible ways to improve civil litigation in the context of digitalisation in Kyrgyzstan. The findings of the study are of potential value for the implementation of China's positive experience in the context of the digitalisation of civil litigation in Kyrgyzstan

Keywords: e-process; legislation; digitalisation; artificial intelligence; digitalisation

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Introduction

Currently, a global trend of informatisation is underway, which covers various spheres of public life, including the judicial process, despite its traditional nature. The development of information and communication technologies has a significant impact on the structure of judicial procedures and requires not only their introduction but also their effective use. The introduction of information technology into the judicial process requires a systematic approach to assessing changes to procedural legislation and a critical evaluation of innovations that may be required in practice.

The application of information and communication technologies in the process of proving is an important and specific area of regulation in the modern information society. The development of the information society raises the issue of the formation of a new information culture, including judicial practice. The gradual integration of modern Internet technologies into judicial procedures is undoubtedly an integral part of the evolution of justice. This process is unfolding on several levels, reflecting both its technological development and the growing needs of users of legal services, as well as the willingness of each country to innovate. The shift from random technical innovations and procedural improvements to systematic revision of procedural rules is a key stage in this evolution.

While many innovations have already been successfully integrated into court systems in various countries, there remain many potential technologies awaiting deeper integration. Big data, blockchain technology and artificial intelligence (AI) are all tools that could change the litigation landscape even more radically. The 2020-2021 events of the COVID-19 pandemic and the imposition of quarantine measures have pushed governments and judicial systems to adopt information and communication technologies more rapidly, demonstrating the inevitable movement towards modern digital justice.

The study of various points of view on this problem allows for a deeper understanding of the complexity of this phenomenon and identifies possible ways to improve civil proceedings in the context of digitalisation in Kyrgyzstan. Thus, analysing the dilemma of the development of online civil proceedings in China is important for Kyrgyzstan, as it allows for the identification of best practices and approaches to adapting court processes to new technological realities. Modern legal science considers issues related to the improvement of civil proceedings in the Kyrgyz Republic, as well as the problems associated with the digitalisation of this sphere. Thus, R.J. Tuibaev and A.K. Egeshova (2021) covered the topic of digitalisation of civil proceedings, including the issues of online notification of parties, electronic filing of claims, the introduction of AI in court proceedings, as well as the use of electronic court devices.

N.S. Semenov (2022) analysed the legal aspects of establishing information relations in the e-justice of the Kyrgyz Republic. E-justice is considered a significant direction of the electronic state, where information relations play a key role in the cooperation of various legal entities. This study also identifies legal problems related to e-justice, such as the lack of legal status of electronic power of attorney, electronic lawsuits, and electronic court proceedings, as well as the lack of an electronic legal system for conducting court procedures and unequal recognition of paper and electronic documents. G. Kuldysheva *et al.* (2021) raised the issue of the development of the legal sphere in Kyrgyz society. The authors conclude that the influence of customs, traditions and existing outside formal legal systems far exceeds the influence of popular education. This system is an effective mechanism for maintaining stable conditions of existence.

B. Karypov (2020) raises the topic of informatisation, and digitalisation of processes related to the creation and introduction of legal acts in the Kyrgyz Republic. Public authorities play an important role in ensuring the process of digital transformation in the law-making sphere. The introduction of information technologies in law-making activities contributes to a more effective process of development of legislative acts based on the information and legal basis.

A. Ibiraiyym *et al.* (2021) discussed the importance of e-learning in the education system of Kyrgyzstan. Their study also noted the official programmes developed by the Ministry of Education and Science of the Kyrgyz Republic to introduce e-learning. Increasing the level of digital and media-information literacy is important as it contributes to the formation of an educational environment in which the achievement of high-quality education becomes more accessible and effective. At the current stage of education development, quality education is presented as an optimal combination of traditional teaching methods (lectures, practical and seminar classes, course projects, consultations) and e-learning tools (electronic textbooks, computer simulators, testing, etc.).

The research aims to analyse the experience of the development of online civil litigation in China and assess its relevance and applicability for Kyrgyzstan. Within the framework of this objective, based on the integrated use of general scientific and specialised methods of scientific analysis, the main problems and challenges faced by Kyrgyzstan in the process of digitalisation of the judicial process are considered, and practical ways of solving these problems are proposed based on the analysis of the Chinese experience.

Materials and methods

The research employed various methods, including philosophical, general scientific and special scientific approaches. As such, a dialectical method was applied in the course of the research to analyse not only the positive aspects of the introduction of information technology in civil proceedings in China and Kyrgyzstan and assess the limitations of this process. The logical analysis method was used to identify the content and orientation of normative acts regulating online legal proceedings in both countries. The dogmatic method was used for a more detailed analysis of judicial norms and their compliance with information technologies in court evidence. The comparative method of research was employed to analyse the processes of online civil litigation in China and Kyrgyzstan and to highlight similarities and differences in their regulation and practice. In studying the impact of judicial practice on legal consciousness and legal culture of the individual, as part of the law enforcement community, the methods of specific sociological research were used. These methods were used to identify problems and shortcomings in the sphere of judicial proceedings, as well as their possible causes and manifestations of legal nihilism.

The hermeneutic method was used to interpret the texts of legislative acts and materials of judicial practice, which contributed to a deeper understanding of the legal aspects of their application. Classification and grouping methods

were used in analysing the main directions of China and Kyrgyzstan towards the formation of prospects for the functioning of online civil proceedings. With the help of concretisation and generalisation techniques, the main problems, and gaps in providing e-justice in civil proceedings were revealed. The combination of these methods allows us to obtain a more complete and comprehensive understanding of the issues related to understanding the current state of online legal proceedings in China. This approach allows for a deeper study of the peculiarities of its functioning of online civil proceedings in China, as well as to identify potential ways to implement its experience in the judicial system of Kyrgyzstan.

To fully comprehend and substantiate the issues, the norms of various legal sources, including both national and foreign law, were used in the research and, in particular Online Litigation Rules of the People's Courts of China (2021), Law of the Supreme People's Court No. 49 "On Regarding Strengthening and Standardizing During the Drevention and Control of the New Coronavirus Epidemic" (2020), Decree of the President of the Kyrgyz Republic No. 221 "On the National Development Strategy of the Kyrgyz Republic for 2018-2040" (2018), Digital Transformation Concept "Digital Kyrgyzstan 2019-2023" ("Roadmap" for implementation…, 2023), the Civil Code of the Kyrgyz Republic (1996), the Law of the Kyrgyz Republic No. 70 "About Notariate" (1998), Decree of the Government of the Kyrgyz Republic No. 179 "Instruction on the Procedure for Notarial Acts Performed by Notaries of the Kyrgyz Republic" (2011), Civil Procedure Code of the Kyrgyz Republic (2017), Administrative Procedure Code of the Kyrgyz Republic (2017), Law of the Kyrgyz Republic No. 153 "On State Registration of Rights to Immovable Property and Transactions Therewith" (1998), Instructions on the use of the System of audio and video recording of court hearings and provision of materials of audio and video recording of court hearings to trial participants and their representatives (2018). Furthermore, various sources such as research articles, books, theses, dissertations, reports, and other materials related to the research topic have been utilised.

Results and discussion

Positive experiences with the implementation of online civil litigation in China

Information technology and electronic evidence can be integrated into an existing system of forensic evidence, retaining the basic principles and structure, but requiring adaptation and refinement to accommodate the new opportunities and challenges they present.

During the prevention and control of the COVID-19 epidemic, extensive practical experience in online litigation has been accumulated. From 2020 to 2022, the judicial demand for resolving disputes related to COVID-19 epidemic prevention and control has promoted the development of global online litigation to some extent. Online civil litigation was particularly widely used and promoted in China. Thus, the Supreme People's Court Law No. 49 (2020) was issued, allowing courts at all levels across the country to apply online trial rules to prevent and combat the epidemic (Fig. 1).

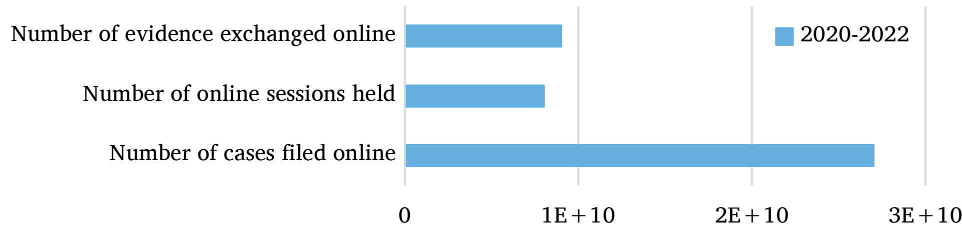

Figure 1. Statistics of online cases handled between 2020 and 2022
Source: compiled by the authors based on the Supreme People's Court (2022b)

Online civil litigation in China functions as an independent and complete mechanism. China's "Online Litigation Rules of the People's Courts" (2021) carefully considers various factors such as the characteristics of each particular case, the wishes of the parties, and technical aspects, while providing detailed explanations of the positive and negative aspects of the application of online litigation. First and foremost, online court proceedings are based on the principle of "legality and voluntariness". Without the explicit consent of the parties and other litigants, the People's Court has no right to force or insist on the use of online litigation. It is important to note that the parties themselves have the right to choose whether to apply the online litigation process and, if so, which aspects of the online litigation process to use. An analysis of the positive and negative conditions applicable to online litigation shows that online litigation is mainly applied in simple cases covering most types of civil disputes. Finally, the "Online Litigation Rules of the People's Courts" (2021) contains rules governing the various stages of online litigation, including filing a lawsuit, holding court hearings, and enforcing court judgements. Based on the analysis of the application conditions, application scope and coverage of online litigation in civil cases in China, it can be seen that this method is an independent alternative to offline litigation and has full legal justification.

The value of procedural efficiency cannot, of course, replace the value of procedural fairness. In practice, there are many cases where the course of proceedings and judicial authority suffer because of the unfair surroundings of litigants, poor network transmission, and unclosed spaces. Online litigation merely shifts the form of the parties' participation in litigation from offline to online and cannot detract from the rights and interests of both parties to participate in litigation on an equal footing and receive a fair judgement. At present, "Online Litigation Rules of the People's Courts" (2021) requires court appearances to "choose quiet, out of each other's way, well-lit, with good network signal and relatively private places" to participate in the litigation and does not require court appearances to participate in a court-like environment.

In this context, the experience of the Chinese People's Courts in creating innovative judicial processes known as

"Smart Court", where AI has been widely used, is extremely interesting (A brief introduction…, 2018). The court system of this concept includes three important stages: case registration, trial, and judgment. Five key platforms designed to deeply optimise and better describe the trial process include the following functionalities:

- automatic generation of e-portfolios with case files;
- copying of data to cloud storage;
- intelligent transcription of court sessions;
- electronic cross-examination using an electronic whiteboard;
- generation of judicial acts.

The system can automatically recognise and address the representative's instructions during court sessions, accurately retrieve electronic evidence such as documents, images, audio, and video, and instantly display them on the monitors of all trial participants in real-time. The generation of court documents is done via split-screen, providing convenience for judges when copying and pasting information from e-portfolios.

In Hangzhou Internet Court and other similar projects, case records are recorded using speech recognition software (Du & Yu, 2019). This allows for the automatic conversion of the oral speech of the participants in the trial into text format. However, the practical implementation of such innovations is challenging, including not only the development and use of advanced technological solutions but also the equipping of courtrooms with highly sensitive microphones. During court sessions, various conditions such as simultaneous speeches of participants, unintelligible speech and others often arise, requiring a high degree of technical sophistication for speech and context recognition and analysis. Written and spoken language synthesis systems facilitate the recognition and digitisation of documents and facilitate the digital recording of court proceedings. Question-and-answer modules can be used to educate users of an e-judicial system, similar to their use in the business sector. For example, a virtual assistant can be created to support users in using individual modules of the "Court" Automated Information System (AIS of the Court…, 2016).

China has introduced an innovative method for solving the challenges of obtaining, storing, and validating electronic evidence. This method relies on big data, cloud storage and the application of blockchain technology. The Supreme People's Court (2022a) has developed the "Unified Platform of the People's Judicial Blockchain Convention" and applied blockchain for distributed storage and integrity of evidence. This unified platform integrates 27 nodes, including courts, national services, multilateral dispute mediation platforms, notary offices, and forensic centres. It utilises blockchain characteristics such as immutability, post-audit, data tampering protection and a high level of security to ensure the reliability of electronic evidence. Electronic evidence stored on this platform can be validated in future court hearings.

In December 2019, the Supreme People's Court of China presented a "white book" describing a unique case of the first use of electronic evidence stored on blockchain and assigning legal significance to it. This historic moment occurred in the context of Huatai v. Daotong, a case heard by the Hangzhou Internet Court. In this case, details of the plaintiff's copyright infringement were documented on a third-party platform utilising blockchain technology (Chinese Courts and Internet…, 2019). The plaintiff in this case, accused of illegally publishing copyrighted works without permission, provided evidence of infringement through a specialised evidence storage platform. On this platform, the data was uploaded as hash values for the Bitcoin and Factom blockchains. The court found that blockchain technology had several advantages, such as decentralised storage, anti-tampering mechanisms and traceability, which made it outstanding for the capture, storage, and retrieval of electronic evidence. However, it should be noted that the court follows certain standards and procedures to establish the authenticity of electronic data. In this case, electronic data stored on the blockchain has a clear source, its origin and transmission are documented and can be mutually verified using web page screenshots, source code information and logs. All these ensure the reliability of electronic evidence (ruled on 27 June 2018 by Hangzhou Internet Court) (Chinese Courts and Internet…, 2019).

As of March 2021, China's National Forensic Blockchain Platform already held an impressive 640 million data fragments for storing forensic evidence. During this time, nearly 2.5 million of them have been validated and certified, as noted by researchers (Stern *et al.*, 2021). Previously, one had to resort to the services of a notary to authenticate the content of evidence in cases such as copyright infringement. This was necessary because such evidence was susceptible to easy deletion if it was not properly formally documented. Now, however, blockchain is acting as a notary public, providing secure documentation and protection of forensic evidence. It should be emphasised that information secured on the blockchain as forensic evidence has immutable power in resolving legal disputes. This characteristic, designed to curb possible falsifications, guarantees the authenticity of the evidence presented and greatly facilitates its evaluation by judges. The application of blockchain technology in the judicial system is not only an innovation but also contributes to building trust in the judiciary and ensuring fairness (Stern *et al.*, 2021).

The Forensic Blockchain Platform also verifies various types of forensic examinations, including forensic, financial, copyright and many others. According to experts, the forensic blockchain can solve numerous problems related to the creation, storage, transmission, and retrieval of electronic forensic evidence. It can become a unique global repository of forensic electronic evidence (Stern *et al.*, 2021). In addition, as of July 2020, several Chinese courts began using a blockchain-based electronic lock system to monitor and seal real estate properties under their jurisdiction. This system provides real-time video surveillance of the sealed immovable properties. If any violation is observed, the system automatically informs law enforcement agencies, warns potential violators of legal consequences, and records the incident using photos that are sent to a special platform (Chinese courts use…, 2020).

In Kyrgyzstan, there have not yet been any serious draft laws regarding the introduction of blockchain technology into state registers by government agencies. Therefore, it is possible to consider adopting China's experience in applying blockchain to evidence storage. The technology is undoubtedly complex, but there is already a proven model that can be adapted. As suggested earlier, providing judges with access to public registers could be implemented as a separate service using the Court's automated information system. Although technologically challenging, this could be an extremely effective tool for courts, allowing them to obtain up-to-date information on the status of cases. Implementing

such a service using blockchain technology, however, would provide an additional tool to protect information from falsification. Thus, the introduction of online civil litigation in China represents a positive experience that reflects successful steps in improving the judicial system and making justice accessible to citizens.

Online court proceedings allow for more efficient management of court cases, reducing time delays and bureaucratic processes. This contributes to faster and more accessible justice for citizens. Online systems also provide a more transparent and accessible way to follow the progress of court proceedings. Citizens and litigants can easily obtain information about their cases and judgements. In turn, civil litigation allows citizens to participate in court proceedings and file documents from the comfort of their homes or offices. This is especially important for people living in remote areas. Online court proceedings can also reduce costs for the courts and the parties to the process, as it reduces the need for paperwork and physical presence.

The introduction of information technology in the process of judicial evidence in Kyrgyzstan can be considered in the context that it does not change the basic concepts of the theory of forensic evidence but requires some clarification and adaptation to new conditions. The basic principles on which the theory of forensic evidence is based, such as the presumption of innocence, duty of proof, freedom of evaluation of evidence by the court, etc., remain relevant even with the introduction of information technology. Technology does not change these basic rules. However, with the advent of electronic evidence such as electronic documents, digital photographs, video recordings and audio recordings, there is a need to adapt forensic evidence theory to accommodate these new forms. For example, courts may develop standards and rules for the admission and evaluation of electronic evidence. In doing so, it is important to preserve the principle of inadmissibility of illegally or improperly obtained evidence, even in the context of information technology. This ensures that the rule of law and the rights of citizens are respected. At the same time, when introducing information technology, it is necessary to ensure a high level of confidentiality and data security protection to prevent unauthorised access and use. The introduction of new technologies also requires appropriate training of judges and lawyers for the effective use of electronic evidence and information technologies in court proceedings. It is therefore necessary to develop and amend legislation and court procedural rules to address the new realities of information technology and electronic evidence.

The main risks of introducing electronic court proceedings in the civil procedure of Kyrgyzstan

The integration of information and telecommunication technologies into court proceedings relies on several key factors. The first of them is the public trend towards worldwide digitalisation and the introduction of information and telecommunications innovations in the field of justice, which is comparable to similar processes in other spheres of state bodies. The second factor is the change in the ways of recording and implementing the activities of the participants of social relations, which in the context of judicial processes requires evaluation and resolution. Finally, the third factor is the reform of procedures for resolving legal cases.

It should also be noted that the introduction of electronic court proceedings carries certain risks, and one of the key tasks of both theorists and government agencies involved in improving the efficiency of court proceedings is to minimise them. When striving to compete with scientific and technological progress and automate processes related to court proceedings, new challenges and problems arise. Shortly, the authors can expect a study on issues related to ensuring the right to a fair trial in the context of rapidly changing technologies that significantly affect the judicial system and facilitate the automation of civil proceedings. In this regard, it is necessary to emphasise the risks associated with the integration of information technology into court proceedings.

The first and main risk of introducing information and telecommunication technologies in court proceedings is the issue of information security. Cybersecurity concerns represent a major challenge in the global context, especially in the area of public services, including legal proceedings. However, the use of personal, confidential, and other data by both governmental, private and public institutions requires a level of trust on the part of citizens. This is achieved by implementing technical and organisational measures to ensure cybersecurity and prevent access by third parties or malicious actors.

The main task of political leaders, state institutions and enterprises are to ensure the security of information systems and ensure public access to them as a public good (Supporting digitalisation in Kyrgyzstan…, 2021). It should be emphasised that cybersecurity is not only a technical problem, but also a legal one, as questions arise about the legal consequences of leaking personal data, disclosure of state secrets and other information covered by confidentiality. The second risk relates to the possibility of intrusion into the document flow of courts, as well as archives and other systems, which may lead to the distortion of information. This has an impact both on the court proceedings as a whole and on each participant in the process. There is the potential threat of losing a huge amount of information, including state and commercial secrets, as well as personal data, which are particularly sensitive for each individual.

A case in point is a legal case in London involving a 28-year-old Englishman. In addition to 8 counts of bank fraud totalling close to £2 million, the defendant was also found guilty of escaping from custody. He was able to leave the prison by sending a fake email to the institution's administration announcing his release. To do this, he created a mailbox whose address was similar to the real address of an official from the judicial department. The letter was designed following all the rules of British justice and signed with the name of a real inspector of the Royal Courts of Justice. The escape was not discovered until three days later when the accused's defence counsel turned up for an appointment (Gander, 2015). This incident illustrates how easily some people can utilise information technology, even in the context of legal proceedings. The intervention of AI in government agency processes and document management can potentially affect countless individuals.

In addition, there is a possibility that facilitating access to remote justice and the ability to file claims online may lead to an increase in the number of court cases and possible abuse of rights. The introduction of information technology does not necessarily reduce the burden on the judicial system. The use of information technology facilitates access to the judicial process, opening doors to persons who have not previously taken advantage of this opportunity. For example, the head of the Lithuanian Supreme Court,

R. Norkus (2015), noted that he received a significant number of electronic appeals and complaints that might have previously been sent by regular mail. However, the ease of access may also facilitate the abuse of the rights of civil procedure. Therefore, it is necessary to actively use protection mechanisms against possible abuse of civil procedural rights. An important task for the state is the formation of a legal culture among the population and respect for the law, courts, and other participants in the legal process.

The solemnity of the judicial process may also be compromised. The solemnity of the proceedings is important not only for the creation of a special respect for judges or the traditional rituals accompanying trials. Its importance lies in maintaining a high degree of respect for judicial decisions, which directly affects the principle of the binding effect of judicial decisions. During the period of restrictions and quarantine, there are often news reports of various curious situations where officials and other officials appear inappropriately dressed when participating in court proceedings through their means of communication. Participation in court proceedings through technical means of communication is a positive development, but to prevent such situations, appropriate rules of participation should be developed to ensure that respect for the judicial process is maintained.

For example, the Supreme People's Court of the People's Republic of China issued the Law of the Supreme People's Court No. 49 (2020). This document highlights that online court sessions, such as mediation, evidence exchange and trial, can successfully meet people's litigation needs during the epidemic and its prevention by ensuring smooth and organised trials. It is important to note that online court hearings should only be conducted in the form of video conferencing and may not be conducted in written or voice form. Participants in trials are also bound by judicial standards of conduct, making them solemn, civilised, and orderly. Another interesting aspect of this document is its endeavour to prevent abuse of procedural rights. If the parties have agreed to hold an online court hearing but fail to appear at the scheduled time or interrupt participation in the proceedings without permission, such behaviour may qualify as "withdrawal" and "abandonment of the trial", unless it is due to obvious technical malfunctions, equipment damage, power problems or force majeure.

Such provisions can be introduced into national legislation and used in the practice of judicial proceedings. There is a possibility of deformation of judicial activity. Judges involved in remote judicial proceedings should fulfil their duties to the required standard. However, it should be noted that judges are human beings, and it may be difficult for them to maintain clarity and concentration during long hours of court sessions, especially with unstable internet connections and disorganised participants in the proceedings and other factors. Judges tend to be elderly people who may have difficulty due to the additional strain on their eyesight and other physical problems. Such problems can also affect litigants, albeit for a short time. Another important problem is the phenomenon of "judicial substitution" in electronic court proceedings. Consequently, the improvement of procedural legislation should include the regulation of the rules of behaviour of the participants of the proceedings in the framework of videoconferencing.

The issue is also relevant for Kyrgyzstan, where the process of analysing case materials and forming a position that will serve as a basis for judicial decisions will largely depend on the technical staff of the courts. It will be extremely difficult to avoid this situation, as online court proceedings will be conducted in a closed mode, inaccessible to outside observers. Today, most court work is done by assistant and associate judges, but when appearing in court in person, the judge personally hears the arguments of the plaintiff and defendant, witness testimony and expert opinions. If the need for such personal attendance of the participants in the proceedings disappears, there is a risk of transferring the functions of court proceedings to assistant judges, especially given the significant workload of judges and the requirements for speedy proceedings. The introduction of information technology into the judicial system may also increase the risk of "flash judgements" (a term used among lawyers and journalists to describe situations where judges copy the original texts of court decisions using electronic media). The potential for abuse by judges is undeniable, given that in many countries the rules for filing documents with the court electronically require the submission of documents with the ability to copy the text. Efforts should be made to minimise or eliminate these risks of using information technology.

In this way, the adoption of technology and AI can improve the analysis of evidence, the management of court cases and the provision of information. However, while there are many benefits, it is also important to consider data security and privacy issues and to ensure that the system is accessible to all segments of the population, including those without access to the internet or technological devices. However, it is important to adhere to the principle of equal opportunities in the use of information technology, considering differences in accessibility and skills of users. In this context, the legislator's position supporting optional participation in court proceedings through e-justice tools is intended to avoid possible barriers to access to justice.

The proposed concept of improving access to justice includes not only the digitalisation of court procedures and the use of information and telecommunication technologies but also the introduction of remote alternative dispute resolution methods such as online mediation and online conflict resolution systems. These approaches provide a variety of means of informing about alternative dispute resolution options, automated completion of documents, e-consultations, the possibility of obtaining a decision from an expert online, and even online discussions in contentious situations.

Regulation of online civil procedure in Kyrgyzstan

In today's digital era, the judiciary, including Kyrgyzstan, is actively transitioning from the use of traditional paper-based systems to electronic platforms. This transition aims to reduce the workload of judges and judicial officers by providing the ability to file and access documents electronically. It also provides the ability to file and manage lawsuits online. The use of videoconferencing enables judges, parties, and witnesses to participate in court sessions, which not only facilitates user interaction with the judiciary but also reduces the overall burden on the judiciary, optimising costs.

In recent years, the legislation of the Kyrgyz Republic has undergone significant changes that have strengthened the principle of access to justice in the Constitution of the Kyrgyz Republic. Nevertheless, one of the serious problems remains the overload of judges, despite the introduction of the system of automatic distribution of cases to the courts.

As a result of this overload, judges find themselves in a situation where they do not have enough time to properly study and analyse the arguments presented in court proceedings.

Given the aforementioned, 2019 was proclaimed as the "Year of Regional Development and Digitalisation of the Country", followed by the announcement of 2020 as the "Year of Regional Development, Digitalisation of the Country and Support for Children of the Kyrgyz Republic". These initiatives challenge the education system to fully integrate information technologies into the educational process and develop information and communication skills among pupils and students (Decree of the President…, 2018). This confirms the promising application of digital technologies in various spheres, including legal, economic, social, and political, which can stimulate the evolution of state functions. The Digital Transformation Concept ("Roadmap" for implementation…, 2023), approved for 2019-2023, defines the main tasks in the sphere of state activity. Among them, the following can be highlighted: providing high-quality digital public services, increasing efficiency, effectiveness, openness, transparency, accountability, and the fight against corruption in the system of public administration, as well as activating the participation of citizens in the processes of making state and municipal decisions through the digital transformation of the system of state and municipal administration.

At the same time, Kyrgyzstan is currently facing several problems with the legal regulation of electronic court proceedings. For example, there is no legal status of the electronic power of attorney, which should be considered an essential component of e-justice. Currently, the legislation of the Kyrgyz Republic recognises only a paper version of the power of attorney following the established rules. For example, Article 204 of the Civil Code of Kyrgyz Republic (1996) (CC) requires notarization of a power of attorney issued to citizens for representation in court, but the Law of the Kyrgyz Republic No. 70 (1998) does not mention the possibility of electronic power of attorney. The Decree of the Government of the Kyrgyz Republic No. 179 (2011) allows for the certification of any power of attorney that complies with the legislation of Kyrgyzstan, including the standard form (written) approved by the Government of Kyrgyzstan, or any other form. However, this wording does not consider the electronic form of the power of attorney and leaves many questions unanswered, such as the procedure of drafting, location, and requirements for it.

The lack of legal status of an electronic claim is another problem. The amendments to the Code of Civil Procedure of the Kyrgyz Republic (2017) (CCP) and the Administrative Procedure Code of the Kyrgyz Republic (2017) (APC) stipulate that a statement of claim or administrative claim must be filled out using a form posted on the website of a particular court and signed with an electronic signature. However, each court in Kyrgyzstan does not have a website where the relevant form can be found. For example, the official website of the Supreme Court of Kyrgyzstan does not have such a form but provides only the function of submitting an appeal with the indication of full name, email, phone number, address, and the essence of the appeal. Consequently, this appeal of citizens cannot be recognised as an electronic lawsuit with an appropriate set of documents.

The lack of a legal institute for electronic court proceedings is one of the national-level problems. In this context, it is necessary to develop the format of the court session (ordinary – offline or remote – online) and fix it in the CCP (2017). The remote format is becoming increasingly relevant, especially in light of the spread of the coronavirus (COVID-19) and national digitalisation efforts. Any citizen should have the right to apply to the court remotely. At the same time, Order of the Supreme Court of the Kyrgyz Republic "On approval of the regulations on the use of videoconferencing in the courts of the Kyrgyz Republic" (2020) was adopted, which provided an opportunity for courts to consider cases via videoconferencing. However, this format is not yet permanent and has limitations in terms of time and technical capabilities, according to paragraph 3.1 of this Order of the Supreme Court of the Kyrgyz Republic (2020). Even if the appropriate equipment is available, it is necessary to submit a special application, as stated in paragraph 3.3, three working days before the videoconference, with a request from the parties (if any), as well as to specify the date, time and room of the court session, the name of the case and the court.

Another problem is the lack of an electronic legal system for conducting e-trial proceedings, which would allow the parties and participants of the trial to monitor its progress remotely. This system should function as an Internet site, accessible round the clock and hosted on the servers of the Supreme Court of Kyrgyzstan. In addition, it is necessary to establish legal norms and technical standards for authentication of users, including plaintiffs, defendants, judges and other participants in the judicial process. An equally important problem is the unequal recognition of documents in paper and electronic forms, which leads to a slowdown in the development of e-justice and information relations in this area.

The lack of an electronic case file system is a problem at the national level. This system should be based on the principle of openness and free access to data, allowing any user to access court cases. At the legislative level, the issues related to the digital profile (avatar), which should play a key role in the management of personal data of citizens on various electronic platforms, such as the portal of public services, electronic archives, cloud storage and others, have not been elaborated in detail. As a consequence, there is a misunderstanding in the field of digital rights of users and a lack of clear definitions of the objects, subjects, and content of this data.

The issue of verification of transactions and documents related to real estate in electronic format has also not been properly regulated. According to the Law of the Kyrgyz Republic No. 153 (1998), any transaction related to real estate must undergo state registration and be entered into a unified state register. Consideration of this issue would allow the electronic court to automatically verify the submitted evidence, including in the area of contracts, as well as to send requests to authorised bodies to obtain objective data on transactions. Another unresolved problem is the use of audio and video recording (AVR) in court proceedings. Despite the existence of the AVR Instruction (Instructions on the use…, 2018), according to which it is possible to request recordings to confirm violations on the part of litigants, the issues related to the scope of application of AVR and the issuance of electronic copies of AVR to the parties remain unresolved. It would be ideal if the AVR system would automatically provide information to the parties immediately after the end of the court session, which would reduce bureaucratic barriers and eliminate possible loss of records for various reasons.

Based on the aforementioned problems, an effective way to improve the electronic court in Kyrgyzstan is to introduce the legal institute of electronic power of attorney by amending the relevant regulatory legal acts, such as Article 53 of the Law of the Kyrgyz Republic No. 70 (1998). This measure implies the possibility for a notary to certify powers of attorney both in printed and electronic format. A power of attorney certified in electronic format must be secured with an electronic signature and included in the unified electronic database of notarial documents of Kyrgyzstan.

It also makes sense to fix the legal status of an electronic lawsuit in the CCP (2017) and APC (2017) in the form of a lawsuit, rather than a statement of claim filed on the court's website. A unified electronic portal for e-justice should be created, providing the possibility of filing an electronic claim, including the sequence of actions, transmission, and receipt of notices, including petitions and applications, using the user's e-mail. The portal should also provide the possibility of filing complaints following the established procedure. At the same time, it makes sense to fix the legal status of electronic legal proceedings in the CCP (2017) and APC (2017) in the form of a legal institute, including the definition of civil and administrative cases in electronic format, as well as the concept of "electronic image of a document". It is important to establish norms concerning the recognition of court decisions in electronic form, including the use of electronic signatures and the creation of writs of execution. The latter should contain electronic signatures of judges and be entered into the electronic register of court acts, which will require the development of appropriate databases. The next step is to develop, implement and legislate an electronic legal system for electronic court proceedings. This process can be done by adopting a relevant law or a resolution of the Cabinet of Ministers of the Kyrgyz Republic. In addition, it is necessary to develop a mechanism of equal recognition of documents in printed and electronic form.

Summarising the aforesaid, it should be noted that the idea of digitalisation is being actively promoted in the Kyrgyz Republic, which leads to further strengthening of information relations. One of the key areas of digitalisation is the judicial system, which already has its developments, such as the development of remote justice, the use of audio and video recording, electronic document management and others. At the current stage, it is possible to automate both the legislative process and the functions of law enforcement agencies. AI can be used successfully in this context, but its role should remain in a secondary role. The main task of AI is a supportive and auxiliary function aimed at identifying potential inconsistencies in legislation.

Actual problems of development of online civil proceedings in scientific doctrine

M. García-Alberti *et al.* (2021), M. Toqmadi and N. Zakharchenko (2021), and B. Kaczmarek-Templin (2023) note that when analysing the impact of information technology on the principles of justice, it is necessary to respect the inviolability of fundamental principles of law, including the principles of procedural law. Technology should be considered as a tool for solving the problems of justice, and not as an end in itself. Undoubtedly, it is important to respect the inviolability of fundamental principles of law, including principles of procedural law, when analysing the impact of information technology on the justice system. However, it should also be considered that modern technologies have the potential to significantly improve the process of justice and increase its efficiency. Considering them as a tool does not exclude their role as a means to achieve fairer and more accessible justice.

The emergence of public online courts and tribunals designed to resolve small civil disputes can improve cost efficiency and streamline formal adversarial court procedures while preserving the necessary procedural safeguards. Thus, according to I. Gras, the unique characteristics of Internet communications and the digital environment provide an opportunity to create a more accessible and convenient justice system, providing personalised legal solutions and contributing to reducing the duration and cost of litigation, as well as simplifying legal proceedings (Gras, 2021). In the context of modernity, information technologies can indeed significantly reduce the time and cost of litigation, increase transparency, and improve access to justice. They can also improve the efficiency of judicial decisions by providing judges and lawyers with tools to analyse evidence and conclusions more accurately. By automating and analysing data, technology can facilitate better compliance with procedural rules and standards.

In recent years, the Chinese government and its judiciary have made a policy decision to actively utilise AI as part of judicial reforms. This approach is unique to China and is due to the chronic challenges faced by the courts in the country, such as a dramatic increase in the number of cases and a shortage of skilled personnel in the judiciary. As a result, pilot programmes have been launched across the country to develop various AI systems that have been applied to different aspects of the judicial system. Some of these systems aim to improve mechanical processes, such as transcription and document analysis, to increase efficiency. Others, more ambitious projects, aim to use AI to make decisions. Therefore, we should agree with the thesis of M. Sari (2021), N. Wang and M.Y. Tian (2023) that we should not consider information technology and the principles of justice as mutually exclusive factors, but rather learn to integrate technology into the legal system in a way that respects the fundamental principles of law to achieve a fairer, more efficient, and accessible justice.

Based on the opinion of many scholars, including G.G. Zheng (2020) – China is currently moving towards the creation of a system of case law based on algorithms, which eliminates the need for preliminary decisions, but considers statistically detectable patterns. H. Fan and F.L.F. Lee (2021) emphasised that live streaming of court proceedings allows ordinary Chinese citizens to have additional means to monitor and understand the work of courts. However, it is important to realise here that despite the proximity of judges, this does not necessarily mean true openness and attention to public opinion. The decision on which particular case to broadcast live is left to the discretion of the authorities, and the official practice of live broadcasting does not always favour active public participation. It is important to note that even in liberal democracies, trials do not always depend on public opinion.

According to T. Grieshofer (2023), current improvements in the digitalisation of court proceedings are still limited in certain aspects. The main barrier for court users in the early stages of proceedings remains communication problems, including translation of passages with grammatical and lexical difficulties, persistent difficulties with definitions and insufficient support for court users in creating their documents. Therefore, ignoring the information needs

of lay court users results in complex legal discourse developing in an environment where lay litigants remain on the periphery. In this context, the position of T.S. Hamad and T.M.F. Al-Sarraf (2023) that modern litigation tools save effort, time and resources and optimise notification processes is correct. This contributes to the reduction of the negative effects associated with traditional notification methods that slow down litigation processes.

Online hearings greatly simplify the conduct of proceedings in favour of the parties and contribute to a more systematic flow of proceedings. These advantages may extend not only to court proceedings but also to non-judicial proceedings, such as cases of acquisition, division, inheritance, and dissolution of inheritance of joint property, where participants located abroad can participate. However, according to some scholars (Fibinger-Jasińska, 2022), they should remain an exception and courts should mostly stick to traditional hearings. In practice and from a theoretical perspective, it is possible to consider all types of civil cases online, provided that the requirements of the platform and the participants in the process are met. The civil procedure legislation can be amended accordingly to provide for the online method as an additional option for the parties. However, it should be emphasised that the integration of information technology into court proceedings should not be merely an attempt to follow fashionable trends or demonstrate technological excellence. Its goal should be to ensure fairness, impartiality, and timeliness of resolution of civil cases, as well as effective protection of violated, unrecognised or contested rights, freedoms or interests of individuals and legal entities, as well as the interests of the state. Nevertheless, in scientific doctrine, there are concerns related to some aspects of this approach. Thus, C. Shi *et al.* (2021) among other concerns highlights issues related to automatic decisions, digital issues of power-sharing, independence of the judiciary, as well as issues related to privacy and data protection.

The aims and objectives of civil justice remain unchanged, and the introduction of new technologies should be aimed at achieving them more effectively. It is important to remember that if at a certain stage, it is not possible to fulfil these objectives and goals exclusively through new means, changes that may violate the constitutional principles of the judiciary should not be rushed. Therefore, technology should serve judicial activity while preserving its essence, and the focus should be on transforming the form rather than the essence of justice.

In this context, it is necessary to consider the works of the English scholar R. Susskind (2019) in more detail, who has become widely known in the context of electronic court proceedings and online proceedings. R. Susskind (2019) has received special attention after the release of his book "Online courts and the future of justice". This book focuses on the use of online courts as a means to increase access to justice and provide better judgements. R. Susskind (2019) raises important questions about whether court services should be seen as mere service delivery or as a place to inspire and work for everyone. He argues that the introduction of technology will open up new ways of resolving disputes and providing access to justice for citizens. In addition, R. Susskind (2019) views the future and predicts that the first generation of online courts, where decisions are made by humans, will be replaced by a second generation where AI techniques will play a greater role in decision-making. He also raises ethical questions about the extent to which machines can provide judicial decisions following the rule of law, and whether the role of judges can be supported or replaced by AI. The development and implementation of new technologies in the judicial system implies not only changes in the technical field but also requires the adaptation of doctrinal provisions of the science of civil procedure law, especially in terms of judicial proof. These changes are aimed at facilitating and improving the efficiency of evidentiary activities in court proceedings.

However, the views of scholars on the introduction of information technologies differ. Thus, for example, M. Giacalone and S. Salehi (2022) express high appreciation of the introduction of this practice and argue that courts should actively use all advanced methods of research and analysis of digital evidence to ensure the correct resolution of civil disputes. At the same time, N.T.H. Nhung *et al.* (2021) take a more moderate position and believe that when investigating theoretical issues of digital evidence, it is necessary to rely on the theory of evidence without making radical changes in the doctrine of evidence in civil proceedings. Consequently, when analysing new means of proof in electronic form, it is necessary to consider not only the specificity and features of applied information technologies but also the need to determine the limits of changes in the process of proving, taking into account the basic provisions of evidence law and principles formed over the centuries to ensure a truly fair trial.

Thus, modern science is increasingly scrutinising various aspects of evidence, which are undergoing changes under the influence of the development of social relations, changes in scientific and practical understanding, changing priorities of legislators, the tasks faced by legal proceedings and trends in the development of legal norms. The digital age contributes by not only providing new means that are already actively used in judicial practice but also by raising questions about possible means that may be applied in the future to achieve the goals of civil proceedings. It should be noted that when researching the impact of information technology on judicial processes, it is necessary to clearly define the scope of its application to avoid distortions in court cases. Particular attention should be paid to analysing new means of electronic evidence. In doing so, it is necessary not only to consider the specificity and the peculiarities of the applied information technologies but also to determine the limits of changes that can be introduced into the process of proving following the principles and foundations of evidentiary law that have developed over the centuries to ensure a truly fair trial. Indeed, this is how AI can be used to develop automatic decision-making systems. However, such systems can only be used in cases where the issues are not in doubt among the parties and are factual or do not depend on value judgements, such as fines for traffic offences. In cases involving complex facts and value choices, decisions can only be made by human intelligence. AI can serve an auxiliary purpose, but the final decisions always remain in the hands of human judges.

To successfully integrate China's experience in the field of online civil litigation into the system of Kyrgyzstan, it seems necessary to make significant changes in the national legislation. First of all, it is advisable to develop and implement legislative acts that would establish clear norms and standards for digital court proceedings, including the definition of procedures, rights and obligations of all par-

ticipants in court proceedings. Such norms should aim to ensure the transparency and legitimacy of judicial processes, as well as to guarantee equal opportunities for access to justice for all participants. In parallel, mechanisms should be developed and implemented to ensure the protection of data and personal information of litigants, taking into account global standards of cybersecurity and privacy. An integral part of this process is the establishment of a specialised body or authority responsible for coordinating and supervising online civil proceedings, which also needs to be enshrined in legislation. This body will have to organise and conduct training for judges, lawyers and other judicial actors to ensure that they are ready and competent to use digital tools. Modern information technology and digital tools, including e-filing and court notification systems, should be actively introduced to ensure compatibility with the existing infrastructure. Finally, an extensive information campaign should be provided for in the legislation to raise public awareness of the benefits of online civil proceedings and its rules and procedures for use. Legislative changes based on the above recommendations contribute to the successful integration of online civil proceedings into the judicial system of Kyrgyzstan, ensuring increased efficiency and accessibility of justice for citizens.

For further research, it is important to look more deeply into the technical and legal aspects of implementing digital solutions, as well as to conduct a comparative analysis between the Chinese and Kyrgyz experiences to identify key lessons and recommendations for the successful adaptation of such systems in Kyrgyzstan.

Conclusions

The experience observed in China demonstrates the success of online courts. In this system, cases are dealt with in a short time frame, litigation costs are reduced, and simple cases are resolved through informal proceedings. It is possible that similar online courts, inspired by the Chinese experience, could serve as a model for increasing the efficiency of litigation and reducing the costs of litigation participation. With judicial reform that separates complex and simple cases and gradually improves the system of online trial rules, online civil litigation will continue to play a meaningful role in the post-pandemic era.

The challenges associated with the implementation of e-judicial proceedings stem from the ambiguity of the objectives and outcomes of the process. It is important to investigate the stages, characteristics, content, and main drivers of e-judicial implementation in other countries, especially those with significant achievements or unique features in this field. This experience can be adapted and applied in the domestic context, considering the economic, human, and legal realities. It is important to clearly define the following aspects: implementation objectives; availability of resources; functionality to be implemented first and incentivise its use through various procedural and non-procedural measures.

The state has the right and duty to set specific requirements for technological aspects in the judicial sphere while ensuring a balance between technological neutrality and strict limitations. In some cases, a more flexible approach to the choice of technology should be adopted, such as in the use of simple electronic signatures in transactions and their ability to be considered as evidence in court proceedings. However, in areas where the nature of the proceedings and their security require special concerns, comprehensive lists of permissible technological solutions should be developed.

The integration of information technology into the process of forensic evidence does not change the fundamental principles of evidence theory. Rather, it requires their refinement and adaptation to new realities. It is important to emphasise that electronic court proceedings should not be a barrier to access to justice. The concept of facilitating access to justice includes the digitalisation of court procedures and the use of information and telecommunication technologies. It also includes the introduction of remote alternative dispute resolution methods, such as online mediation and online conflict resolution systems. These alternatives include various ways such as information on alternative dispute resolution options, automated form-filling, e-consultations, the possibility of engaging experts online and online discussion of conflict situations, and so on.

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None.

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Дилема розвитку та шляхи вирішення цивільних судових справ онлайн у Китаї: досвід Киргизстану

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Анотація. Актуальність дослідження зумовлено необхідністю переглянути нормативно-правові аспекти цифровізації цивільного судочинства в Киргизькій Республіці з огляду на складний комплекс проблем, що існують у цій сфері. Основною метою дослідження є аналіз цифрового цивільного судочинства в Китаї з перспективою вилучення позитивного досвіду для можливої імплементації в Киргизстані. У дослідженні використано методи статистичного аналізу, аналогії, узагальнення, а також формально-юридичний та формально-логічний підходи. У результаті аналізу особливостей правового регулювання онлайн – цивільного судочинства в Китаї виявлено сучасні механізми цього регулювання, які сприяють підтриманню стабільності та підвищенню ефективності судової системи. Наукове дослідження підтверджує фундаментальне положення про те, що інтеграція інформаційних технологій у процеси судочинства не впливає на фундаментальні концепції теорії судових доказів. Проте аналіз також виявив значні ризики, пов'язані з цим процесом, як-от: збільшення кількості судових справ, потенційне спотворення природи судової діяльності та інші аспекти. Це дослідження пропонує концептуальний підхід до полегшення доступу до правосуддя через цифрову трансформацію судових процедур. Цей підхід включає використання інформаційно-телекомунікаційних технологій та дистанційних альтернативних методів вирішення спорів, як-от онлайн-медіація та системи онлайн-вирішення спорів. Особлива увага приділяється необхідності врахувати інтереси всіх сторін, упроваджуючи штучний інтелект у судову систему. Вивчення різних поглядів дало змогу глибше зрозуміти складність цього процесу та визначити можливі шляхи вдосконалення цивільного судочинства в контексті диджиталізації в Киргизстані. Висновки дослідження мають потенційну цінність для імплементації позитивного досвіду Китаю в контексті цифровізації цивільного судочинства в Киргизстані

Ключові слова: електронний процес; законодавство; диджиталізація; штучний інтелект; цифровізація

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Mediation and indigenous conflict resolution practices: Lessons from global indigenous communities

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Abstract. The research relevance is determined by an increase in conflicts and tensions related to territorial, cultural and environmental issues affecting indigenous peoples. The research aims to analyse and systematize mediation and conflict resolution practices specific to indigenous peoples to develop more effective conflict resolution strategies that respect their rights and contribute to the sustainable development of indigenous communities. Case studies of conflicts involving indigenous peoples, as well as literature and statistical research to identify successful mediation and conflict resolution practices from different regions and countries, were employed in this research. The specifics of conflicts that arise between indigenous peoples and state or private entities are analysed, as well as the factors contributing to the emergence and escalation of such conflicts. A range of key aspects in the practice of mediation and conflict resolution among indigenous peoples have been identified. The analysis of case studies and literature revealed successful mediation practices, including the use of traditional conflict resolution systems, participation of representatives of indigenous peoples in decision-making, and respect for their cultural and legal characteristics. Challenges and obstacles faced by participants in mediation in the context of indigenous peoples were discussed. Recommendations were made for the development of effective conflict resolution strategies considering the specifics and needs of indigenous communities to promote peace, justice, and sustainable development in this area. Practical cases of successful mediation were analysed, and the main principles and methods used by mediators were considered. Emphasis is placed on justice and respect for the rights of indigenous peoples. Practical lessons from the experiences of the world's indigenous peoples are a valuable guide for diplomats, researchers, and anyone interested in culturally and socially sensitive conflict resolution

Keywords: cultural diversity; international conflicts; cultural specificities; local communities; peaceful neighbourhoods; globalization

Introduction

Traditionally, indigenous peoples have found ways to resolve conflicts within their communities based on their norms, traditions, and religious beliefs. However, globalization, climate change, transnational corporations and government policies are having an increasing impact on their lives and cultures. This has led to conflicts that often go beyond traditional methods of resolution. Mediation, as a means of conflict resolution, can represent a unique approach to addressing the interests, values and needs of indigenous peoples. It can provide a platform for dialogue between different parties and facilitate balanced and sustainable solutions. However, successful mediation among indigenous peoples requires a deep understanding of and respect for their cultures, traditions, and unique perspectives.

G. Pingali (2022) describes indigenous land conflicts and power relations in one of India's most resource-rich states, Jharkhand. He reveals how the land conflict in Jharkhand has affected the development of the community. He points out the causes and consequences of this conflict, and how firmly rooted it is in the ideological underpinnings of the key players in the region.

D.C. Arbelaez Ruiz (2023) examines the nature of responses of the Nasa indigenous people of North Cauca to mining and how this is linked to peacebuilding, with a focus on how resistance is shaped and enacted to respond to the mineral extraction with violence and peace. The study is exploratory, ethnographic, and interdisciplinary in nature, sitting at the intersection between the anthropology of mining, development studies and peace and conflict studies. The author presents and analyses narratives, participant responses, and her own experiences to illustrate the context and interconnected processes shaping Nasa responses to mining during this transition period.

Illuminating the complex relationships between Maya groups, Spanish-born Yucatecans, and British settlers in present-day Belize, C.A. Kray (2023) shows all sides of the indigenous conflicts and suggests steps that would contribute to their resolution.

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L. Sullivan (2023) analyses the transformations in rural life wrought by the internationalization of agribusiness and contests over land rights by Indigenous social movements. The protest camps, by reclaiming the countryside as a site of residence and not merely one of abstract maximized agribusiness production, call into question the meanings and stakes of Brazil's political model. Researcher discusses the urgent need to link the dual preoccupations of multi-scalar political-economic change and the ethno-racial terms in which Indigenous people in Brazil live today.

Economist R.L. Trosper (2022) shows examples from North and South America, Aotearoa/New Zealand, and Australia to argue that Indigenous worldviews centring on care and good relationships provide critical and sustainable economic models in a world under increasing pressure from biodiversity loss and climate change. He explains the structure of relational Indigenous economic theory, providing principles based on his and others' work with tribal nations and Indigenous communities. Scientist explains how sustainability is created at every level when relational Indigenous economic theory is applied – micro, meso, and macro.

The purpose of this article is to analyse the practice of mediation in indigenous conflict resolution and to highlight key lessons and principles that can be drawn from the experience of global indigenous communities. This study will explore the importance of respecting cultural autonomy, recognizing indigenous peoples' rights to their lands and participating in decisions that affect their future. Analysing the lessons and principles developed by global indigenous communities can serve as a source of inspiration for developing more equitable and sustainable methods of conflict resolution in the world. This article looks at specific examples of successful mediation among indigenous peoples, identifies common trends, and analyses how these lessons can be adapted for application in different contexts.

Mediation processes, including historical and contemporary cases of indigenous conflict, were examined by analysing documents, reports, and archives to identify mediation models in different contexts and regions. Comparative research was conducted to identify common trends and best practices, including many cases from different countries and cultures. This method allowed us to explore and compare different mediation models and identify successful strategies that can be applied in resolving conflicts with indigenous peoples in other countries. In addition, by applying the interviews by other authors conducted with mediators and indigenous people provided background data and insight into their perspectives and needs in the mediation process. Together, these methods revealed new insights and provided valuable recommendations for improving mediation practice in the indigenous context.

The methods used in the article aimed to analyse and compare mediation processes in different contexts. To achieve this goal, a systematic literature review and document analysis method were applied. This method allowed for the collection and systematization of existing data and provided a broad understanding of the topic.

Mediation as a tool for conflict resolution

The modern world faces many complex conflicts and tensions, but for indigenous peoples, these conflicts often have a special character related to their unique cultural, historical, and territorial characteristics. B. Melamed (2022) believes that resolving conflicts that affect indigenous peoples' rights, lands and ways of life requires special attention and adapted approaches. Mediation, as an alternative method of conflict resolution, is a powerful tool to help find just and sustainable solutions. For indigenous peoples in particular, mediation means more than just dispute resolution. It is a process that considers their cultural values, traditions, and needs, ensuring community participation in decisions about their future. Preserving the cultural, territorial, and legal integrity of indigenous peoples in the contemporary world is challenging, as they often face conflicts related to their unique status, history, and relationship with the outside world. These conflicts may arise either within communities or between communities and State or corporate interests. Indigenous peoples' relationships with external actors are often conflictual due to differences in perceptions of land and resource rights, lifestyles, and values (Lundy *et al.*, 2022).

The primary issue is the way to harmonize traditional conflict resolution methods with modern mediation mechanisms to ensure that the rights and interests of indigenous peoples are respected. Lessons and principles can be learned from the experiences of the world's indigenous communities and mediation approaches can be adapted to effectively resolve their conflicts. The study of mediation in indigenous conflict resolution includes several important aspects that can help to understand and effectively manage such conflicts.

Table 1. Key aspects of mediation research

Cultural sensitivity	Understanding indigenous peoples' cultural sensitivities, values, traditions, and customs is critical in mediation. Research should consider what cultural aspects may influence conflict and how they can be incorporated into the mediation process.
Historical context	Research should consider the historical factors that may underlie conflict between indigenous peoples. This may include issues of land rights, colonial legacies, and long-term historical wrongs.
Indigenous peoples' participation	It is important to investigate how actively indigenous peoples participate in mediation and the extent to which their views and interests are considered in the process. Effective mediation requires respect for the autonomy and self-determination of indigenous communities.
Resources and access to information	Research can explore the availability of resources and information that may affect the strength of each party to the conflict. This may include economic development, education, and access to media.
Role of the State and international organizations	Mediation between indigenous peoples can involve the participation of the state and international organizations. Research should explore how these actors can influence the mediation process and how they can support conflict resolution

Table 1, Continued

Effectiveness of mediation methods	Research can assess the effectiveness of different mediation methods in resolving conflicts between indigenous peoples. This could include analysing successful and unsuccessful mediation cases to identify best practices.
Impact on society and the environment	Conflicts between indigenous peoples can have serious impacts on society and the environment. Research can examine the effects of these conflicts and evaluate how mediation can contribute to the preservation of natural resources and socio-cultural values.

Source: compiled by the author

Research on mediation in indigenous conflict resolution is therefore important for developing more effective approaches to resolving such conflicts and for maintaining justice and respect for indigenous peoples' rights. Conflict resolution in the context of indigenous peoples presents unique challenges due to their specific culture, history, and relationship with the outside world. Mediation, as a tool for conflict resolution, requires special attention to cultural and legal aspects to consider the specificities and needs of indigenous peoples in the process of finding just solutions (d'Estrée & Parsons, 2018).

Cultural aspects of mediation:

- The cultural characteristics of indigenous peoples can have a profound impact on their perceptions of conflict and conflict resolution methods. Mediators should consider traditional values, rituals, and customs, which can be important in finding compromise solutions.
- The community plays a central role in decision-making in indigenous cultures. Mediation should ensure the active participation of community representatives in the conflict resolution process to ensure that decisions reflect collective interests.
- Indigenous mediation can utilize not only formal law but also traditional norms and judicial practices. This may include respect for elders and experts from the community, as well as observance of rituals associated with mediation.

Legal aspects of mediation:

- The legal framework governing mediation should consider the characteristics and rights of indigenous peoples. Laws should ensure respect for their cultural and traditional norms, as well as guarantee the equality of participants in the process.
- Indigenous peoples' conflicts often involve land and resource rights. Mediation should consider these rights and how to incorporate them into dispute resolution.
- The legal framework should consider the rights of communities to participate in decision-making, especially in resolving conflicts that affect them.

Consideration of the cultural and legal aspects of mediation in the context of indigenous peoples creates an adapted and respectful approach to conflict resolution. It also promotes fairness and sustainable solutions that address their unique needs and values. The traditional values of indigenous peoples have a profound impact on the conflict resolution process, representing a key factor in creating balanced and sustainable solutions. In mediation with these communities, consideration of these values becomes an integral aspect of successful dispute resolution (Pingali, 2022). It is important to keep in mind that traditional values vary from one culture to another, but are usually centred on harmony with nature, respect for elders, and preservation of cultural practices.

Initially, traditional values guide the approach to conflict resolution, emphasizing the restoration of balance and harmony between the parties. Mediation guided by these values often includes reconciliation ceremonies, and respectful dialogue, and focuses on the common interest and the good of the community. Second, they define the forms of participation and roles of different community members, strengthening collective participation in the mediation process and guaranteeing greater acceptance and decision-making. This attentive approach to traditional values enriches the conflict resolution process and contributes to the creation of longer-term and more sustainable solutions that are in line with the needs and interests of indigenous peoples.

The principles of respect for the cultural heritage and specificities of indigenous peoples play a key role in the successful practice of mediation aimed at resolving their conflicts. Understanding and considering cultural sensitivity helps to create an atmosphere of trust and respectful dialogue between mediation participants. A basic principle is to recognize the value and uniqueness of indigenous cultural practices, languages, and beliefs. Mediators should demonstrate deep respect for these aspects by providing space for the expression and preservation of their cultural identity (Arbelaez Ruiz, 2023).

Additionally, the principle of respect includes active listening to and understanding the traditions that shape indigenous peoples' lifestyles and values. It is important to avoid imposing external norms and standards and, instead, cooperate with the community to incorporate their unique approaches to conflict resolution. In such a context, mediation becomes a means of maintaining cultural diversity and strengthening indigenous peoples' self-determination by facilitating the creation of solutions that meet their needs and ensure the preservation of their cultural heritage.

The complex interplay between modern legal structures and indigenous peoples' traditional methods of dispute resolution poses an important challenge for society to find a balance between respecting cultural identity and ensuring justice. To effectively adapt modern legal structures to traditional dispute resolution methods, constructive engagement and integration must be sought.

Above all, this process requires considering and respecting traditional ways of resolving disputes, while preserving the fundamental principles of fairness and equity. E. Villanueva (2021) believes that negotiations between legal authorities and indigenous communities can identify areas of common interest and develop mechanisms that facilitate the integration of traditional dispute resolution methods into modern legal practices. Creating flexible legal instruments that allow for the incorporation of traditions and customs can help build trust between the parties and ensure a fairer and more sustainable resolution of disputes.

Indigenous communities embody a wealth of cultural traditions and unique methods of conflict resolution that are based on a deep respect for community, nature, and tradition. The mediation process in these communities highlights certain special techniques that reflect the unique values and principles of indigenous peoples.

One such technique is circle-based mediation. This approach involves the community meeting in a circle, where each participant has the right to express his or her point of view. By listening to each other and seeking solutions together, the community seeks an agreement that considers the interests of all members. This method strengthens the sense of belonging and responsibility to the community, creating space for a deep understanding of the causes of conflict.

Another unique technique is based on the role of elders and sages in the community. These respected members of the community act as mediators and counsellors based on their experience and wisdom. Their role is to create a harmonious atmosphere and guide the dialogue in a positive direction. This method reinforces respect for cultural heritage and the participation of adult generations in conflict resolution (Kray, 2023).

Circle meetings and traditional forms of discussion play an important role in conflict resolution in indigenous communities. They represent a distinctive approach to dialogue based on a deep respect for the participants and cultural traditions, as well as on the pursuit of harmony and agreement. It is worth agreeing with the opinion of the author (Sullivan, 2022) since circle meetings often act as a platform for expressing opinions and discussing important issues in the community. Participants are seated in a circle, symbolizing equality, and mutual respect. Everyone has the opportunity to speak and listening to each other is considered a valuable aspect of this process. This form of discussion encourages the search for common ground and compromise solutions. Traditional values of unity and harmony influence the atmosphere in circle meetings, where participants strive to reach an agreement that considers the interests and good of the entire community. Such traditional forms of discussion promote mutual understanding, and respect, and maintain strong bonds within the community. Circle meetings may also include elements of ritual and symbolism that reinforce the community's cultural identity and emphasize the importance of cooperation and dialogue. Overall, these traditional methods of deliberation contribute to harmonious conflict resolution and the creation of sustainable solutions that meet the cultural and social needs of indigenous communities.

Elders and wise members play a key role in traditional indigenous communities, especially in the context of dispute resolution. Their role extends far beyond advice and counsel, serving as a bridge between the past and the present, and preserving the values and wisdom of generations. In resolving disputes, elders and sages act as respected mediators and guides with authority and respect in the community. Their role is to ensure justice, harmony, and respect in the community. They listen to both sides, helping to identify the root causes of conflict and find ways to resolve it. Thanks to their experience and knowledge of traditions, they can provide an in-depth analysis of the situation and offer wise solutions that consider both individual interests and the shared values of the community.

Elders and sages also act as mediators between the different parties to a conflict, helping defuse tensions and find compromises. Their participation in the dispute resolution process is based on a deep respect for customs and cultural norms, which creates an atmosphere of trust and facilitates effective conflict resolution (Sher, 2020).

In the mediation process in indigenous communities, the connection with nature and spirituality is also fundamental. For many indigenous peoples, nature is an integral part of their cultural and spiritual identity. In the mediation process, nature is seen as a living organism with its wisdom and, as such, becomes an important element in conflict resolution. This aspect is manifested in the use of symbols of nature in mediation rituals, which help to bring participants together and guide them in their search for harmony and unity.

Spiritual aspects are also significant in mediation in indigenous communities. Religious and spiritual beliefs often permeate traditional methods of conflict resolution. Rituals and prayers can accompany the mediation process, creating an atmosphere of respect, peace, and creativity. The influence of spiritual aspects also fosters a soulful connection between participants and strengthens belief in constructive dispute resolution. Together, this makes a connection to nature and spirituality valuable and indispensable components of mediation practice in indigenous communities, contributing to sustainable and harmonious conflict resolution. For example, in traditional Aboriginal communities in Australia, known as Aborigines, the role of elders and sages in dispute resolution has played and continues to play an important and valuable role. One interesting example of this role is the practice of Dadirri by the Yolngu people of Arnhemland in northeastern Australia.

In the context of Dadirri, elders and sages serve as mediators and counsellors to help resolve internal conflicts and disputes in the community. One of the methods they use is observation and listening. By standing back, they give participants in the conflict space to freely express their feelings and thoughts. This process allows participants to come to a deeper understanding of the situation and each other.

The next step is to consult with elders and sages who draw on their experience, knowledge of customs and traditions. They help the parties see the broader context of the dispute and offer wise recommendations for resolution. Elders also have a unique authority that can often support a decision based on traditional values and the common good of the community. This example illustrates how elders and sages can contribute to conflict resolution by utilizing their wisdom and knowledge of tradition. Their role in such situations strengthens social ties, and respect for customs and contributes to the harmonious functioning of the community.

The social benefits of mediation encompass building trust and cooperation within the community. The mediation process, based on respect for traditions and unique methods of dispute resolution, contributes to strengthening relationships between community members. This aspect is particularly important as social cohesion is key to preserving cultural identity and overcoming external challenges (Kennell, 2023).

The economic benefits of mediation for indigenous peoples relate to more effective and sustainable conflict resolution, which can promote infrastructure development and investment in the community. Resolving disputes through mediation reduces the time and resources that could be spent on long-term legal processes. Moreover, successful conflict resolution promotes stability within the community, which can be attractive to investors and funders.

Mediation also plays a crucial role in maintaining harmony and harmony within indigenous communities, providing unique tools for resolving conflicts and strengthening social ties. For indigenous peoples, where the community is the centre of their identity and consciousness, maintaining inner peace and cooperation is essential. Mediation within

the community helps create a safe platform where participants can express their comments and concerns, discuss conflict situations, and seek a joint solution. An important aspect is to address cultural norms and traditions to preserve the uniqueness and values of the community. The mediation process can include elements of rituals, symbols and ceremonies that help to create an atmosphere of respect and rapprochement (Trosper, 2022).

The use of mediation in the context of indigenous communities helps to preserve and strengthen traditional relationships and social structures. An important component of the mediation process in this context is respect for the customs, values and roles that play a key role in the lives of indigenous peoples. Mediation addresses existing hierarchies and dynamics within the community, allowing participants to voice their opinions and concerns within traditional structures.

The mediation process also contributes to intergenerational harmony in the community. Elders and wise members, with their deep knowledge of cultural norms and traditions, are actively involved in the conflict resolution process, passing on their wisdom and experience to younger generations. This approach preserves sociocultural continuity and balances the traditional and modern aspects of indigenous communities. Mediation becomes a tool that helps adapt to a changing world while preserving the uniqueness and values of indigenous peoples.

The use of mediation in the indigenous context has the potential to significantly increase the level of community participation in resolving its problems. One of the key features of mediation is its collaborative nature, which includes the participation of all stakeholders in the conflict resolution process. For indigenous peoples, this means greater inclusion in the community, which helps reduce the sense of external interference and increases the sense of control over the resolution of their problems.

Mediation also increases indigenous peoples' understanding and awareness of the technical and legal aspects of conflict resolution. Participation in the mediation process provides an opportunity for training and familiarization with procedures, which can increase a community's competence in solving its problems (Aall & Crocker, 2017). Ultimately, this leads to more informed and effective participation in decision-making, as well as creating conditions for leadership development and activating new generations to address internal and external issues. For example, in Aotearoa, New Zealand, the Maori, the indigenous people of the country, have a long history of using mediation to resolve conflicts, with significant social and economic benefits for the community. One iconic example of this use is the mediation process between the Maori and the government that led to the Treaty of Waitangi in 1840.

The Treaty of Waitangi was an agreement between Maori and British colonizers that recognized Maori sovereignty over their lands and promised protection of their rights. However, over time, conflicts and disagreements arose over the interpretation and implementation of the Treaty. Instead of long and disastrous court cases, both sides decided to use mediation to resolve the dispute.

The mediation process, conducted with community elders and sages, allowed the parties to express their concerns and to discuss and compromise on various aspects of the Treaty. The result of this mediation was increased trust and cooperation between Māori and the government, as well as a clearer interpretation of the Treaty. This event not only helped to prevent conflict and maintain social stability but also established a framework for further strengthening Maori rights and equitable land use. This example shows how mediation can bring significant social and economic benefits to indigenous peoples. It preserves cultural identity, promotes equitable conflict resolution, and ensures sustainable social and economic progress for the community.

The practice of mediation in indigenous communities brings valuable lessons that can be applied globally to improve conflict resolution processes and sustainability in societies. The experience of indigenous peoples demonstrates several key aspects that can serve as a model for implementation in different cultural and legal environments. First, indigenous peoples' unique approach to mediation emphasizes the common interest and collective well-being. This aspect allows for compromises and solutions that consider a wide range of opinions and individual needs. The deep respect for cultural traditions and values also contributes to an atmosphere of trust and cooperation, which is an important lesson for mediators and community leaders. Second, engaging with nature and spiritual aspects is an important component of mediation in indigenous communities. This approach enriches the conflict resolution process with additional layers of meaning and symbolism, fostering deep understanding and participation of participants. The global application of this technique can contribute to a better understanding of the connection between humans, nature, and spiritual aspects in different cultures. Finally, the role of elders and sages as mediators and bearers of wisdom in conflict resolution provides an important lesson on the importance of respecting experience and older generations. This aspect emphasizes the importance of maintaining sociocultural continuity and enabling the transmission of knowledge and values to younger generations.

Overall, mediation practices in indigenous communities demonstrate valuable lessons that can play a significant role in making conflict resolution processes more effective and harmonious at the global level. A deep respect for cultural sensitivity, nature, and spirituality, as well as active community participation and respect for the wisdom of elders, are all valuable lessons that can inspire modern mediation practitioners to take a more balanced and sustainable approach to conflict resolution.

Modern mediation practice faces a variety of challenges and needs, and in this context, adapting traditional mediation methods used by indigenous peoples can bring valuable innovations and improvements. One of the key aspects that can be adapted is a deepened respect for the cultural identity and values of the participants. This involves a close examination of each party's cultural contexts and customs to build them into the mediation process and ensure authentic and respectful interactions. This approach builds trust and enriches the dialogue by adapting traditional principles to contemporary needs.

Another aspect is the integration of spiritual and natural aspects into the mediation process. Rather than being limited to purely technical and legal aspects, mediation can incorporate rituals, symbolism and ceremonies that help to create a deep and meaningful atmosphere. Such adaptations help to create more harmonious and constructive solutions that reflect the importance of the interrelationship between human beings, nature, and spiritual aspects. In this way,

adapting traditional mediation methods to modern practice helps to create deeper and more lasting results, given the multifaceted and complex nature of today's challenges.

Key principles underpinning successful conflict mediation

Respect for cultural diversity is a fundamental aspect of the application of mediation to conflict resolution. Each community and culture have unique values, customs and traditions that shape and determine how they interact and resolve disputes. When resolving conflicts in multi-tribal and multicultural societies, mediators must take this diversity into account and create conditions for the expression and respect of multiple voices and perspectives.

Respecting cultural diversity in mediation means not only considering cultural norms and values but also actively seeking the understanding of the deep roots and context in which the conflict arose. It involves listening, being aware and participating in the process with respect for each party. Successful conflict resolution that respects cultural diversity contributes to the creation of more balanced, durable, and equitable solutions that consider all aspects and interests of the community.

Fairness, participation, and cooperation are key principles underpinning successful conflict mediation. The principle of fairness implies ensuring equal access to the mediation process and creating solutions that consider the interests of all parties. This means that each participant should have the opportunity to express their views and concerns, and their points of view should be listened to carefully. Fairness also includes cultural differences and values to create solutions that meet the unique needs and customs of each party.

Denzin and Lincoln (2017) believe that the principle of participation emphasizes the active inclusion of all stakeholders in the mediation process. Participation provides not only a broader understanding of the situation but also additional ideas and solutions that can be incorporated into the search for compromise. Active participation also enhances control over the resolution of the conflict and reduces the sense of external interference. Collaboration, in turn, involves bringing all parties together to achieve a common goal of conflict resolution. The mediator plays the role of facilitator of this cooperation, creating an atmosphere of dialogue, respect and understanding. Collective efforts help to reduce tensions and facilitate the creation of solutions that reflect a wide range of interests and ensure sustainability in the long term.

There is an inspiring example in the history of mediation of the Cree Indians (Canada) that demonstrates the usefulness of indigenous practices of mediation for the entire world. The conflict between the Cree Indians and the Canadian government over land rights and resources caused enormous resentment and tension. However, instead of resorting to litigation, the parties decided to employ mediation.

The mediation process involved elders, sages, and representatives of both sides. They gathered in a circle to discuss their concerns, interests, and needs. An important part of this mediation was respect for Cree cultural traditions, which were embodied in rituals, symbols, and spiritual practices (Bui, 2019). Mutual understanding and cooperation were also important to find balanced solutions that promote long-term sustainability.

This mediation resulted in a cooperative land management agreement that was responsive and inclusive of Cree Indians in decision-making. This agreement not only resolved the conflict but also promoted cultural identity and cooperation in resource management. This example highlights the importance of cultural respect, cooperation and dialogue in the mediation process, and its lessons can serve as inspiration for conflict resolution on the global stage as well (Suen & Suen, 2019).

Table 2. Examples of successful indigenous mediation practices

In mediation in the field of land rights	
New Zealand (Aotearoa)	Mediation between the Maori and the New Zealand government, based on the Waitangi Treaty of 1840, helped resolve disputes over land rights. The mediation addressed cultural and historical aspects, allowed the Maori to reclaim some land, and established a partnership between communities and the Government.
Guatemala	Mediation in Guatemala was used to resolve land disputes between Indians and landowners. These disputes were complicated by historical and cultural aspects. Mediation helped to reach compromises and establish mechanisms for equitable land management.
Norway	The Ural Saami, an indigenous people in northern Norway, use mediation to resolve land disputes with government agencies and corporations. The mediation process includes discussion and consideration of cultural, environmental, and social aspects, which helps to achieve balanced solutions.
When resolving conflicts by mediation affecting the interests of indigenous peoples related to the extraction of natural resources	
Canada	Conflicts in Canada regularly arise between indigenous peoples and extractive industries, including timber, coal and ore extraction. In many cases, mediation is used to address community concerns and demands. Mediation processes involve dialogue, incorporating traditional knowledge and establishing long-term plans with representatives of all parties.
Ecuador	In Ecuador, indigenous peoples such as the Quichua Indians have faced conflicts over oil extraction on their traditional lands. In 2000, the Indians, in collaboration with organizations and international entities, began large-scale protests and mediation. The result was the "Hydrocarbon Law", which recognized the rights of indigenous peoples to participate in extraction decisions and provided compensation for damages and investment in community development.
In mediating cultural and religious disputes	
USA	In various areas of the USA, such as Indian reservations, mediation has been used to resolve disputes between indigenous peoples and government agencies related to religious practices and traditions. Mediation processes have facilitated compromises that respect and protect the rights and interests of communities.

Table 2, Continued

	In mediating cultural and religious disputes
Australia	Aboriginal Australians have used mediation to resolve disputes over traditional land rights and religious practices. Mediation processes have involved discussing the significance of traditions, sharing experiences, and creating agreements that support the preservation of cultural heritage.

Source: compiled by the author

These examples highlight the particular importance of addressing the unique traditions, knowledge and needs of communities in mediation in resolving land disputes, conflicts related to natural resource extraction and cultural and religious disputes related to indigenous people's interests. Mediation processes help address cultural sensitivities, historical contexts, traditional knowledge, cultural values, and community needs, resulting in more sustainable and equitable solutions for all parties (Haberfeld, 2022).

The future of mediation in indigenous communities presents exciting prospects that are enriched by cultural diversity, respect for tradition, and attention to social and environmental aspects. Mediation will continue to play a key role in resolving conflicts and disputes, considering the unique needs and characteristics of indigenous communities. In the future, mediation in indigenous communities will become more integrated, given modern technological and information capabilities. Virtual platforms and online tools can be used to facilitate dialogue and participation of community members in conflict resolution, even in remote settings. Additionally, mediation will actively combine traditional and modern methods to create more efficient and flexible processes (Miura, 2019). The knowledge of elders and sages will be combined with the expertise of professional mediators to create deeper and more comprehensive approaches to conflict resolution. Given the growing interest in sustainability and conservation of the natural environment, mediation in indigenous communities will increasingly be used to resolve disputes related to natural resource management and environmental protection. This directed perspective will help communities to preserve and pass on valuable environmental and cultural values to future generations. Training and developing young leaders in mediation will also be an important aspect. Ensuring access to mediation education and practice will help strengthen local human resources and ensure sustainable conflict resolution in the future.

The modern world faces many challenges that also have an impact on the practice of mediation in indigenous communities. One of the main challenges is the preservation and protection of cultural identity and knowledge in the face of rapid technological and sociocultural development. Related to this are concerns about the loss of traditional customs and values, which may affect the ability of communities to preserve their particularities in the mediation process. In this context, the development of mediation requires a balance between traditional methods and modern approaches to ensure the relevance and effectiveness of the conflict resolution process (Uwem, 2021).

On the other hand, global climate change and environmental challenges also have a direct impact on the lives of indigenous peoples and their traditional lands. This creates new disputes and conflicts related to natural resource management. The promise of mediation lies in the opportunity to provide communities with a powerful tool to resolve such disputes, considering both cultural and environmental aspects (Gurtov, 2018). Mediation can serve as a forum for dialogue between community representatives, scientific experts, governmental bodies, and other stakeholders to find compromises and sustainable solutions in the interest of all.

The exchange of experiences between different indigenous communities plays an important role in enriching the practice of mediation and strengthening shared values and cultural traditions. Different communities from different regions with diverse historical and cultural backgrounds can share their experiences in resolving conflicts and preserving traditions. This exchange can enrich mediation techniques with new ideas and approaches that can be successfully adapted in other communities (Holden, 2023).

Preserving and respecting indigenous peoples' traditional methods of conflict resolution is not only a matter of preserving cultural heritage, but also a key factor in ensuring justice, sustainability, and harmony within communities. The interaction between traditional and modern approaches can create a more sustainable and equitable system of conflict resolution that considers the needs and interests of indigenous peoples. The modern world faces challenges that may threaten the persistence of these traditional practices. In an era of rapid change and globalization, preserving and respecting indigenous peoples' traditional methods of conflict resolution is of particular importance.

The future must be based on dialogue and respect, on the wisdom and experience of those who lived in harmony with nature and with each other. Efforts to integrate the lessons of indigenous peoples into global mediation practice will contribute to a brighter and more harmonious future for all peoples of the planet (Merino, 2021).

Integrating indigenous lessons into global conflict resolution practices offers us the prospect of a more harmonious and just world. It demands respect and value cultural diversity, and a desire for inspiration in the wisdom and traditions of those who have lived in harmony with nature and themselves for generations. Globalization, climate change and socio-cultural transformations can pressure communities and their practices (Warrior, 2014). It is important that community, governmental and international organizations respect and support these traditions, giving communities the space to preserve and pass on their values to future generations.

Mediation in the indigenous context stands out as integrational, cultural, and historical understanding, addressing unique needs and interests and promoting equitable and sustainable conflict resolution, which is a pressing concern on the global stage (Eichler, 2019). The global community has a key role to play in supporting and strengthening indigenous mediation practices. It is the maintenance of an important link between different communities seeking to preserve their cultural traditions and resolve conflicts. International organizations, governments and non-governmental organizations can play the role of mediators, providing expertise, funding, and technical support to help strengthen mediation practices.

The global community can also act as an advocate for the rights of indigenous peoples in the international arena. J. Hohmann and M. Weller (2018) believe that raising awareness of the cultural and legal aspects of indigenous communities helps to create a more favourable environment for the development and use of mediation. Pressuring governments and companies to address the interests and needs of indigenous peoples in conflict resolution processes is an important element in promoting sustainable development and dispute resolution within communities.

Interpretation of research findings related to indigenous peoples' conflict resolution

The results and findings of the article on mediation in indigenous conflict resolution are closely linked to the general academic world context, which includes research in conflict studies, human rights, mediation, and cultural studies. The topic has become increasingly relevant globally, given the increasing number of conflicts related to land and natural resources, as well as the preservation of indigenous cultural heritage. The results of the study emphasize the need to integrate cultural sensitivity into mediation practices and policymaking, reflecting the general trend towards more equitable and sustainable conflict resolution, both scientifically and practically. This article thus fits into a broad global research context, contributing to the knowledge of mediation and conflict studies, and supporting efforts to protect the rights and interests of indigenous peoples on a global community scale (Florczak-Wątor, 2020).

The congruence of the findings of this article with those of other researchers is in line with the general scholarly consensus in the field. A plethora of studies have investigated the effectiveness of mediation in the context of conflicts involving indigenous peoples and emphasize the importance of considering cultural and sociocultural dimensions when designing resolution strategies. These findings substantiate the need for sensitivity to indigenous peoples' unique needs, cultural traditions, and environmental interests in mediation practices.

Thus, after studying the material on mediation in indigenous conflict resolution, the following conclusions can be drawn:

1. Successful mediation requires sensitivity to the cultural and traditional characteristics of indigenous peoples. A key finding is that effective mediation in conflicts with indigenous peoples requires a deep understanding of and respect for their cultural values and traditional resolution systems.
2. The importance of the participation of indigenous leaders and representatives in decision-making. The participation of indigenous leaders and representatives in mediation and conflict resolution processes contributes to more effective and sustainable solutions.
3. The need for international support and cooperation. Indigenous peoples' mediation and conflict resolution often require the active support of international organizations and cooperation with States to ensure that indigenous people's rights are respected.
4. The importance of taking environmental and land issues into account. If conflicts with indigenous peoples involve land rights or environmental issues, solutions must take these aspects into account to achieve sustainable resolution.

The harmonization of findings is also based on the fact that comparisons and analyses of various cases of conflict resolution with indigenous peoples in different regions of the world often point to common trends and best practices. These common elements include the active participation of indigenous peoples' representatives in mediation, respect for their rights and cultural sensitivities, and the pursuit of sustainable solutions that promote justice and environmental conservation.

Conclusions

This article explored mediation practices in resolving indigenous peoples' conflicts and highlighted lessons that can contribute to creating more just and sustainable solutions for them. Research results demonstrate that preserving and respecting traditional methods of conflict resolution plays a key role in maintaining the cultural richness and resilience of indigenous peoples. These methods, emerging from deep roots of culture and spirituality, not only serve as effective tools for resolving disputes, but also reflect unique approaches to life, nature, and their identity. The preservation of traditional methods of conflict resolution not only enriches the practice of mediation but also contributes to strengthening the commonality of indigenous communities. These methods serve as an important factor in maintaining harmony within the community as well as sustaining relationships with the environment.

However, the challenges of the modern world cannot be underestimated. Global change and transformation can put traditional practices at risk. It is important that the global community recognizes the significance of these practices and supports the efforts of indigenous peoples in preserving their cultural traditions. Preserving and respecting traditional methods of conflict resolution is a key aspect of ensuring the sustainability and cultural integrity of indigenous peoples. In the course of our research, we found that traditional mediation methods, based on deep cultural and spiritual values, play an important role in preserving harmony within communities and maintaining a balanced relationship with nature.

Traditional methods of conflict resolution include unique approaches such as circle meetings, the role of elders and sages, and connection to nature and spiritual aspects. These methods are profoundly effective in resolving complex conflicts and disputes since they address not only legal but also sociocultural and environmental aspects. The study demonstrates the topical issue of conflicts related to indigenous peoples. Its significance lies in the fact that it not only identifies the main aspects and causes of conflicts but also proposes approaches to their resolution using mediation.

The scientific novelty of this topic is that it allows for a combined interdisciplinary approach, bringing together sociology, anthropology, law, and international relations. The study of mediation among indigenous peoples requires not only the analysis of existing practices but also the development of new strategies that consider their specificity. This contributes to broadening the methodological framework of conflict studies and provides a scientific basis for the development of policies aimed at protecting the rights of indigenous peoples and strengthening the resilience of societies.

In-depth case studies of mediation with indigenous peoples are recommended for further research in this area, as well as analysis of the effectiveness of different mediation techniques and strategies in the context of resolving their conflicts. It is also important to conduct a more extensive comparison of different cultural and social contexts to identify universal and context-specific aspects of mediation when working with indigenous peoples. This will allow for the development of more effective and adapted approaches

to conflict resolution that will promote peace and justice for this important group in society.

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Conflict of interest

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Медіація та практика розв'язання конфліктів корінних народів: уроки глобальних громад корінних народів

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Анотація. Вивчення порушеного питання вкрай важливе, оскільки у світі спостерігається зростання конфліктів і напруженості, пов'язаних з територіальними, культурними та екологічними проблемами, яких зазнають корінні народи. Мета цього дослідження – проаналізувати й систематизувати практики медіації та вирішення конфліктів, які поважають права та сприяють сталому розвитку корінних громад. У цій статті використовуються тематичні дослідження конфліктів за участю корінних народів, а також літературні та статистичні дослідження для виявлення успішних практик медіації та вирішення конфліктів у різних регіонах і країнах. Проаналізовано особливості конфліктів, що виникають між корінними народами та державними або приватними суб'єктами, а також розглянуто фактори, що сприяють виникненню та ескалації таких конфліктів. Виявлено низку ключових аспектів у практиці медіації та вирішення конфліктів серед корінних народів. Аналіз тематичних досліджень та літератури дозволив виявити успішні практики медіації, серед яких використання традиційних систем вирішення конфліктів, участь представників корінних народів у прийнятті рішень та повага до їхніх культурних і правових особливостей. Обговорено виклики та перешкоди, з якими стикаються учасники медіації в контексті корінних народів Надано рекомендації щодо розробки ефективних стратегій вирішення конфліктів з урахуванням специфіки та потреб корінних громад з метою сприяння миру, справедливості та сталому розвитку в цій сфері. Проаналізовано практичні кейси успішної медіації та розглянуто основні принципи і методи, які використовують медіатори. Наголошено на справедливості та повазі до прав корінних народів. Практичні уроки з досвіду корінних народів світу є цінним керівництвом для дипломатів, дослідників і всіх, хто цікавиться питаннями врегулювання конфліктів з урахуванням культурних і соціальних аспектів

Ключові слова: культурне розмаїття; міжнародні конфлікти; культурні особливості; місцеві спільноти; мирне сусідство; глобалізація; врегулювання конфліктів

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Protection of inviolability of property

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Abstract. The presented issue is relevant because it calls for a thorough analysis of both the theoretical and practical aspects of guaranteeing land's inviolability in order to identify the critical elements that must be taken into account when putting legislative measures into place to guarantee the inviolability of private property in the context of contemporary economic conditions. The aim of the research is to consider practical and theoretical aspects of ensuring the inviolability of land as an integral component of land ownership relations. The combination of systematic analysis of the features of legislative acts constructed in various countries, which determine various aspects of solving issues of protecting the inviolability of property, with an analytical investigation of the practical implementations of these provisions, forms the basis of the methodological approach to this study. The findings of the study indicate the importance of clear regulation of the protection of the inviolability of property by current legislative provisions and the need to implement these provisions in everyday practice when resolving disputes on determining the principles of inviolability of property and its protection in individual cases. The authors suggest supplementing the current legislation of Ukraine with a number of provisions for better regulation of land ownership relations. The results obtained in the study and the conclusions formulated on their basis are essential for establishing the key principles that determine the inviolability of property and can be used in planning changes to the current legislation on the specific features of ensuring the inviolability of property as well as determining the degree of punishment for its violation

Keywords: the inviolability of property; invasion of land; violation of borders; self-defence of land property; trespass on land

Introduction

One of the fundamental tenets of civil law in many contemporary states that supplement the existing provisions of their own legislative acts is the inviolability of property. The international legal aspect of this principle is particularly important, especially in the form, as reflected in the Convention on the Protection of Human Rights and Fundamental Freedoms (1950), Art. 1 of the First Protocol, and the practice of inviolability of property based on it, since the priority

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norms of international law concerning national legislation in the event of a conflict was established. As indicated in the literature, one of the main subjective components of property relations is the relation of a person to property as their own and their elimination of all other participants in public life from it. In the land relations, this is manifested in the desire of the owner or land user to separate their land plot and restrict access to it to other persons, which is practically implemented by arranging various kinds of fences (ditches, hedges, and palisades, etc.), which do not allow these other persons to enter the corresponding plot.

Accordingly, a number of foreign laws directly assign the owner (land user) of a land plot the right to "install a fence". Thus, according to the Civil Code of France (Dovgert, 2006), each owner can enclose their property, except in cases established by law. Similar provisions are contained in the Italian Civil Code (1942) and Civil Code of Quebec (1994), etc. As for Ukraine, the lists of rights of land owners and land users established in the Land Code of Ukraine (2001) do not explicitly provide a special right to install a fence on their property. Therefore, the question arises whether the owner or land user has the right to restrict access to their land plot for other persons (including by fencing it) and how inviolable is their ownership. The current development of the issue is that the content of the rights of land owners and land users, including their guarantee and protection, has been repeatedly covered in the papers of researchers (Fedchishin, 2018). However, in general, the theoretical and practical aspects of ensuring the inviolability of land in the literature have not been sufficiently investigated.

Each owner or land user seeks to allocate their land plot and restrict access to it for unauthorised persons by arranging various kinds of fences. However, the question arises as to whether the restriction on access to their land plot established by the owner or land user is mandatory for other persons and the legal consequences of its violation. Based on the investigation of international experience of legal regulation, proposals are formulated to introduce a mechanism for protecting the inviolability of land from unauthorised intruders. This study's methodology entails using contemporary instruments to analyse the actual situation regarding the preservation of the inviolability of legal procedures in many nations throughout the world.

The aim of this study is to consider the theoretical and practical aspects of ensuring the inviolability of land as an integral component of land ownership relations.

Materials and methods

The combination of systematic analysis of the features of legislative acts constructed in various countries, which determine various aspects of solving issues of protecting the inviolability of property, with an analytical investigation of the practical implementations of these provisions, forms the basis of the methodological approach to this study. The main part of the research is preceded by the establishment of a theoretical foundation, which consists of the findings of other authors who consider the protection of the inviolability of property, for which the features of legislative acts of several countries that define the key aspects of the stated issue were investigated.

A systematic analysis of certain features of the structure of legislative acts that determine all possible aspects of ensuring the protection of the inviolability of property allows determining the competence of owners and users of property to ensure the protection of its inviolability at the level of the current legislation of the state. Therewith, a crucial point is the ability of legislative acts to determine the full range of aspects that are important in the context of solving this issue, especially when it comes to ensuring the inviolability of land plots and housing of citizens. At this stage, it is quite appropriate to refer to specific legislative documents that strictly regulate all these aspects. The definition of the competence of owners and land users to protect their land plots, which is indicated in some legislative acts of Ukraine, references to which are given, is also of critical importance. This is necessary to establish a comprehensive understanding of the current state of the inviolability of private property in Ukraine, and real measures to ensure the rights of citizens to immovable land ownership objects.

The analytical investigation of the prospects for implementing the provisions of the current legislation regulating the sequence of ensuring the rights of citizens to the inviolability of their property involves analysing examples of the application of legislative restrictions in the legal practice of the United States of America (USA), Great Britain, Australia, and a number of other countries. In addition, the feature analysis was performed on the construction of the American legal doctrine of protecting the borders of private property from outside encroachments, and the norms of English law, in which invasion of someone else's territory is considered one of the most serious violations of legislation in the field of protection of private and land property and a separate type of private violations – trespass to land – is determined. The analysis of similar individual types of violations and the procedure for protection in each variant is also conducted, which is stipulated by the provisions of the current legislation of the state. The analytical investigation also provides an assessment of several scientific findings of Ukrainian authors who conducted their study on the issue of ensuring legal protection of citizens from trespass to land and the features of qualifying crimes of this type. In particular, similar analytical calculations are provided in the scientific findings of M.M. Konstantinovsky (2012), and some other authors. Proper comprehension and the development of final results that summarise the study are facilitated by an analytical comparison of the results obtained in this investigation with the conclusions of some other researchers on this topic.

Results

In practice, the right of owners and land users to protect their land plots is generally recognised, since this follows from the provisions of Part 2 of the Civil Code of Ukraine (2003) Art. 319 (the owner has the right to perform any actions in relation to their property that do not contradict the law), and a number of other acts regulating the installation of fences, such as Law of Ukraine No. 2807-IV "On the Improvement of Settlements" (2005), State Building Norms of Ukraine B.2.2-12:2019 "On Planning and Development of Territories" (2019), State Building Norms of Ukraine B.2.2-5:2011 "On Planning and Development of Cities, Settlements and Functional Territories" (2012). However, it should be understood that the fence itself is only a means to:

- mark the boundaries of the land plot (however, the fence cannot replace the official procedure for establishing (restoring) the boundaries of the land plot, and the fence is not equal to the boundary signs of the set template);

- technically restrict entry to the land plot;
- indicate to other persons the prohibition of unauthorised access to the land plot.

The main question is whether a land plot as a person's property can be considered inviolable and whether its owner (land user) has the right to prohibit access to it for other persons, including fencing it. In this regard, it can be noted that in post-Soviet countries, including Ukraine, for some time the situation when the legislation guaranteed the inviolability of a person's home, but did not provide for liability for invasion (entry) of a land plot as a person's property was typical. Positive changes in this matter are related to the recognition of the object of criminal law protection of the inviolability of not only housing but also other property. Thus, today the inviolability of a person's home and other property is considered one of the principles of criminal law (criminal proceedings) (Nazarenko, 2016). As indicated in Resolution of the Supreme Court of Ukraine No. 5-299kz15 (2016), inviolability of a person's home and other property, which also includes inviolability of private and family life, presupposes broader human rights and conditions a broader concept of "housing and other property of a person" in the criminal procedural aspect than is defined in civil and housing law. Therefore, in this case, the "other property of a person" also includes land plots that are legally or illegally stay in the factual long-term and continuous possession of an individual and are intended, adapted, or specially equipped to accommodate or store their property, grow or produce products, provide for the household and other needs of the person, and equipped with any devices (fences, locks, alarms, security, etc.) that make it impossible or difficult to enter them.

Accordingly, today there is a judicial practice regarding the qualification as a crime of illegal actions to enter the fenced territory (yard) of a household (estate), even if the violator did not manage to get into the housing itself. Thus, the above-mentioned Resolution of the Supreme Court of Ukraine No. 5-299kz15 (2016) states that entering the fenced territory of a household at a late time without the permission of the owner and without legal grounds, including overcoming an obstacle (fence), is a violation of the inviolability of "other property of a person", which entails liability for the Criminal Code of Ukraine (2001) Art. 162 "On the violation of the inviolability of the habitation". From the standpoint of civil terminology, in this case, the object of legal protection is the territory (space) for the personal life of an individual, that is, a manor that includes a land plot together with a residential building located on it, household buildings, ground and underground utilities, perennial plantings as indicated in the Civil Code of Ukraine (2003) Art. 381 "On the features of separation of household plots". The boundaries of such a territory (space) are determined in each specific case, considering the whole set of factual circumstances, but in general, this refers to the right of an individual for territorial (spatial) autonomy, its supreme power of a person in a certain territory (in a certain space), including the right to demand from other persons and the state not to violate the regime of its inviolability (Demianenko, 2014). However, the above-mentioned provisions on criminal law protection of the inviolability of a person's home and other property do not provide a solution to the issue of ensuring the inviolability of land, since:

- the object of criminal law protection is the inviolability of a relatively limited number of land plots used as a place for an individual to live. Accordingly, land plots belonging to legal entities, and those land plots that are not used as a place of residence, are outside such protection;
- the issue of the authority of the owner (land user) of a land plot to restrict access to their property and eliminate its violations remains unresolved. To date, the private law aspects of these land ownership relations in Ukraine have not been regulated, nor have these issues been investigated in the doctrine of civil and land law.

The opposite is the approach inherent in the legislation of the countries of the Anglo-Saxon law family (Great Britain, USA, Australia, etc.), which consider the inviolability of ownership as an integral component of property relations, and the invasion of someone else's property (land plot) is defined as a separate type of private offence – trespass to land. Thus, in English law, trespass to land is one of the most ancient types of torts, which currently qualifies as independent deliberate actions of a person that are associated with an illegal invasion of someone else's property. Therewith, the list of actions that can be considered a violation of property of real estate is quite wide: for example, in one of the cases, the court qualified as trespass hunting near a protected area using hunting dogs that systematically ran into the protected area (Konstantinovsky, 2012)

In American legal doctrine, the protection of the boundaries of property from unlawful encroachments is also given special importance, since it is considered the primary basis of property relations. Accordingly, the USA legislator and courts seek to guarantee the unhindered exercise by owners of rights freely right to property and the right to exclude any violators. Trespass to land is considered an unauthorised physical invasion of the borders of someone else's property, conducted both by the person or arising as a result of their actions (invasion of a third person or thing). The following actions can be qualified s trespass to land: passing or driving through someone else's site, shooting at the site or throwing stones at it, or erecting a building or part of a building on someone else's site. In this case, the violator can be either an intruder who has entered someone else's property or a guest who refuses to leave. Since one of the characteristic features of trespass to land is the unauthorised (illegal) invasion, the following cases are considered privileged trespass:

- entry with the consent of owner or license;
- entry based on easements;
- violation of the boundaries of property as a result of necessity or an emergency to prevent more serious damage to the life, health, or property of citizens;
- invasion of private territory caused by the public interest (including prevention of crime, detention of the offender, provision of medical or other assistance;
- withdrawal (restriction) of property conditioned upon public necessity, etc. (Konstantinovsky, 2012).

Therewith, as for the first case of the legality of staying on someone else's territory, it is quite common in the studies of American lawyers to avoid disputes about border violations, the owner of a land plot should take care in advance to install special signs that inform unauthorised persons about the prohibition of an invasion. In practice, this is reflected in the fact that in the United States of America, the No Trespassing warning sign can often be found on private plots. Thus, all issues of protecting the inviolability of the owner's property should be resolved by including relevant legal provisions in the current legislation, which will

help to clarify and regulate the rights and obligations of the owner and the measure of responsibility for their violation.

Discussion

The need to ensure the inviolability of the boundaries of the property as one of the foundations of land ownership relations has not been ignored by legal scholars and legislators of the countries of the Romano-Germanic law family. However, there, in contrast to the legislation of the countries of the Anglo-Saxon family, such provisions belong to the sphere of real, not tort law. Thus, according to the Civil Code of Netherlands (1992), Book 5, Art. 22, if a land plot is not fenced, everyone can move inside it, unless it harms or causes inconvenience to the owner, or it was explicitly stated that it is forbidden to stay within the plot without permission. By the content of the Italian Civil Code (1942), Art. 842, it is not allowed to hunt on someone else's fenced land plot. Such provisions are considered by researchers and legislators of post-Soviet countries. Thus, according to the Model Civil Code of CIS (1994), Art. 273-2, if the land plot is not fenced or its owner has not otherwise clearly indicated that entry to the plot without their permission is not allowed, anyone can pass through this plot, as long as this does not cause damage or inconvenience to the owner (part 2) (Stefanchuk and Stefanchuk, 2009).

Practically in this form, these recommendation provisions received their legislative consolidation in the Civil Code of the Republic of Belarus (1998), Art. 263, and the provisions of Civil Code of the Republic of Armenia (1998), Art. 203, the Land Code of the Republic of Kazakhstan (2003), Art. 68 etc. Considering the above, a proposal to fix in the current legislation the provisions according to which the owner or land user has the right to fence or otherwise restrict access to the land plot, which excludes the presence of other persons on it without the permission of such owner or land user, unless otherwise provided by law, has already been put forward (Myronenko, 2019).

Therewith, the legal power of the owner of a land plot or a land user to restrict or prohibit access (entry) to their property for other persons and any subjective right is of practical importance if legal means provide for the possibility of its exercise. Therefore, the question arises about ways to protect the inviolability of a land plot as a person's property. According to the Land Code of Ukraine (2001) Art. 152, the owner of a land plot or a land user may request the elimination of any violations of their rights to land. Considering this issue in more detail, it is customary to distinguish between jurisdictional (protection of rights is conducted by authorised competent authorities) and non-jurisdictional (protection of rights is conducted by the participants in legal relations themselves) forms of protection of land rights. In practice, systematic serious violations of land property rights can be effectively eliminated in court as a jurisdictional form of protection of rights, especially if they are related to causing damage to its owner or land user. However, short-term violations of property right that are not related to causing harm are quite ineffective to eliminate in court, and in some cases, it is simply impossible (in particular, if the identity of the violator is unknown). Therefore, in some cases, protection of property rights conducted out of court (not the least because of its operational nature) is more effective.

The out-of-court procedure for protecting land rights within the jurisdictional form of protection is mainly associated with an appeal to law enforcement agencies. Thus, calling police representatives to the place of violation, admittedly, can reduce the degree of conflict between the owner (land user) of a land plot and the violator, and force the latter to leave the boundaries of the property. However, in the Criminal Code of Ukraine (2001), Art. 162 "On the violation of the inviolability of the habitation" does not have a special rule on criminal or administrative liability for invading someone else's land plot, therefore considerably reducing the effectiveness of this method of protecting the inviolability of property. As for the appeal to other competent bodies, in particular authorized bodies of executive power and local self-government bodies, with their help within the framework of legal regulation of land neighbourliness and neighbourly relations (Art. 158-161, of the Land Code of Ukraine (2001)), trespasses committed by owners or occupiers of adjacent land can be more or less effectively remedied.

The non-jurisdictional form of land rights protection is implemented by independent actions of an authorised person without applying to state or other authorised bodies. Primarily, it is related to self-defence, which is conducted by the owners and land users of land plots themselves. In The Civil Code of Ukraine (2003) Art. 19, it is stipulated that a person has the right to self-defence their civil right from violations and illegal encroachments. In some cases, this non-jurisdictional form of ownership protection is more effective, since it provides an opportunity to eliminate violations more quickly and take the necessary preventive measures. In this regard, it is possible to mention the Civil Code of the Czech Republic (1964), Art. 14, according to which self-defence of civil rights is allowed provided that the relevant right is under threat and it is evident that the intervention of public authorities will not be timely. However, looking ahead a little, it can be noted that, based on the provisions of the current legislation on the regulation of the relations under study, the use of self-defence to eliminate existing violations of land property is complicated. This is conditioned upon such circumstances as:

1. Relatively abstract provisions of the Civil Code of Ukraine (2003), Art. 19, allowing for disputes as to their interpretation. Therewith, the legislation of Ukraine does not provide for self-defence of property (and self-defence of real rights in general), and provisions on the application of self-defence in the field of land relations. Although the latter, as rightly indicated in the literature, does not exclude the exercise of self-defence of land rights based on the Constitution of Ukraine (1996) Art. 55 and the Civil Code of Ukraine (2003) Art. 19 (Fedchishin, 2018).

2. The absence in the current legislation of provisions that would directly define the invasion of someone else's land plot contrary to the prohibition of its owner or land user as a violation or illegal encroachment, and its inviolability – as an object of legal protection. There are also no special provisions that would provide for the right of the owner (land user) of a land plot to perform independent actions to remove the violator from the property (so-called actual "forceful" methods of self-defence) (Filonova, 2020).

Thus, it is wise to once more consult the global experience of legal regulation when discussing this matter. The procedure for protecting against trespass on land in the

legislation of the countries of the Anglo-Saxon law family is also usually divided into judicial and out-of-court. In court cases of trespass on land, the plaintiff can first of all claim compensation for damages. Therewith, the very fact of invasion of someone else's property is the basis for compensation by the defendant for nominal damage, and if there is actual damage, the court collects compensation from the violator in full; the plaintiff may also be awarded compensatory damages related to other violations of their rights. In addition, the court, at the request of the plaintiff, may issue a court order (ban) to the violator, obliging them to terminate the injunction (Konstantinovsky, 2012). Self-help is mainly considered as an out-of-court order of protection against trespass on land.

As already mentioned, the Anglo-American legal doctrine provides for a right to exclude any violators from their property. Therefore, self-help possession involves a reasonable use of force against the violator to both stop the attempted invasion and expel the violator from the property. Therewith, the use of physical force must have reasonable limits to prevent excessive impact on the violator; otherwise, excessive use of force may lead to a counterclaim of the violator. In general, as noted in the literature, in Anglo-American law there is an institution of the forcible injunction of the violator from the land plot, which grants the right, after warning the violator to stop the invasion and making a demand to "peacefully leave someone else's land", to use force against them with the possibility of causing property and minor physical damage (Fedchishin, 2018). If the owner is unable to remove the violator from the property on their own, then, as already mentioned, they can apply to the court for an order (prohibition) obliging the defendant to immediately stop the injunction.

Self-defence against trespass on land can also be passive in the form of installing fences, surveillance equipment, etc. Nevertheless, some types of self-defence are subject to special regulation. Thus, a separate law, the Guard Dogs Act (1975), stipulates that their use is not allowed unless they are chained or under the permanent control of the owner (Konstantinovsky, 2012). In the laws of the countries of the Romano-Germanic family, invasions of someone else's land plot can also be eliminated in court and out of court. As for the judicial procedure, unlike Anglo-American law, a separate type of claim for the elimination of this type of violation is not provided, but such conventional general constructions as vindication and negator claims are used. Elimination of invasion of a land plot out of court within the framework of private law regulation is conducted by the owner themselves in self-defence. Consequently, it should be highlighted that several states' laws include specific provisions for the self-defence of property in addition to general ones regarding the defence of civil rights. Thus, according to the Civil Code of Germany (2002), Art. 859 "On the owners' self-help", the owner can resist prohibited arbitrariness by using force; if the owner of a land plot is deprived of property by means of prohibited arbitrariness, they can immediately restore their property after a violation by removing the violator.

These provisions of German law are reflected in the civil laws of a number of other states, including post-Soviet ones, such as the Civil Code of the Republic of Moldova (2002), Art. 492, the Civil Code of the Republic of Azerbaijan (1999), Art. 164. Thus, according to the content of the Civil Code of the Republic of Moldova (2002), Art. 492, the owner or a third party may resort to self-defence against a person who unlawfully deprives one of the property, otherwise unlawfully infringes property, or whose actions pose an imminent threat of unlawful deprivation or violation of property; self-defence measures are limited to the immediate and proportionate ones necessary to return the thing or to terminate or prevent deprivation or violation of property, and to remove the violator from the immovable property. Inviolability of property is the main principles of civil law in the modern state. Compliance with this principle is mandatory from the standpoint of the need to preserve the existence and development of modern civil society, and preserve free trade turnover and public relations in general. Roman law historically combines three main types of civil property: peregrine, bonitarian, and, the most ancient, quiritium property. Inviolability of property consists in the existence of guarantees of non-interference of unauthorised persons in relation to the property, without the permission of the owner himself. Such guarantees are the availability of legal and several other means by which the owner can objectively reflect the influence of unauthorised persons on them.

Conclusions

The right to restrict access to a land plot for other persons should be considered an integral part of the powers of land owners and land users. In turn, ensuring the inviolability of land property by prohibiting unauthorised intrusion on it by the owner or legislation and introducing effective mechanisms to prevent and eliminate such intrusion is one of the important tasks of legal regulation of land ownership relations. It is suggested to add provisions to Ukraine's current legislation to better regulate this aspect of land ownership relations, that: recognise illegal unauthorised invasion of someone else's land, which is properly fenced by the owner or land user and/or access to which is prohibited in another way; provide for the obligation of the violator, after receiving a warning from the owner or user of the land, to immediately stop the violation and move outside the plot; provide for the right of the owner (user) of the land to self-defence of the inviolability of property, including the possibility of limited use of force to eliminate unauthorised access; establish administrative liability for unauthorised intrusion on someone else's land plot, access to which is prohibited by its owner or land user.

There are various approaches to resolving the question of property's inviolability in the contemporary context of state legal systems. In particular, such as a feature of the right to property, which excludes any influence on the object of ownership with disregard for the will of the true owner, and as a feature of the right to property, which does not allow any persons to resist the owner of the property in matters of using the specified property, regardless of the purpose of the use. In any case, the protection of the inviolability of property purely in the legal field is an integral feature of the developed legislation of a modern state, which should be determined using the existing organisational and legal foundations.

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Conflict of interest

None.

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Охорона недоторканності власності

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Анотація. Питання актуальне, оскільки потребує ретельного аналізу як теоретичних, так і практичних аспектів гарантування недоторканності землі з метою виявлення критичних елементів, які необхідно враховувати у впровадженні законодавчих заходів щодо гарантування недоторканності приватної власності в Україні в контексті сучасних економічних умов. Мета дослідження – розглянути практичні та теоретичні аспекти забезпечення недоторканності землі як невід'ємного складника відносин власності на землю. Поєднання системного аналізу особливостей законодавчих актів різних країн, що визначають різні аспекти вирішення питань охорони недоторканності власності, з аналітичним дослідженням практичної реалізації цих положень становить основу методологічного підходу до цього дослідження. Результати роботи свідчать про важливість чіткого врегулювання охорони недоторканності власності чинними законодавчими нормами та необхідність реалізації цих положень у повсякденній практиці під час вирішення спорів щодо визначення принципів недоторканності власності та її охорони в окремих випадках. Запропоновано доповнити чинне законодавство України низкою положень для кращого врегулювання відносин власності на землю. Отримані результати дослідження та сформульовані на їхній основі висновки суттєві для встановлення ключових принципів, що визначають недоторканність власності та можуть бути використані в плануванні змін до чинного законодавства щодо особливостей забезпечення недоторканності власності, а також визначення міри покарання за його порушення

Ключові слова: недоторканність власності; вторгнення на землю; порушення кордонів; самооборона земельної власності; посягання на землю

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